

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

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**REGULAR SESSION**  
**1974**

Convened on Wednesday, January 16  
and

Adjourned Sine Die on Thursday, April 11

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**SPECIAL SESSION**  
**1974**

Convened on Tuesday, June 18  
and  
Adjourned Sine Die on Wednesday, June 19

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Honolulu, Hawaii

## AUTHORITY

**Section 2-4, 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 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 passed by the Legislature at the Regular and Special Sessions of 1974.

In preparing this volume, the text of the original laws and proposals has been followed, with the exception of palpable typographical errors.

HIDEHIKO UYENOYAMA  
Revisor of Statutes

Honolulu, Hawaii  
August 21, 1974

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REGULAR AND SPECIAL SESSIONS**

1974

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**1974**  
**REGULAR SESSION**  
**LAWS**

**Session Laws of Hawaii  
Passed By The  
Seventh State Legislature  
Regular Session  
1974**

ACT 1

H.B. NO. 2091-74

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 hereby appropriated from the general revenues of the State the sum of \$769,184, 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 January 14, 1975, including the 1974 regular session, Seventh 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 1974 and 1975 regular sessions.

SECTION 2. There is hereby appropriated from the general revenues of the State the sum of \$995,000, 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 January 14, 1975, including the 1974 regular session, Seventh 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 1974 and 1975 regular sessions.

SECTION 3. Payment of expenses of the Senate during the interim between the 1974 and 1975 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 1974 and 1975 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 15, 1975, 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 15, 1975.

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 or the Speaker of the House of Representatives, respectively.

## **ACT 2**

**SECTION 6.** There is hereby appropriated from the general revenues of the State the sum of \$1,686,290 to the office of the legislative auditor for the following expenses: (a) the sum of \$721,471, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1974-75; (b) the sum of \$79,819, or so much thereof as may be necessary, for defraying the expenses of the office of the State ethics commission during the fiscal year 1974-75; (c) the sum of \$150,000, or so much thereof as may be necessary, to be expended upon approval of this Act, for the purpose of performing special studies, improving capabilities for planning, programming and budgeting, and 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; (d) the sum of \$735,000, or so much thereof as may be necessary, to be expended upon approval of this Act, for interim legislative studies, for contractual services for such studies, for training and other operating expenses to continue the development of the Legislature's planning, programming and budgeting capabilities, for 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 and for 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, or of the Senate and the House of Representatives through the President of the Senate and the Speaker of the House of Representatives, respectively.

**SECTION 7.** There is hereby appropriated from the general revenues of the State the sum of \$616,778, to the legislative reference bureau for the following expenses: (a) the sum of \$420,172, or so much thereof as may be necessary, for defraying the expenses of the legislative reference bureau during the fiscal year 1974-75; and (b) the sum of \$196,606, or so much thereof as may be necessary, for defraying the expenses of the office of the revisor of statutes during the fiscal year 1974-75.

**SECTION 8.** There is hereby appropriated from the general revenues of the State the sum of \$186,237, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of said office during the fiscal year 1974-75.

**SECTION 9.** Each section of this Act is hereby declared to be severable from the remainder of this Act.

**SECTION 10.** This Act shall take effect upon its approval.

(Approved February 5, 1974.)

**ACT 2**

S.B. NO. 1481-74

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 March 31, 1974 but prior to April 1, 1975 under part 1 of chapter 39, Hawaii Revised Statutes, may bear interest, payable annually or semi-annually, at a rate or rates not exceeding eight per cent a year.

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

(Approved March 12, 1974.)

### ACT 3

S.B. NO. 1509-74

A Bill for an Act Relating to Defacing Vessel Hull Identification Numbers, Possessing Vessels with Defaced Numbers, and Imposition of Penalties.

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

**Section 1. Hull, defined.** As used herein "hull" means the shell, frame or body of a vessel, exclusive of masts, yards, sails, riggings, machinery and equipment.

**Section 2. Defacing, etc., vessel hull identification numbers.** No person shall wilfully deface, destroy, remove or alter the vessel hull identification number, carved, burned, stamped, embossed or otherwise permanently affixed to the hull of a vessel by the manufacturer, or by the owner in the case of restoration, for the purpose of identifying the hull. This section does not prohibit the restoration by an owner of an original number when the restoration is authorized by the department of transportation, nor prevent any manufacturer from placing in the ordinary course of business, numbers or marks upon new hulls.

**Section 3. Unlawful to possess certain vessels or hulls.** No person shall possess a vessel or a hull, knowing that the vessel hull identification number, placed on the same by the manufacturer or the owner for the purpose of identification, has been changed, altered, erased, or mutilated for the purpose of changing the identity of the vessel or hull thereof. Any vessel or hull from which the vessel hull identification number, carved, burned, stamped, embossed or otherwise permanently affixed to the hull by the manufacturer or by the owner has been removed, defaced or altered shall be caused by the director of transportation to be taken into custody and, if not identified, disposed of pursuant to chapter 267A. If identified, the director of transportation shall:

- (1) Notify the owner at his last known address or the address shown on the records of the department of transportation or U.S. Coast Guard, and 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 on the records of the department of transportation or U.S. Coast Guard;
- (2) Authorize restoration of the original vessel hull identification number or if unknown, assign a new number; and
- (3) Restore the vessel or hull to the owner.

## ACT 4

**Section 4. Penalty.** Any person who violates this act shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

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

(Approved March 12, 1974.)

## ACT 4

S.B. NO. 1514-74

A Bill for an Act Establishing a Revolving Fund for the Central Purchase of Supplies for Resale to State Government Using Agencies.

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

SECTION 1. Part II of Chapter 106, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 106- Central purchasing revolving fund.** There is established a revolving fund the purpose of which shall be to finance bulk purchases of supplies and commodities utilized by State agencies when bulk purchases by a single State agency will result in substantial savings to the State. The fund shall be administered by the department of accounting and general services.

All sums withdrawn from the fund shall be reimbursed or restored thereto from the proceeds realized through the resale of such commodities to the several State agencies. The total resale costs to the various agencies shall be equivalent to the original costs of the purchases. All expenditures from such revolving fund shall be in accordance with the provisions of chapter 103."

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

(Approved March 12, 1974.)

## ACT 5

S.B. NO. 1867-74

A Bill for an Act Relating to Emergency Powers.

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

SECTION 1. Chapter 125, Hawaii Revised Statutes, is amended by amending the title to the Chapter to read as follows:

### "PROCUREMENT AND CONTROL OF DISTRIBUTION OF NECESSARY COMMODITIES"

SECTION 2. Section 125-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 125-2 Powers in an emergency.** If the governor declares that an emergency as defined in section 125-1 exists, he or his authorized representatives, to make available commodities necessary to the public health, safety, or welfare, or to insure the availability of commodities required to maintain commerce to or within the State under normal conditions, may:

- (1) Whenever the availability of shipping space depends upon determination by the governor or his authorized representatives, of the emergency needs of the population, allocate space to and among types of commodities and consignees, such distribution of space among consignees to be upon an equitable basis so far as reasonably practicable.
- (2) Charter or affreight a ship or ships, make any other arrangements, including contracts of guaranty, for the procurement of ships and any other means of transportation, and transport cargoes to the State. Cargoes from the State may be transported on any return voyage.
- (3) Purchase and resell, or otherwise distribute commodities.
- (4) Control and distribution of commodities by rules and regulations promulgated pursuant to chapter 91."

SECTION 3. Section 125-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 125-7 Fraud, misdemeanor.** Any person required by the governor or his authorized representative, pursuant to section 125-6, to make, keep, or file any application, schedule, record, report, or statement, whether or not under oath, who intentionally makes, files, or keeps a false or fraudulent application, schedule, record, report, or statement or intentionally conceals therein any material fact, and any person who in any other manner intentionally deceives or attempts to deceive the governor or his authorized representative with respect to any fact to be used in administering this chapter, and any person who fails to observe and comply with the rules and regulations promulgated under this chapter, shall be fined not more than \$1,000 or imprisoned not more than six months, or both."

SECTION 4. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved March 14, 1974.)

ACT 6

H.B. NO. 991

A Bill for an Act Relating to Vaccination Requirements.

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

SECTION 1. Section 325-31, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 325, Hawaii Revised Statutes, is amended in the following manner:

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\*Edited accordingly.

## ACT 6

1. By amending section 325-32 to read as follows:

**"Sec. 325-32 Immunization against infectious diseases.** The department of health may make regulations requiring and governing immunization against typhoid fever, pertussis (whooping cough), diphtheria, tetanus, poliomyelitis, measles, mumps, small pox, and any other communicable disease, if a suitable immunizing agent is available for the disease and a need for immunization against it exists within the State."

2. By amending section 325-34 to read as follows:

**"Sec. 325-34 Exemptions.** Section 325-32 shall be construed not to require the vaccination or immunization of any person for three months after a duly licensed physician or an authorized representative of the department of health has signed two copies of a certificate stating the name and address of the person and that because of a stated cause the health of the person would be endangered by the vaccination or immunization, and has forwarded the original copy of the certificate to the person or, if he is a minor or under guardianship, to his parent or guardian, and has forwarded the duplicate copy of the certificate to the department for its files.

No person shall be subjected to vaccination, revaccination or immunization, who shall in writing object thereto on the grounds that the requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, or, if he is a minor or under guardianship, whose parent or guardian shall in writing object thereto on such grounds, but no objection shall be recognized when, in the opinion of the director of health, there is danger of an epidemic from any communicable disease."

3. By amending section 325-35 to read as follows:

**"Sec. 325-35 Forms and procedures.** The department of health may prescribe forms and procedures to achieve the purposes of sections 325-32 to 325-34 and shall maintain in the offices of the department in Honolulu, Hilo, Wailuku, Lihue, and Kaunakakai, a complete roster of all exemptions from vaccination or immunization granted by that office."

4. By amending section 325-37 to read as follows:

**"Sec. 325-37 Fraud; wilful misrepresentation; failure to comply; penalties.** Any person who by fraud or wilful misrepresentation circumvents or defeats or attempts to circumvent or defeat any purpose or provision of any of sections 325-32 to 325-34 or who, required by any provision of section 325-32, to be vaccinated or immunized, fails to be so vaccinated or immunized shall be fined not more than \$25 or imprisoned not more than thirty days, or both."

SECTION 3. 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 material, or the underscoring.\*

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

(Approved March 16, 1974.)

\*Edited accordingly.

## ACT 7

S.B. NO. 1518-74

A Bill for an Act Relating to Charges for Duplicating Microfilms of Documents Recorded in the Bureau of Conveyances or Filed in the Office of the Assistant Registrar of the Land Court.

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

SECTION 1. Chapter 502, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read:

**"Sec. 502- Charges.** The registrar may authorize any person or agency to use original microfilms of documents recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court for the purpose of making duplicates of such microfilms. A charge of two cents per frame for each duplicate film shall be paid to the State; provided that no such charge shall be assessed against any agency of the State of Hawaii or counties thereof.

In addition all costs for duplicating said microfilms shall be borne by the person or agency requesting the use of the microfilms.

All moneys received by the registrar under this section shall be deposited in the general fund of the State."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved March 18, 1974.)

## ACT 8

H.B. NO. 143

A Bill for an Act Relating to Workmen's Compensation

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

SECTION 1. Section 386-87, Hawaii Revised Statutes, is amended to read:

**"Sec. 386-87 Appeals to appellate board.** (a) A decision of the director shall be final and conclusive between the parties, except as provided in section 386-89, unless within twenty days after a copy has been sent to each party, either party appeals therefrom to the appellate board by filing a written notice of appeal with the appellate board or the department. In all cases of appeal filed with the department the appellate board shall be notified of the pendency thereof by the director. No compromise shall be effected in the appeal except in compliance with section 386-78.

(b) The appellate board shall hold a full hearing de novo on the appeal.

(c) The appellate board shall have power to review the findings of fact, conclusions of law and exercise of discretion by the director in hearing, determining or otherwise handling of any compensation case and may affirm, reverse or modify any compensation case upon review, or remand the case to the director for further proceedings and action.

\*Edited accordingly.

## ACT 8

(d) In the absence of an appeal and within thirty days after mailing of a certified copy of the appellate board's decision or order, the appellate board may, upon the application of the director or any other party, or upon its own motion, reopen the matter and thereupon may take further evidence or may modify its findings, conclusions or decisions. The time to initiate judicial review shall run from the date of mailing of the further decision if the matter has been reopened. If the application for reopening is denied, the time to initiate judicial review shall run from the date of mailing of the denial decision."

SECTION 2. Section 386-89, Hawaii Revised Statutes, is amended to read:

**"Sec. 386-89 Reopening of cases; continuing jurisdiction of director.**

(a) In the absence of an appeal and within twenty days after a copy of the decision has been sent to each party, the director of labor and industrial relations may upon his own motion or upon the application of any party reopen a case to permit the introduction of newly discovered evidence, and may render a revised decision.

(b) The director may, at any time, either of his own motion or upon the application of any party, reopen any case on the ground that fraud has been practiced on the director or on any party and render such decision as is proper under the circumstances.

(c) On the application of any party in interest, supported by a showing of substantial evidence, on the ground of a change in or of a mistake in a determination of fact related to the physical condition of the injured employee, the director may, at any time prior to ten years after date of the last payment of compensation, whether or not a decision awarding compensation has been issued, or at any time prior to ten years after the rejection of a claim, review a compensation case and issue a decision which may award, terminate, continue, reinstate, increase, or decrease compensation. No compensation case may be reviewed oftener than once in six months and no case in which a claim has been rejected shall be reviewed more than once if on such review the claim is again rejected. The decision shall not affect any compensation previously paid, except that an increase of the compensation may be made effective from the date of the injury, and if any part of the compensation due or to become due is unpaid, a decrease of the compensation may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased compensation shall be deducted from any unpaid compensation in such manner and by such method as may be determined by the director. In the event any such decision increases the compensation in a case where the employee has received damages from a third party pursuant to section 386-8 in excess of compensation previously awarded, the amount of such excess shall constitute a pro tanto satisfaction of the amount of the additional compensation awarded. This subsection shall not apply when the employer's liability for compensation has been discharged in whole by the payment of a lump sum in accordance with section 386-54."

SECTION 3. Statutory material to be repealed is bracketed. New mate-

rial is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

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

(Approved April 1, 1974.)

**ACT 9**

H.B. NO. 2216-74

A Bill for an Act Relating to Joint Returns of Income Tax by Husband and Wife.

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

SECTION 1. Section 235-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-4 Income taxes by the State; residents, nonresidents, corporations, estates, and trusts.** (a) The tax imposed by this chapter applies to the entire income of a resident, computed without regard to source in the State; provided, that in the case of an individual who takes up residence in the State after attaining the age of sixty-five years the tax imposed by this chapter applies to the income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State.

(b) In the case of a nonresident, the tax applies to the income received or derived from property owned, personal services performed, trade, or business carried on, and any and every other source in the State.

In the case of a nonresident spouse filing a joint return with a resident spouse, the tax applies to the entire income of the nonresident spouse computed without regard to source in the State.

(c) When the status of a taxpayer changes during the taxable year from resident to nonresident, or from nonresident to resident, there shall be attributed to the State such portion of the income dependent upon the residence of the taxpayer as is determined by applying to such income for the whole taxable year the ratio which the period of residence in the State bears to the whole taxable year, unless the taxpayer shows to the satisfaction of the department of taxation that the result is to attribute to the state income, dependent upon residence, received or derived during the period of nonresidence, in which event the amount of income as to which such showing is made shall be excluded.

(d) A corporation, foreign or domestic, is taxable upon the income received or derived from property owned, trade or business carried on, and any and every other source in the State. In addition thereto a domestic corporation is taxable upon its income from property owned, trade or business carried on, and any and every other source outside the State, unless subjected to income tax thereon in any other jurisdiction. Subjection to federal tax does

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\*Edited accordingly.

## ACT 9

not constitute subjection to income tax in another jurisdiction. 'Corporation' includes any professional corporation incorporated pursuant to part VIII of chapter 416.

- (e) (1) The income of a resident estate or trust shall be computed without regard to source in the State. The income of a nonresident estate or trust shall be that received or derived from sources in the State.
- (2) A beneficiary of an estate or trust, or person treated as the owner of any portion of a trust, who is taxable upon income thereof under the Internal Revenue Code, shall be taxed thereon as herein provided, irrespective of the taxability of the estate or trust or whether it is required to make a fiduciary return under this chapter. If all such income consists of income which would be taxable under this chapter if received directly by the beneficiary or person, he shall be taxed upon all of it. If some of it consists of income which would not be taxable if received directly by the beneficiary or person, then unless the trust instrument provides otherwise the income of each such beneficiary or person shall be conclusively presumed to have been received or derived out of each class of income of the estate or trust, and he shall be taxed upon such part of it as would be taxable if received directly by him.
- (3) Each estate or trust shall include in its return all of the information necessary to determine the taxability of the income of the estate or trust, regardless of source. Only in the case of a nonresident estate or trust of which all the beneficiaries are nonresidents and no part of which is treated as owned by a resident shall the return be confined to income from sources in the State. This paragraph shall not cause income to be taxed to an estate or trust that otherwise would not have been so taxed."

SECTION 2. Section 235-93, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-93 Joint returns.** A husband and wife, having that status for purposes of the Internal Revenue Code and entitled to make a joint federal return for the taxable year, may make a single return jointly of taxes under this chapter for the taxable year. In that case the tax shall be computed on the aggregate income as provided in section 235-52, and the liability with respect to the tax shall be joint and several. For purposes of this chapter 'aggregate income' means the income of both spouses without regard to source in the State.

If an individual has filed a separate return for a taxable year for which a joint return could have been made by him and his spouse, an election thereafter to make a joint return for the taxable year shall be made only upon compliance with regulations of the department of taxation, which may limit the election and prescribe the terms and provisions applicable in such cases as nearly as may be in conformity with the Internal Revenue Code."

SECTION 3. 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 material or the underscoring.\*

SECTION 4. This Act upon its approval shall apply to taxable years beginning on or after January 1, 1974.

(Approved April 4, 1974.)

## ACT 10

H.B. NO. 2217-74

A Bill for an Act Relating to the Income Tax.

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

SECTION 1. Section 235-51, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-51 Tax on individuals; rate.** (a) There shall be assessed, levied, collected, and paid, for each taxable year on the taxable income of every individual, a tax in the following amounts:

If the taxable income is:	The tax shall be:
Not over \$500	2.25% of taxable income
Over \$500, but not over \$1,000	\$11.25 plus 3.25% of excess over \$500
Over \$1,000, but not over \$1,500	\$27.50 plus 4.5% of excess over \$1,000
Over \$1,500, but not over \$2,000	\$50.00 plus 5% of excess over \$1,500
Over \$2,000, but not over \$3,000	\$75.00 plus 6.5% of excess over \$2,000
Over \$3,000, but not over \$5,000	\$140.00 plus 7.5% of excess over \$3,000
Over \$5,000, but not over \$10,000	\$290.00 plus 8.5% of excess over \$5,000
Over \$10,000, but not over \$14,000	\$715.00 plus 9.5% of excess over \$10,000
Over \$14,000, but not over \$20,000	\$1,095.00 plus 10% of excess over \$14,000
Over \$20,000, but not over \$30,000	\$1,695.00 plus 10.5% of excess over \$20,000
Over \$30,000	\$2,745.00 plus 11% of excess over \$30,000.

(b) Tax on head of household; rate. There shall be assessed, levied, collected, and paid, for each taxable year on the taxable income of every individual who is a head of household, a tax in the following amounts:

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\*Edited accordingly.

## ACT 10

If the taxable income is:	The tax shall be:
Not over \$500	2.25% of taxable income
Over \$500, but not over \$1,000	\$11.25 plus 2.75% of excess over \$500
Over \$1,000, but not over \$1,500	\$25.00 plus 3.9% of excess over \$1,000
Over \$1,500, but not over \$2,000	\$44.50 plus 4.1% of excess over \$1,500
Over \$2,000, but not over \$3,000	\$65.00 plus 5.5% of excess over \$2,000
Over \$3,000, but not over \$5,000	\$120.00 plus 6.6% of excess over \$3,000
Over \$5,000, but not over \$10,000	\$252.00 plus 7.9% of excess over \$5,000
Over \$10,000, but not over \$20,000	\$647.00 plus 9.15% of excess over \$10,000
Over \$20,000, but not over \$30,000	\$1,562.00 plus 10.05% of excess over \$20,000
Over \$30,000, but not over \$40,000	\$2,567.00 plus 10.5% of excess over \$30,000
Over \$40,000, but not over \$60,000	\$3,617.00 plus 10.75% of excess over \$40,000
Over \$60,000	\$5,757.00 plus 11% of excess over \$60,000.

(c) In lieu of computation of the tax as above provided, the tax shall be computed as follows when this subsection is applicable:

- (1) Reduce the taxable income by an amount equal to fifty per cent of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year, and apply to the taxable income, so reduced, the rates provided by subsection (a) or (b).
- (2) Apply to the entire amount of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year, a tax of four per cent.
- (3) Add the resultant two amounts; this constitutes the tax if less than the tax computed under subsection (a) or (b).

(d) Any taxpayer, other than a corporation, acting as a business entity in more than one State who is required by this chapter to file a return and whose only activities in this State consist of sales and who does not own or rent real estate or tangible personal property and whose annual gross sales in or into this State during the tax year is not in excess of \$100,000 may elect to report and pay a tax of .5 per cent of such annual gross sales."

SECTION 2. Section 235-71, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-71 Tax on corporations; rates; credit of shareholder of regulated investment company.** (a) A tax at the rates herein provided shall be assessed, levied, collected, and paid for each taxable year on the taxable income

of every corporation, including a corporation carrying on business in partnership, except that in the case of a regulated investment company the tax is as provided by subsection (b) and further that in the case of a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1954 the tax is as provided in subsection (d). ‘Corporation’ includes any professional corporation incorporated pursuant to part VIII of chapter 416.

The tax shall be at the rate of 3.08 per cent on such amount of capital gain as, under the Internal Revenue Code, is entitled to the alternative tax treatment, and on all other taxable income the tax shall be at the rate of 5.85 per cent if the taxable income is not over \$25,000, and on all over \$25,000, 6.435 per cent.

(b) In the case of a regulated investment company there is imposed on the taxable income, computed as provided in sections 852 and 855 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: 5.85 per cent if the taxable income is not over \$25,000, and on all over \$25,000, 6.435 per cent; 3.08 per cent on the amount of capital gain which is taxed under section 852(b) (3) (A) of the Internal Revenue Code.

(c) In the case of a shareholder of a regulated investment company there is hereby allowed a credit in the amount of 3.08 per cent of the amount of capital gains which by section 852(b) (3) (D) of the Internal Revenue Code is required to be included in the shareholder’s return and on which there has been paid to the State by the regulated investment company the tax of 3.08 per cent imposed by subsection (b); the amount of this credit may be applied or refunded as provided in section 235-110.

(d) In the case of a real estate investment trust there is imposed on the taxable income, computed as provided in sections 857 and 858 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following: 5.85 per cent if the taxable income is not over \$25,000, and on all over \$25,000, 6.435 per cent; 3.08 per cent on the amount of capital gain which is taxed under section 857(b) (3) (A) of the Internal Revenue Code.

(e) Any corporation acting as a business entity in more than one state and which is required by this chapter to file a return and whose only activities in this State consist of sales and which does not own or rent real estate or tangible personal property and whose annual gross sales in or into this State during the tax year are not in excess of \$100,000 may elect to report and pay a tax of .5 per cent of such annual gross sales.”

SECTION 3. 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 material or the underscoring.\*

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\*Edited accordingly.

## ACT 11

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

(Approved April 4, 1974.)

## ACT 11

H.B. NO. 2220-74

A Bill for an Act Relating to Employer's Liability for Income Taxes Withheld from Wages.

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

SECTION 1. Section 235-64, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) In addition to the liability imposed by subsection (a) if any employer which is a corporation fails, neglects, or refuses to deduct and withhold from the wages paid to any employee, or to pay over, the amount of tax required, any officer of such corporation who as such officer is under a duty to deduct and withhold or to pay over, the amount of tax required, and who wilfully fails to perform such duty, shall be liable to the State for the amount of the tax. The liability may be assessed and collected in the same manner as the liability imposed by subsection (a); provided that two or more officers may be assessed under this subsection jointly or in the alternative, but the tax shall be collected only once with respect to the same wages. The voluntary or involuntary dissolution of the corporation, or the withdrawal and surrender of its right to engage in business within this State shall not discharge the liability hereby imposed."

SECTION 2. Material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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

(Approved April 4, 1974.)

## ACT 12

H.B. NO. 2622-74

A Bill for an Act Relating to the Administration of Taxes.

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

SECTION 1. Section 231-23, Hawaii Revised Statutes, is amended to read:

**"Sec. 231-23 Adjustments and refunds.** (a) This subsection shall apply to taxes assessed and collected under chapter 246.

(1) In the event of adjustments on account of duplicate assessments and clerical errors, such as transposition in figures, typographical errors,

\*Edited accordingly.

and errors in calculations, the adjustments may be entered upon the records although the full amount appearing on the records prior to such adjustment has been paid.

- (2) There may be refunded in the manner provided in subsection (d) of this section any amount collected in excess of the amount appearing on the records as adjusted, or any amount constituting a duplication of payment in whole or in part.
- (3) Whenever any real property is deemed by the director of taxation to be exempt from taxation under section 246-39, if there shall have been paid prior to the effective date of the exemption any real property taxes applicable to the period following the effective date of the exemption, there shall be refunded to the nonprofit or limited distribution mortgagor owning the property in the manner provided in section 231-23(d) all amounts representing the real property taxes which have been paid on account of the property and attributable to the period following the effective date of the exemption.
- (4) No such adjustment shall be entered on the records nor refund made except within two years after the end of the tax year in which the amount to be refunded was due and payable, unless a written application for the adjustment or refund has been filed within such period.
  - (b) This subsection shall apply to all taxes except those collected under chapters 246 and 247 and those collected under a chapter containing a provision for credit and refund of the amount of tax paid in excess of the tax imposed by such chapter. As to all tax payments for which a refund or credit is not authorized by this subsection (including without prejudice to the generality of the cases of unconstitutionality hereinafter mentioned in (1) (C)) the remedies provided by appeal or under section 40-35 are exclusive.
    - (1) If the amount already paid exceeds that which should have been paid under the chapter imposing a particular tax, or if the amount already paid results in duplication of payment in whole or in part, the excess so paid shall be refunded in the manner provided in subsection (d) of this section, subject however to the following limitations:
      - (A) No refund shall be made unless an application for the refund shall have been made within five years after the amount to be refunded was paid;
      - (B) No recourse may be had except under section 40-35 or by appeal for refunds of taxes paid pursuant to an assessment by the director of taxation, provided that if the assessment by the director shall contain clerical errors, transposition of figures, typographical errors, and errors in calculation or if there shall be an illegal or erroneous assessment, the usual refund procedures shall apply.
      - (C) No refund or overpayment credit shall be made unless the original payment of the tax was due to the law having been interpreted or applied in respect of the taxpayer concerned differently than in respect of taxpayers generally.
    - (2) In any case where a taxpayer is entitled to a refund, he may, at his

## ACT 12

election, apply the amount of the refund as an overpayment credit to taxes subsequently accruing under the same chapter as that under which the refundable amount was collected.

- (c) This subsection shall apply to the taxes collected under chapter 247. There may be refunded in the manner provided in subsection (d) of this section such conveyance tax as has been erroneously or unjustly paid.
- (d) This subsection shall apply to all taxes.
- (1) All refunds shall be paid only upon a form to be known as a 'refund voucher' prepared by the collector. The refund vouchers shall set forth all the details of each transaction, shall be approved by the director, and shall be forwarded to the comptroller from time to time. The comptroller shall issue his warrant, in the form prescribed by section 40-52, for the payment of any such refund out of the tax reserve fund hereinafter created; provided that if the person entitled to the refund is delinquent in the payment of any tax, the comptroller, upon demand of the collector and after notice to the delinquent taxpayer, shall withhold the amount of the delinquent taxes, together with penalties and interest thereon, from the amount of the refund and pay the same to the collector.
- (2) There is hereby appropriated, from the general revenues of the State not otherwise appropriated, the sum of \$25,000 which shall be set aside as a special fund to be known as the tax reserve fund. All refunds of taxes collected under chapters 235 to 239, 241, and 243 to 246 heretofore made out of the reserve funds in chapters 235, 236, and 237 or from the general fund shall be made out of the tax reserve fund. The director of taxation may, from time to time, deposit taxes collected by him under the chapters enumerated in the immediately preceding sentence in the state treasury to the credit of the tax reserve fund so that there may be maintained at all times a fund not exceeding \$25,000. The amounts deposited shall be made from the taxes with respect to which a particular refund is made, but in the case of a real property tax refund, from the next collection of real property taxes of the taxation division in which the property which was the subject of the refund is situated.
- (e) This subsection shall apply to a refund for an overpayment of a tax.
- (1) If the tax return as filed by a taxpayer shows the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax due, and the taxpayer requests a refund of the overpayment, the amount of overpayment together with interest, if any, shall be refunded in the manner provided in subsection 231-23(d). The interest shall be allowed and paid at the rate of two-thirds of one per cent for each calendar month or fraction thereof, beginning with the first month after the due date of the return and continuing until the date that the director approves the refund voucher. If the director approves the refund voucher within ninety days from the due date or the date the return is received, whichever is later, and the comptroller of the State sends

the taxpayer a refund warrant within forty-five days from the date of the director's approval, no interest on the overpayment will be allowed or paid. However, if either the director or the comptroller exceeds the time allowed herein, interest will be computed from the due date of the return until the date that the comptroller sends the refund warrant to the taxpayer.

- (2) If any overpayment of taxes results or arises from (A) the taxpayer filing an amended return, or from (B) a determination made by the director and such overpayment is not shown on the original return as filed by the taxpayer, interest on the overpayment shall be allowed and paid from the first month after the due date of the original return to the date that the director signs the refund voucher. If the comptroller does not send the refund warrant to the taxpayer within forty-five days after the director's approval, interest will continue until the date that the comptroller sends the refund warrant to the taxpayer.
- (3) For purposes of a net income tax return, if any overpayment of any taxes results from a carryback of a net operating loss, the overpayment shall be deemed not to have been made prior to the close of the taxable year in which the net operating loss arises. To the extent that the carryback of net operating loss results in reducing the amount of underpayment of taxes for prior taxable year or years, interest which would be chargeable because of the underpayment shall not be applicable with respect to that amount or amounts which are carried back.
- (4) In the case of credit, interest shall be allowed and paid from the due date of the return or the date of payment, whichever is later, to the date the credit is taken; provided that the director may make a refund of any credit to a taxpayer where the taxpayer has no underpayment against which to apply the credit."

**SECTION 2.** New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved April 4, 1974.)

A Bill for an Act Relating to Land Document Registration.

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

**SECTION 1.** Section 501-101, Hawaii Revised Statutes, is amended to read:

\*Edited accordingly.

## ACT 14

**"Sec. 501-101 Voluntary dealing with registered lands.** An owner of registered land may convey, mortgage, lease, charge, or otherwise deal with the same as fully as if it had not been registered. He may use forms of deeds, mortgages, leases, or other voluntary instruments like those now in use and sufficient in law for the purpose intended. No deed, mortgage, or other voluntary instrument, except a will and a lease for a term not exceeding one year, purporting to convey or affect registered land, shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties, and as evidence of authority to the registrar or assistant registrar to make registration. The act of registration shall be the operative act to convey or affect the land, and in all cases under this chapter the registration shall be made in the office of the assistant registrar in the bureau of conveyances, during office hours prescribed in section 502-32. The rules of court may provide for forms of conveyances respecting registered land."

SECTION 2. Section 502-32, Hawaii Revised Statutes, is amended to read:

**"Sec. 502-32 Instrument recorded as of time of delivery; office hours.** Every instrument entitled by law to be recorded, shall be recorded in the order and as of the time when the same is delivered to the registrar for that purpose, and shall be considered as recorded from the time of such delivery; provided that it shall not be lawful for the registrar to accept or enter for record and record any instrument or other paper on any Sunday or legal holiday, or on any Saturday that the registrar's office remains closed pursuant to law, or on any other day except between the hours of 8:00 a.m. and 3:30 p.m."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.\*

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

(Approved April 8, 1974.)

## ACT 14

H.B. NO. 651

A Bill for an Act Relating to Minimum Wages.

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

SECTION 1. Section 387-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 387-2 Minimum wages.** After June 30, 1974 and until June 30, 1975, every employer, except as provided in section 387-9 and this paragraph, shall pay to each employee employed by him wages at the rate of not less than \$2.00 per hour. After June 30, 1975, every employer, except as provided in section 387-9 and this paragraph, shall pay to each employee employed by him

\*Edited accordingly.

wages at the rate of not less than \$2.40 per hour. The hourly wage of a tipped employee may be deemed to be increased on account of tips if the employee is paid not less than twenty cents below the applicable minimum wage by his employer and the combined amount he receives from his employer and in tips is at least fifty cents more than the applicable minimum wage."

SECTION 2. Section 387-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 387-9 Special minimum wages for learners; apprentices; full-time students; paroled wards of Hawaii youth correctional facility; handicapped workers.** (a) Notwithstanding the provisions of section 387-2, the director may by rules provide for the employment:

- (1) Of learners, of apprentices, of part-time employees who are full-time students attending public or private schools other than colleges, universities, business schools, or technical schools, and of wards paroled from the Hawaii youth correctional facility, under special certificates issued by the director, at such wages lower than the applicable minimum wage and subject to such limitations as to time, number, proportion, and length of service as the director shall prescribe; and
  - (2) Of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the applicable minimum wage and for such period as shall be fixed in the certificates.
- (b) (1) After June 30, 1974 and until June 30, 1976, notwithstanding the provisions of section 387-2 and of the foregoing subsection, an employer engaged in a seasonal pursuit may employ an employee—
  - (A) To whom the minimum wage rate required by section 387-2 would apply in such employment but for this subsection, and
  - (B) Who is a full-time student who attended a public or private school, other than a college, university, business school or technical school, for at least six months during the preceding 12-month period, at a special minimum wage rate not less than 85 per centum of the minimum wage applicable under section 387-2.

(2) The director may by regulation prescribe standards and requirements to insure that this subsection will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the special minimum wage rate authorized by this subsection is applicable."

SECTION 3. 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 material, or the underscoring.\*

SECTION 4. This Act shall take effect on July 1, 1974.

(Approved April 9, 1974.)

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\*Edited accordingly.

## ACT 15

### ACT 15

S.B. NO. 1573-74

A Bill for an Act Relating to Solemnization of Marriages.

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

SECTION 1. Section 572-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 572-12 By whom solemnized.** A license to solemnize marriages may be issued to, and the marriage rite may be performed and solemnized by any minister, priest, or officer of any religious denomination or society who has been ordained or is authorized to solemnize marriages according to the usages of such denomination or society, or any religious society not having clergy but providing solemnization in accordance with the rules and customs of that society, or any justice or judge or magistrate, active or retired, of a state or federal court in the State, upon presentation to such person or society of a license to marry, as prescribed by this chapter. Such person or society may receive the price stipulated by the parties or the gratification tendered."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved April 26, 1974.)

### ACT 16

S.B. NO. 2060-74

A Bill for an Act Relating to the Disposition of Lands Set Aside by the Governor.

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

SECTION 1. Section 171-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 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.

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

\*Edited accordingly.

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, 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."

SECTION 2. Statutory material to be repealed is bracketed. New mate-

## ACT 17

rial is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

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

(Approved May 2, 1974.)

## ACT 17

H.B. NO. 866

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. Amend paragraph one of Section 89-5, Hawaii Revised Statutes, as amended, to read:

**"Sec. 89-5 Hawaii public employment relations board.** (a) There is created a Hawaii public employment relations board composed of three members of which (1) one member shall be representative of management, (2) one member shall be representative of labor, and (3) the third member, the chairman, shall be representative of the public. All members shall be nominated and, by and with the advice and consent of the Senate, appointed by the governor for terms of six years each, except that the terms of members first appointed shall be for four, five, and six years respectively as designated by the governor at the time of appointments. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Notwithstanding the provisions of section 26-34, each member's term shall commence upon the effective date of his appointment. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms."

SECTION 2. Any confirmation made by the Senate during the 1974 session to the Hawaii Public Employment Relations Board shall be deemed to be made in accordance with this Act and the term of such member shall be adjusted without the necessity of reconfirmation.

SECTION 3. The applicability of this Act shall be limited to members taking office after the effective date of this Act.

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

(Approved May 15, 1974.)

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\*Edited accordingly.

A Bill for an Act Relating to Franchises.

*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 numbered and to read as follows:

## **“CHAPTER FRANCHISE INVESTMENT LAW**

**Sec. -1 Purpose and intent.** The purpose of this chapter is to regulate the sale of franchises in the State to minimize losses to the franchises in cases where the franchisor or his representative has not provided full and complete information regarding: (1) the franchisor-franchisee relationship; (2) the details of the contract between franchisor and franchisee; and (3) the prior business experience of the franchisor.

It is the intent of the legislature to: (1) provide each prospective franchisee with the information necessary to make an intelligent decision regarding franchises being offered; (2) prohibit the sale of franchises which would lead to fraud or a likelihood that the franchisor's promises would not be fulfilled; and (3) protect the franchisor or subfranchisor by providing a better understanding of the relationship between the franchisor or subfranchisor and the franchisee with regard to their business relationship.

**Sec. -2 Definitions.** As used in this chapter and unless a different meaning appears from the context:

“Advertisement” means any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communication media published in connection with an offer or sale of a franchise.

“Community interest” means a continuing financial interest between the franchisor and franchisee in the operation of the franchise business.

“Director” means the director of regulatory agencies.

“Franchise” means an oral or written contract or agreement, either expressed or implied, in which a person grants to another person, a license to use a trade name, service mark, trademark, logotype, or related characteristic in which there is a community interest in the business of offering, selling, or distributing goods or services at wholesale or retail, leasing, or otherwise, and in which the franchisee is required to pay, directly or indirectly, a franchise fee.

“Franchisee” means a person to whom a franchise is offered or granted.

“Franchisor” means a person who grants a franchise to another person.

“Area franchise” means any contract or agreement between a franchisor or subfranchisor whereby the subfranchisor is granted the right to sell or negotiate the sale of franchises in the name or on behalf of the franchisor.

“Subfranchisor” means a person to whom an area franchise is granted.

## ACT 18

“Franchise broker or selling agent” means a person who directly or indirectly engages in the sale of franchises.

“Franchise fee” means any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business or to continue a business under a franchise agreement, including, but not limited to, the payment either in lump sum or by installments of an initial capital investment fee, any fee or charge based upon the amount of goods or products purchased by the franchisee from the franchisor or subfranchisor, any fee or charges based upon a percentage of gross or net sales whether or not referred to as royalty fees, any payment for goods or services, or any training fees or training school fees or charges; however, the following shall not be considered payment of a franchise fee: (1) the purchase or agreement to purchase goods at a bona fide wholesale price; (2) the purchase or agreement to purchase goods by consignment; if, and only if the proceeds remitted by the franchisee from any such sale reflect only the bona fide wholesale price of such goods; (3) a bona fide loan to the franchisee from the franchisor; (4) the purchase or agreement to purchase goods at a bona fide retail price subject to a bona fide commission or compensation plan that in substance reflects only a bona fide wholesale transaction; (5) the purchase or agreement to purchase supplies or fixtures necessary to enter into the business or to continue the business under the franchise agreement at their fair market value; (6) the purchase or lease or agreement to purchase or lease real property necessary to enter into the business or to continue the business under the franchise agreement at the fair market value.

“Person” means a natural person, corporation, partnership, trust, or other entity and in the case of an entity, it includes any other entity which has a majority interest in such an entity or effectively controls such other entity as well as the individual officers, directors, and other persons in act of control of the activities of each such entity.

“Publish” means publicly to issue or circulate by newspaper, mail, radio, or television or otherwise to disseminate to the public.

“Sale or sell” includes every contract of sale, contract to sell, or disposition of a franchise.

“Offer or offer to sell” includes every attempt or offer to dispose of or solicitation of an offer to buy a franchise or an interest in a franchise.

**Sec. -3 Registration of Sale or offer to sell.** (a) It is unlawful for any franchisor or subfranchisor to sell or offer to sell any franchise in this State after July 1, 1974, unless the offer of the franchise has been registered under this chapter or exempted under section -4.

(b) The application for registration of the offer, signed by the franchisor, subfranchisor, or by any person on whose behalf the offering is to be made, must be filed with the director and shall contain:

- (1) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.

- (2) The franchisor's principal business address and the name and address of his agent in the State authorized to receive process.
- (3) The business form of the franchisor whether corporate, partnership, or otherwise.
- (4) Such other information concerning the identity and business experience of persons affiliated with the franchisor including franchise brokers as the director may by rule prescribe.
- (5) A statement whether any person identified in the application for registration:
  - (A) Has been found guilty of a felony or held liable in a civil action by final judgment if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or
  - (B) Is subject to any currently effective order of the securities and exchange commission or the securities administrator of any state denying registration to or revoking or suspending the registration of such person as a securities broker or dealer or investment advisor or is subject to any currently effective order or any national security association or national securities exchanges (as defined in the Securities and Exchange Act of 1934) suspending or expelling such person from membership of such association or exchange; or
  - (C) Is subject to any currently effective order or ruling of the Federal Trade Commission or is subject to any currently effective order relating to business activity as a result of an action brought by any public agency or department.

Such statement shall set forth the court, the date of conviction or judgment, any penalty imposed, or damages assessed, or the date, nature, and issue of such order.
- (6) A statement of when, where, and how long the franchisor has:
  - (A) Conducted a business of the type to be operated by the franchisees;
  - (B) Has granted franchises for such business; and
  - (C) Has granted franchises in other lines of business.
- (7) A recent financial statement of the franchisor, together with a statement of any material changes in the financial condition of the franchisor from the date thereof. The director may describe:
  - (A) Form and content of the financial statements required under this chapter;
  - (B) The circumstances under which consolidated financial statements can be filed; and
  - (C) The circumstances under which financial statements shall be audited by independent, certified public accountants.
- (8) A copy of the typical franchise contract or agreement proposed for use including all amendments thereto.
- (9) A statement of the franchise fee charged, the proposed application of the proceeds of the fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

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- (10) A statement describing a payment of fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.
- (11) A statement of the conditions under which the franchise agreement may be terminated or renewed or renewal refused, or repurchased at the option of the franchisor.
- (12) A statement of the conditions under which the franchise may be sold, transferred, or assigned.
- (13) A statement of the conditions imposed by the franchisor whether by the terms of the franchise agreement or by other device or practice whereby the franchisee or subfranchisor is required to purchase services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business from the franchisor or his designee.
- (14) A statement of any restriction or condition imposed by the franchisor whether by the terms of the franchise agreement or by other device or practice whereby the franchisee is limited or required in the goods and services offered by him.
- (15) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his agent or affiliate.
- (16) A statement of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee in whole or in part.
- (17) A copy of any financial statement prepared for presentation to prospective franchisees or other persons together with a statement setting forth the basis for such statements.
- (18) A statement of earnings of past and present franchisees including record of failures, resales to the franchisor, sales of the franchise to others, and transfers, insofar as such information is reasonably available to the franchisor.
- (19) A statement describing the training program, supervision, and assistance the franchisor has and will provide the franchisee.
- (20) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.
- (21) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from (A) the use of the public figure in the name or symbol of the franchise or (B) the endorsement or recommendation of the franchise by the public figure in advertisements.
- (22) Such other information as the director may reasonably require.
- (23) Such other information as the franchisor may wish to present.
- (24) When the person filing the application for registration is a subfranchisor, the application shall also include the same information concerning the subfranchisor as is required from the franchisor pursuant to this subsection.

(c) The director may by rule or order require as a condition to the effectiveness of the registration the escrow or impoundment of franchise fees if he finds that such requirement is necessary and appropriate to protect prospective franchisees.

(d) If no stop order is in effect and no proceeding is pending under section -8(a), a registration statement becomes effective at of the fifteenth business day after the filing of the registration statement or the last amendment or at such earlier time as the director determines.

(e) A franchise offering shall be deemed duly registered for a period of one year from the effective date of registration unless the director specifies a different period.

(f) Registration of a franchise offer may be renewed for additional periods of one year each, unless the director by rule or order specifies a different period, by filing with the director no later than fifteen business days prior to the expiration thereof a renewal application containing such information as the director may require to indicate any substantial changes in the information contained in the original application for a renewal application and payment of the prescribed fee.

(g) If a material change, as defined by the director, in the condition of the franchisor or the subfranchisor should occur during any year, a supplemental report shall be filed with the director as soon as reasonably possible and in any case, before the further sale of the franchise.

(h) Neither the fact that application for registration under this chapter has been filed nor the fact that such registration has become effective constitutes a finding by the director that any document filed under this chapter is true, complete or not misleading. Neither any such fact or the fact an exemption is available for a transaction means that the director has passed in any way on the merit or qualifications of or recommended or given approval to any person, franchise, or transaction.

It is unlawful to make or cause to be made to any prospective purchaser or offeree any representation inconsistent with this subsection.

**Sec. -4 Exemptions.** (a) The registration requirements of this chapter shall not apply to:

- (1) A sale or transfer of a franchise by a franchisee whether voluntary or involuntary if such sale is an isolated sale.
- (2) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.
- (3) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer or to a broker dealer where the purchaser is acting for itself or in some fiduciary capacity.
- (4) Any franchisor:
  - (A) Who has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than \$5,000,000 or who has a net worth, according to its most recent

## **ACT 18**

audited financial statement, of not less than \$1,000,000 and is at least eighty per cent owned by a corporation which has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than \$5,000,000; and

- (B) Who has had at least twenty-five franchisees conducting business at all times during the five-year period immediately preceding the offer or sale or has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale or if any corporation which owns at least eighty per cent of the franchisor, has had at least twenty-five franchises, conducting business at all times during the five-year period immediately preceding the offer or sale or such corporation has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale; and
- (C) Who requires an initial investment by the franchisee of more than \$100,000; and
- (D) Who has disclosed in writing to each prospective franchisee, at least forty-eight hours prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least forty-eight hours prior to the receipt of any consideration, the following information:
  - (i) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.
  - (ii) The franchisor's principal business address and the name and address of his agent in the State authorized to receive process.
  - (iii) The business form of the franchisor whether corporate, partnership, or otherwise.
  - (iv) A statement of when, where, and how long the franchisor has conducted a business of the type to be operated by the franchisees; has granted franchises for such business; and has granted franchises in other lines of business.
  - (v) A copy of the typical franchise contract or agreement proposed for use including all amendments thereto.
  - (vi) A statement of the franchise fee charged, the proposed application of the proceeds of the fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.
  - (vii) A statement describing a payment of fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.
  - (viii) A statement of the conditions under which the franchise

agreement may be terminated or renewed or renewal refused, or repurchased at the option of the franchisor.

- (ix) A statement of the conditions under which the franchise may be sold, transferred, or assigned.
- (x) A statement of the conditions imposed by the franchisor whether by the terms of the franchise agreement or by other device or practice whereby the franchisee or subfranchisor is required to purchase services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business from the franchisor or his designee.
- (xi) A statement of any restriction or condition imposed by the franchisor whether by the terms of the franchise agreement or by other device or practice whereby the franchise is limited or required in the goods or services offered by him.
- (xii) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his agent or affiliate.
- (xiii) A statement of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee or subfranchisor in whole or in part.
- (xiv) A copy of any financial statement prepared for presentation to prospective franchisees or other persons together with a statement setting forth the basis for such statements.
- (xv) A statement of earnings of past and present franchisees including records of failures, resales to the franchisor, sales of the franchise to others, and transfers, insofar as such information is reasonably available to the franchisee.
- (xvi) A statement describing the training program, supervision, and assistance the franchisor has and will provide the franchisee.
- (xvii) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from the use of the public figure in the name or symbol of the franchise, or the endorsement or recommendation of the franchise by the public figure in advertisements.
- (xviii) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.

(5) Any motor vehicle dealer subject to chapter 437.

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- (b) Neither the registration requirements nor the provisions of section -6(2) shall apply to any franchisor:
  - (1) Who meets the tests and requirements set forth in subsection (a) (4); and

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- (2) Who is engaged in the business of renting or leasing motor vehicles through an interdependent system of direct and franchised operations in interstate commerce in twenty or more states.

**Sec. -5 General provisions.** (a) No person shall publish in this State any advertisement offering a franchise subject to the registration requirements of this chapter unless a true copy of the advertisement has been filed in the office of the director at least seven days prior to the publication or such shorter period as the director by rule or order may allow.

(b) No person shall publish in this State any advertisement concerning a franchise subject to the registration requirements of this chapter after the director finds that the advertisement contains any statements that are false or misleading or omits to make any statement necessary in order to make the statements made in the light of the circumstances in which they were made not misleading and so notifies the person in writing. Such notification may be given summarily without notice or hearing. At any time after the issuance of a notification under this subsection the person desiring to use the advertisement may in writing request the order be rescinded. Upon receipt of such a written request, the matter shall be set down for hearing to commence within fifteen days after such receipt unless the person making the request consents to a later date. After such hearing, which shall be conducted in accordance with chapter 91, the director shall determine whether to affirm and to continue or to rescind the order.

(c) Every person offering franchises for sale shall at all times keep and maintain a complete set of books, records, and accounts of such and the disposition of the proceeds thereof and shall thereafter at such times as are required by the director make and file in the office of the director a report setting forth the franchises sold by it, the proceeds derived therefrom, and the disposition thereof.

(d) Any person offering for sale or selling a franchise within this State, whether or not one or more franchises will be located within this State, must present to the prospective franchisee or his representative, at least forty-eight hours prior to the sale of the franchise, copies of the offering circular and all supplemental reports of the franchisor and the subfranchisor on file with the director.

(e) It is unlawful for any person in connection with the offer, sale, or purchase of any franchise directly or indirectly:

- (1) To make any untrue statement of a material fact in any application, notice, or report filed with the director under this chapter or wilfully to omit to state in any application notice or report, any material fact which is required to be stated therein or fails to notify the director of any material change as required by section -3(g).
- (2) To sell or offer to sell a franchise in this State by means of any written or oral communication which includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made in light of the circumstances under which they were made not misleading.
- (3) To employ any device, scheme, or artifice to defraud.

(4) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(5) To violate any order of the director.

(f) Any person who is engaged or hereafter engaged directly or indirectly in the sale or offer to sell a franchise or in business dealings concerning a franchise, either in person or in any other form of communication, shall be subject to this chapter, shall be amenable to the jurisdiction of the courts of this State and shall be amenable to the service of process as provided by law and rule. Every applicant for registration of a franchise under this chapter, by other than a Hawaii corporation, shall file with the director in such form as he by rule prescribed, an irrevocable consent appointing the director or his successor in office to be his attorney, to receive service or any lawful process in any noncriminal suit, action, or proceeding against him or his successors, executor, or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing consent. A person who has filed such a consent in connection with a previous registration under this law need not file another. Service may be made by leaving a copy of the process in the office of the director but it is not effective unless:

(1) The plaintiff, who may be the director, in a suit, action, or proceeding instituted by him forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the director; and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further times the court allows.

(g) In any proceeding under this chapter, the burden of proving an exception or an exemption from definition is upon the person claiming it.

**Sec. -6 Relationship between franchisor or subfranchisor and franchisee.** Without limiting the other provisions of this chapter, the following specific rights and prohibitions shall govern the relation between the franchisor or subfranchisor and the franchisees:

(1) The parties shall deal with each other in good faith.

(2) For the purposes of this chapter and without limiting its general application, it shall be an unfair or deceptive act or practice or an unfair method of competition for any person to:

(A) Restrict or inhibit the right of the franchisees to join an association of franchisees.

(B) Require a franchisee to purchase or lease goods or services of the franchisor or from approved sources of supply unless and to the extent that the franchisor satisfies the burden of proving that such restrictive purchasing agreements are reasonably necessary for a lawful purpose justified on business grounds, and do not substantially affect competition.

(C) Discriminate between franchisees in the charges offered or made for royalties, goods, services, equipment, rentals, advertising services, or in any other business dealing, unless and to

- the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary.
- (D) Sell, rent, or offer to sell to a franchisee any product or service for more than a fair and reasonable price.
  - (E) Obtain money, goods, services, anything of value, or any other benefit from any other person with whom the franchisee does business on account of such business unless such benefit is promptly accounted for and transmitted to the franchisee.
  - (F) If he is the franchisor or subfranchisor, to compete with the franchisee in a relevant market or to grant competitive franchises in the relevant market area previously granted to another franchisee, such relevant market to be specifically listed in the franchise agreement.
  - (G) Require franchisee to assent to a release, assignment, novation, or waiver which would relieve any person from liability imposed by this chapter.
  - (H) Impose on a franchisee by contract, rule, or regulation, whether written or oral, any standard of conduct unless the person so doing can sustain the burden of proving such to be reasonable and necessary.
  - (I) Fail to renew a franchise except for just cause, or in accordance with the current terms and standards established by the franchisor then equally applicable to all franchisees, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary.
  - (J) Terminate a franchise or to restrict the transfer of a franchise except for just cause, or in accordance with the current terms and standards established by the franchisor then equally applicable to all franchisees, unless and to the extent that the franchisor satisfies the burden of proving that any classification of or discrimination between franchisees is reasonable, is based on proper and justifiable distinctions considering the purposes of this chapter, and is not arbitrary. Upon termination the franchisee shall receive a fair and reasonable compensation for the value of the franchisee's inventory, supplies, equipment, and furnishings and those prepaid costs and expenses paid the franchisor; provided that personalized materials which have no value to the franchisor need not be compensated for.
- (3) The provisions of this chapter shall apply to all written or oral arrangements with the franchisee including but not limited to the franchise offering, the franchise agreement, sales of goods or services, leases and mortgages of real or personal property, promises to pay, security interests, pledges, insurance contracts, advertising con-

tracts, construction or installation contracts, servicing contracts, and all other such arrangements in which the franchisor or subfranchisor has any direct or indirect interest.

- (4) In any proceedings damages may be based on reasonable approximations but not on speculation.

**Sec. -7 Registration of franchise broker or selling agent.** (a) It is unlawful for any person to offer to sell or sell a franchise which is subject to the registration requirements of section -4 or section -3 unless he is registered under this chapter. It is unlawful for any franchisor, subfranchisor, or franchisee, except if the transaction is exempt under section -4 to employ a franchise broker or selling agent unless he is registered.

(b) The franchise broker or selling agent may apply for registration by filing with the director an application together with a consent to service of process in such form as the director prescribes and payment of the fee prescribed in section -11.

(c) The application shall contain whatever information the director requires concerning such matters as:

- (1) The applicant's form and place of organization.
- (2) The applicant's proposed method of doing business.
- (3) The qualifications and business history of the applicant.
- (4) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and
- (5) The applicant's financial condition and history.

**Sec. -8 Duties of the director.** (a) The director may issue a stop order denying effectiveness to or suspending or revoking the effectiveness of any registration statement if he finds that the order is in the public interest and that:

- (1) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness is incomplete and immaterial in any respect or contains any statement which was in the light of the circumstances under which it was made false or misleading with respect to any material fact;
- (2) Any provision of this chapter or any rule or order or condition lawfully imposed under this chapter has been violated in connection with the offering by:
  - (A) The person filing the registration statement but only if such person is directly or indirectly controlled by or acting for the franchisor; or
  - (B) The franchisor, any partner, officer or director of a franchisor, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling or controlled by the franchisor.
- (3) The franchise offering registered or sought to be registered is the subject of a permanent or temporary injunction of any court of competent jurisdiction entered under any federal or state act applicable to the offering but the director may not:

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- (A) Institute a proceeding against an effective registration statement under this subparagraph more than one year from the date of the injunctive relief thereon unless the injunction is thereafter violated; and
  - (B) Enter an order under this subparagraph on the basis of an injunction entered under any other law unless that order or injunction is based on facts that currently constitute a ground for stop order under this section.
- (4) A franchisor's enterprise or method of business includes or would include activities which are illegal where performed;
  - (5) The offering has worked or tended to work a fraud upon purchasers or would so operate;
  - (6) The applicant has failed to demonstrate that adequate financial arrangements have been made to fulfill obligations to provide real estate improvements, equipment, training, or other items included in the offering;
  - (7) The applicant or registrant has failed to pay the proper registration fee but the director may enter only a denial order under this paragraph and he shall vacate such order when the deficiency has been corrected.
- (b) Upon the entry of a stop order under any part of subsection (a), the director shall promptly notify the applicant that the order has been entered and the reasons therefor and that within fifteen days after receipt of a written request, the matter will be set down for hearing. If no hearing is requested within fifteen days and none is ordered by the director, the director shall enter his written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director after notice of an opportunity for hearings to the issuer and to the applicant or registrant shall enter his written findings of fact and conclusions of law and may modify or vacate the order. The director may modify or vacate a stop order if he finds that the conditions which prompted his entry have changed or that it is otherwise in the public interest to do so.
- (c) The director shall refer such evidence as may be available concerning violations of this chapter or any rule or order hereunder to the attorney general or the proper prosecuting attorney who may in his discretion with or without such a reference institute the appropriate criminal proceeding under this chapter.
- (d) The director may, in accordance with chapter 91, from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out this chapter including rules and forms governing applications and reports and defining any terms whether or not used in this chapter insofar as the definitions are consistent with this chapter.
- Sec. -9 Civil liability.** (a) The commission of any unfair or deceptive acts or practices or unfair methods of competition prohibited by section -6 shall constitute an unfair or deceptive act or practice under chapter 480.
- (b) Any person who sells or offers to sell a franchise in violation of this

chapter shall be liable to the franchisee or subfranchisor who may sue for damages caused thereby for rescission or other relief as the court may deem appropriate. In the case of a violation of section -5(e) rescission is not available to the plaintiff if the defendant proves that the plaintiff knew the facts concerning the untruth or admission or that the defendant exercised reasonable care and did not know or if he had exercised reasonable care would not have known of the untruth or admission.

(c) The suit authorized under subsection (b) may be brought to recover the actual damages sustained by the plaintiff together with the cost of the suit including reasonable attorneys' fees and the court may in its discretion increase the award of damages to an amount not to exceed three times the actual damages sustained.

(d) Any person who becomes liable to make payments under this section may recover contributions as in cases of contracts from any persons who, if sued separately, would have been liable to make the same payment.

(e) A final judgment, order, or decree heretofore or hereafter rendered against a person in any civil, criminal, or administrative proceedings under the United States anti-trust laws, under the Federal Trade Commission Act, or this chapter shall be regarded as evidence against such persons in any action brought by any party against such person under subsections (a) and (b) as to all matters which said judgment or decree would be an estoppel between the parties thereto.

**Sec. -10 Penalties.** (a) The attorney general may bring an action in the name of the State against any person to restrain and prevent the doing of any act herein prohibited or declared to be unlawful and the prevailing party may in the discretion of the court recover the costs of such action including a reasonable attorneys' fee.

(b) Every person who violates the terms of any injunction issued as provided by this chapter shall forfeit and pay a civil penalty of not more than \$25,000.

Every person who violates section -3(a) or -5(c), (d), or (e) shall forfeit a civil penalty of not more than \$2,000 for each violation.

For the purpose of this section the court issuing an injunction shall retain jurisdiction and the cause shall be continued and in such cases the attorney general acting in the name of the State may petition for the recovery of civil penalties.

(c) Any person who wilfully violates any provision of this chapter or who wilfully violates any rule or order under this chapter shall be fined not more than \$5,000 or imprisoned not more than ten years, or both, but no person may be imprisoned for the violation of any rule or order if he proves that he had no knowledge of the rule or order. No indictment or information may be returned under this chapter more than five years after the alleged violation.

(d) Nothing in this chapter limits the power of the State to punish any person for any conduct which constitutes a crime.

**Sec. -11 Fees.** The director shall charge and collect fees fixed by this section. All fees collected under this chapter shall be deposited in the state treasury and shall not be refundable except as herein provided:

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- (1) The fee for filing an application for registration on the sale of franchise under section -3(b) is \$500;
- (2) The fee for filing an application for renewal of a registration under section -3(f) is \$100;
- (3) The fee for filing an amendment to the application filed under this chapter is \$100;
- (4) The fee for registration of a franchise broker or selling agent is \$50 for an original registration and \$25 for each annual renewal.

**Sec. -12 Administration.** (a) Chapter 91 shall wherever applicable govern the rights, remedies, and procedures respecting the administration of this chapter.

(b) The director shall appoint, subject to applicable civil service laws, a competent person to administer this chapter. The director shall delegate to the administrator such powers, subject to the authority of the director, as may be necessary to carry out the provisions of this chapter."

**SECTION 2. Severability.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 3.** All conflicting acts or parts thereof are repealed or amended to conform with this Act.

**SECTION 4. Effective date.** This Act shall become effective January 1, 1975.

(Approved May 17, 1974.)

## **ACT 19**

H.B. NO. 2582-74

A Bill for an Act Relating to Elections.

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

**SECTION 1.** Section 11-76, Chapter 1, Hawaii Revised Statutes, is amended to read:

**"Sec. 11-76 Compensation.** (a) Electronic ballot and voting machine elections. Precinct officials, other than the chairman, shall be paid \$35 for each election. The chairman of the precinct officials for each precinct shall be paid \$45 for each election for a single-unit precinct and \$10 more per unit for larger precincts.

(b) Paper ballot elections. The chairman of the precinct officials and the precinct officials shall receive the same base amounts as in subsection (a). In addition, all precinct officials shall be paid \$1 for each three hundred ballots or portion thereof cast at the precinct."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not in-

clude the brackets, the bracketed material, or the underscoring.\*

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

(Approved May 20, 1974.)

**ACT 20**

S.B. NO. 1981-74

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 to read as follows:

**"Sec. 478-8. Prohibition from interposing defense of usury.** There shall not be interposed the defense or statement of a claim of usury in any action on a contract or promissory note, the principal amount of which exceeds the sum of \$750,000.

Section 478-6 shall not apply to parties to contracts or holders of promissory notes where the principal amount of such contracts or notes exceeds the sum of \$750,000."

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

(Approved May 20, 1974.)

**ACT 21**

H.B. NO. 2082-74

A Bill for an Act Relating to Age Requirements for Occupational Licenses.

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

SECTION 1. Section 437-28, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Grounds for suspension, revocation, or denial of issuance or renewal of a license. The board may, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, suspend, revoke, or deny the renewal of any license, or prior to such notice and hearing deny the issuance of any license if it finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than a ten per cent interest of such applicant or holder:

(1) Has intentionally made a false statement of a material fact in his application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation; or

\*Edited accordingly.

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- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule, regulation, or order made pursuant to this chapter; or
- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase such motor vehicles; or
- (4) Has engaged in his business under a past or present license issued pursuant to this chapter, in such a manner as to cause injury to the public or to those with whom he is dealing; or
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem him to be an unfit or improper person to hold a license; or
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or
- (7) Has been convicted of a felony or misdemeanor involving moral turpitude, and has not been pardoned therefor. This restriction shall also apply to any corporate or partnership applicant or holder of a license, where a stockholder or general or limited partner owning directly or indirectly more than a ten per cent interest in such applicant or holder has been so convicted; or
- (8) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors; or
- (9) In the case of an individual applicant or holder of a license, is not at least eighteen years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least eighteen years of age; or
- (10) Has charged more than a legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (11) Has violated any of the laws pertaining to false advertising or to retail installment sales in the offering, soliciting, selling, or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein; or
- (12) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (13) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause; or
- (14) Has entered or has attempted to enter or proposes to enter into any

- contract or agreement contrary to this chapter or any rule or regulation adopted thereunder; or
- (15) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor; or
- (16) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed; or
- (17) Being a salesman or dealer:
- (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer; or
  - (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle; or
  - (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesman clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or
- (18) Being an applicant or holder of a dealer's license:
- (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for such new vehicles or without providing and maintaining adequate repair facilities and personnel for such new vehicles at either the main licensed premises or at any branch location; or
  - (B) Has employed or proposed to employ any salesman who is not duly licensed under this chapter; or
  - (C) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
- (19) Being an applicant or holder of an auction's license:
- (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
  - (B) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
- (20) Being an applicant for a salesman's license:
- (A) Does not intend to be employed as a salesman for a licensed motor vehicle dealer; or
  - (B) Does not intend to be employed as a salesman as his principal occupation; or
  - (C) Intends to be employed as a salesman for more than one dealer; or
- (21) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or

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- (22) Being a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative:
- (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with said dealer, by threatening to cancel the franchise agreement or by threatening to refuse, at the expiration of the current franchise agreement, to enter a new franchise agreement with such dealer; or
  - (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with the dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer; or
  - (C) Has attempted to or has cancelled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon such cancellation or failure to renew the franchise agreement, the party cancelling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the business, goodwill, property, and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts, and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting such compensation; provided such investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for his damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other; or
  - (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped

as the vehicle ordered by a dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from the dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor or production difficulty, or other similar cause beyond the reasonable control of the manufacturer; or

- (E) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging such dealer more for a new motor vehicle or services, parts, or accessories therefor or a higher rate of transportation for transporting such vehicle from the manufacturing or assembly plant to such dealer or any portion of such distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories therefor or for similar transportation for such vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon such franchised dealer in this State during the same period is deemed to have so discriminated against such franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of such discriminatory act against the franchised dealer in this State. The intent and purpose of this paragraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This paragraph shall be liberally interpreted to effect such intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph (E) shall prohibit establishing

## ACT 21

- delivered prices or destination charges to dealers in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of such products to such dealers, including costs which are related to the geographical distances, modes and costs of transportation involved in shipments to this State, or which meet those lower prices established by competitors; or
- (F) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by such dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of such new motor vehicles and cannot be removed therefrom without substantial expense; or
- (23) Has been convicted of a violation of section 291-38."

SECTION 2. Section 463-6, Hawaii Revised Statutes, is amended to read as follows:

**Sec. 463-6 Private detective; qualifications for license.** The board of detectives and guards may grant a private detective license to any suitable citizen of the United States and to any suitable corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal detective of a corporation, shall have been a resident of the State for not less than one year immediately prior to the filing of application for license, shall be not less than twenty-two years of age and of good moral character, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time investigational work. Any licensee may employ as many agents, operatives, and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal detective if a corporation is the employer, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business and that no licensee shall employ any person who has been convicted of a felony or any offense involving moral turpitude. Employees shall have an eighth grade education or its equivalent."

SECTION 3. Section 463-8, Hawaii Revised Statutes, is amended to read as follows:

**Sec. 463-8 Guard; qualifications for license.** The board of detectives and guards may grant a guard or a guard agency license to any suitable citizen of the United States and to any suitable corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal guard in the case of a corporation, shall have been a resident of the State for not less than one year immediately prior to the filing of application for license, shall be not less than twenty-two years of age and of good

moral character, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time guard work. Any licensee may employ as many agents, operatives, and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal guard if the employer is a corporation, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business and that no licensee shall employ any person who has been convicted of a felony or any offense involving moral turpitude. Employees shall have an eighth grade education or its equivalent."

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 material, or the underscoring.\*

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

(Approved May 22, 1974.)

## ACT 22

H.B. NO. 2826

A Bill for an Act Relating to the Inspection of Elevators, Escalators, and Other Similar Mechanical Moving Devices.

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

SECTION 1. Chapter 396, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 396- Safety inspection of elevators, escalators, etc.** (a) All safety inspections, required under this chapter, of elevators, dumbwaiters, stage lifts, mechanized parking garage elevators, escalators, moving walks or ramps, manlifts, and workmen's hoists or personnel hoists shall be performed by inspectors of the department of labor and industrial relations who are qualified elevator inspectors and who are employed primarily for purposes of elevator and related inspection work; provided that the limitation of authorized inspections to those made by the inspector of the department of labor and industrial relations shall not apply to any person who is serving as a certified elevator inspector in the State of Hawaii on the effective date of this section and who has been certified in the most recent certification period by the department of labor and industrial relations and whose entire source of earned income is derived from such fee inspections.

(b) A qualified elevator inspector is a person who has worked at least five years as an elevator mechanic and has satisfied requirements established by the department of labor and industrial relations; provided that these experience requirements shall not apply to any person who is serving as an elevator inspector or a supervisor elevator inspector for the department of labor and industrial relations on the effective date of this section.

(c) Subject to the provisions of chapter 91, the department of labor and industrial relations shall adopt and promulgate rules for the regulation and

\*Edited accordingly.

## ACT 23

periodic certification of all elevator inspectors."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 22, 1974.)

## ACT 23

H.B. NO. 2827-74

A Bill for an Act Relating to Elevator Mechanics.

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

SECTION 1. Section 448H-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 448H-1 Definitions.** As used in this chapter:

- (1) "Board" means the elevator mechanics licensing board created by this chapter.
- (2) "Elevator mechanic" means any person who engages in the construction, reconstruction, alteration, maintenance, mechanical, or electrical work or adjustments of any elevator, dumbwaiter, stage lift, mechanized parking garage elevator, escalator, moving walk or ramp, manlift including any construction, reconstruction, alteration, or adjustment of the structure or facility of which the same may be a part or to which the same may be attached, necessary for proper completion of the work on the elevator, dumbwaiter, stage lift, mechanized parking garage elevator, escalator, moving walk or ramp, or manlift.
- (3) "Apprentice elevator mechanic" means any person who is in training to acquire the skill to become an elevator mechanic and who is required to work for at least two years under the supervision of an elevator mechanic duly licensed under the provision of section 448H-6."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 22, 1974.)

## ACT 24

S.B. NO. 1262

A Bill for an Act Relating to Boards and Commissions.

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

SECTION 1. The purpose of this bill is twofold: to make the provisions of section 26-34 applicable to the Research Corporation of the University of

\*Edited accordingly.

Hawaii and to clarify that the State Foundation on Culture and the Arts is subject to the provisions of Section 26-34, Hawaii Revised Statutes, and has been since the passage of Act 192, Session Laws of Hawaii 1970.

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

**"Sec. 9-2 Establishment of foundation.** There is hereby created a State foundation on culture and the arts composed of nine members to be appointed and removed by the governor pursuant to Section 26-34. The governor shall appoint the chairman of the foundation from among the members thereof. The members of the foundation shall serve without compensation, but they shall be reimbursed for travel and other necessary expenses in the performance of their official duties.

The foundation shall be placed within the department of budget and finance."

SECTION 3. Persons who were members of the State foundation on culture and the arts at the time Act 192, Session Laws of Hawaii 1970, became effective shall be deemed to have been appointed for a term of four years commencing on January 1, 1970 and terminating on December 31, 1973. Only service rendered after the effective date of Act 192, Session Laws of Hawaii 1970, shall be considered for purposes of computing the two term limitations or the eight consecutive year limitation of section 26-34, Hawaii Revised Statutes. Nominations confirmed by the Senate during the 1974 Session shall be for a term of four years commencing on January 1, 1974 and ending on December 31, 1977.

SECTION 4. Section 307-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 307-2 Board of directors; composition.** The affairs of the research corporation shall be under the general management and control of the board of directors, hereinafter referred to as the 'board.' The board shall consist of nine members. The president and director of research of the University of Hawaii, and the director of planning and economic development of the State shall serve as ex officio voting members. The remaining six members shall be appointed by the governor pursuant to section 26-34. All the members appointed by the governor, other than the ex officio members, shall serve for a term of four years, except that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on January 1 and expiring on December 31. All members of the board shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

The members of the board shall elect the chairman of the board.

If for any reason whatsoever any of the ex officio positions is eliminated or changed in any way, the officer performing the basic functions of such ex officio position shall qualify to serve as the ex officio voting member on the board."

## ACT 25

SECTION 5. Persons who are members of the Research Corporation of the University of Hawaii at the time this Act becomes effective shall be continued in office and shall be deemed to have been appointed pursuant to section 26-34 and thereafter shall be subject to the provisions of that section.

SECTION 6. 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 material, or the underscoring.\*

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

(Approved May 23, 1974.)

## ACT 25

S.B. NO. 1523-74

A Bill for an Act Relating to Fees for Registered and Practical Nurses License Examinations and Fee for Verification of License.

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

SECTION 1. Section 457-7, Hawaii Revised Statutes, is amended:

**"Sec. 457-7 Registered nurses; qualifications; licenses; fees; title; existing licensed nurses; verification of licenses.** (a) An applicant for a license to practice nursing as a registered nurse shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

- (1) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency; and
  - (2) Has completed the required State accredited nursing education program.
- (b) Licenses shall be granted either:
- (1) By examination: The applicant shall be required to pass a written examination in such subjects as the board may determine. Upon successfully passing such examination, the board shall issue to the applicant a license to practice nursing as a registered nurse; or
  - (2) By endorsement: The board may issue a license to practice nursing as a registered nurse by endorsement to an applicant who has been licensed as a registered nurse under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the qualifications required of registered nurses in this State at the time of graduation.

(c) The applicant applying for a license to practice as a registered nurse shall pay a fee of \$30 to the board and a fee of \$10 for each reexamination.

(d) Any person who holds a license to practice nursing as a registered nurse in this State shall have the right to use the title 'Registered Nurse' and the abbreviation 'R.N.' No other person shall assume such title or use such abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered nurse.

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\*Edited accordingly.

(e) Any person holding a license or certificate of registration to practice nursing as a registered nurse issued by the board which is valid on June 12, 1970 shall be deemed to be licensed as a registered nurse under this chapter.

(f) Any person who requests to take the licensing examination to qualify for a license in a sister state shall pay a proctoring fee of \$10 to the board.

(g) Any person who requests verification of a registered nurse license to a nursing board of another state shall pay a fee of \$5."

SECTION 2. Section 457-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 457-8 Licensed practical nurse; qualifications; license; fees; title; existing licensed nurses; verification of licenses.** (a) An applicant for a license to practice nursing as a licensed practical nurse shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

(1) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency.

(2) Has completed a prescribed curriculum in a state-accredited program to prepare for a licensed practical nurse and holds a diploma or certificate therefrom.

(b) Licenses shall be granted either:

(1) By examination: The applicant shall be required to pass a written examination in such subjects as the board may determine. Upon successfully passing such examination, the board shall issue to the applicant a license to practice nursing as a licensed practical nurse; or

(2) By endorsement: The board may issue a license to practice nursing as a licensed practical nurse by endorsement to any applicant who has been licensed as a licensed practical nurse, or a person entitled to perform similar services under a different title, under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this State at the time of graduation.

(c) The applicant applying for a license to practice as a licensed practical nurse shall pay a fee of \$15 to the board and a fee of \$10 for each re-examination.

(d) Any person who holds a license to practice nursing as a licensed practical nurse in this State shall have the right to use the title 'Licensed Practical Nurse' and the abbreviation 'L.P.N.'. No other person shall assume such title or use such abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.

(e) Any person holding a license to practice nursing as a licensed practical nurse issued by the board which is valid on June 12, 1970 shall be deemed to be licensed as a licensed practical nurse under this chapter.

(f) Any person who requests to take the licensing examination to qualify for a license in a sister state shall pay a proctoring fee of \$10 to the board.

(g) Any person who requests verification of a practical nurse license to a nursing board of another state shall pay a fee of \$5."

SECTION 3. Statutory material to be repealed is bracketed. New mate-

## **ACT 26**

rial is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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

(Approved May 23, 1974.)

## **ACT 26**

S.B. NO. 1525-74

A Bill for an Act Relating to Renewal of Licenses for Registered and Practical Nurses.

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

**SECTION 1.** Section 457-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 457-9 Renewal of license.** The license of every person licensed under this chapter shall be renewed annually, except as hereinafter provided. Annually on or before July 1, the board shall mail an application for renewal of license to every person to whom a license was issued or renewed during the current year. The applicant shall fill in the application blank and return it to the board with a renewal fee of \$5 before June 30 of the following year. Upon receipt of the application and fee the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the current year beginning July 1 and expiring the following June 30. Such renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form.

Any licensee who allows his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation of the failure to renew and on payment of the renewal fee and a penalty fee of \$5.

Any person practicing nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violations of this chapter.

A nurse who does not engage in nursing in the State during the succeeding year shall not be required to pay the renewal fee as long as he or she remains inactive. Should he or she wish to resume nursing at some future time he or she shall so notify the board and remit the renewal fee for the current annual period."

**SECTION 2.** 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 material, or the underscoring.\*

**SECTION 3.** This Act shall take effect on January 1, 1975.

(Approved May 23, 1974.)

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\*Edited accordingly.

A Bill for an Act Relating to Plumbers.

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

SECTION 1. Section 448E-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 448E-1 Definitions.** As used in this chapter, unless otherwise indicated by the context:

- (1) "Board" means the board of electricians and plumbers.
- (2) "J Journeyman electrician" means any person who has been licensed by the board as a journeyman electrician to perform electrical work.
- (3) "J Journeyman plumber" means any person who has been licensed by the board as a journeyman plumber to direct and supervise the performance of plumbing work and to perform plumbing work.
- (4) "J Journeyman specialty electrician" means any person who has been licensed by the board as a journeyman specialty electrician to perform electrical work related to installing, repairing, altering and maintaining but not the attachment of lighting and power circuits to, the following: electronic equipment, sound public address systems and communication systems, other than equipment and systems for a single-family or two-family dwelling; master of community radio and television receiving antenna systems; sound recording systems, other than systems for a single-family or two-family dwelling; burglar and fire alarm systems; low voltage remote control, other than a control for a single-family or two-family dwelling; and low voltage communication signal systems.
- (5) "Master plumber" means any person who has been licensed by the board as a master plumber to direct and supervise the performance of plumbing work and to perform plumbing work and who provides overall supervision and general direction and is responsible for proper installation of plumbing work.
- (6) "Motion picture operator" means any person who has been licensed by the board for the purpose of operating a movie projector using 35 mm film or larger for commercial purposes.
- (7) "Supervising electrician" means any person who has been licensed by the board as a supervising electrician to direct and supervise the performance of electrical work and to perform electrical work.
- (8) "Supervising specialty electrician" means any person who has been licensed by the board as a supervising specialty electrician to direct and supervise the performance of electrical work related to installing, repairing, altering and maintaining, but not the attachment of lighting and power circuits, to the following: electronic equipment, sound public address systems, other than equipment and systems for a single-family or two-family dwelling; master or community radio and television receiving antenna system; sound recording systems other than systems for a single-family or a two-family dwelling;

## ACT 28

burglar and fire alarm systems; low voltage remote control, other than control for a single-family or two-family dwelling; and low voltage communication signal systems.

- (9) "Maintenance electrician" means any person who has been licensed by the board as a maintenance electrician to maintain electrical work."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 23, 1974.)

ACT 28

H.B. NO. 2207-74

A Bill for an Act Relating to Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects.

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

SECTION 1. Section 464-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 464-9 Applications for and certificates of registration; renewal.** Application for registration shall be made upon blanks to be furnished by the board of registration of professional engineers, architects, and surveyors and shall be signed and sworn to by the applicant. With each application there shall be paid to the board the sum of \$30 as an application fee, the fee to be nonreturnable after the application has been entered in the records of the board.

For each examination, or repetition thereof in whole or in part as shall be limited or permitted by the rules and regulations of the board, the candidate shall pay to the board a sum of \$25 as an examination fee; provided, where the candidate is eligible to take only that part of the examination pertaining to engineering fundamentals he shall pay \$20. The fee paid shall not be refundable; provided, if a candidate after having paid the fee is unable for any reason beyond his control to participate in the examination, the board may extend the time of the candidate's participation to the next regular examination date and credit the candidate the amount of the fee paid.

Upon qualifying for registration, the applicant shall pay the sum of \$15 as a registration fee, and upon receipt thereof by the board shall thereupon be registered as a professional engineer, architect, land surveyor or landscape architect, and shall receive a certificate thereof from the board signed by the chairman and secretary.

Every person registered who, as an individual or as a member of a firm or corporation, conducts an office or other place of business for the practice of his profession shall display his original certificate in a conspicuous manner, in his principal office or place of business.

\*Edited accordingly.

Every certificate of registration expires on April 30 following its issuance or renewal and becomes invalid after that date unless renewed. The secretary of the board shall mail, at least one month in advance of the date of expiration of the certificate of registration, a notice to every person registered hereunder giving the date of expiration and the amount required for the renewal thereof. The fee for renewal shall be \$15 for each renewal certificate. Certificates of registration which have expired for failure to pay renewal fees on or before the date hereinabove required may be reinstated within one year of the expiration date upon payment of a fee of \$30 for each renewal certificate."

**SECTION 2.** 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 material, or the underscoring.\*

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

(Approved May 23, 1974.)

**ACT 29**

H.B. NO. 2858-74

A Bill for an Act Relating to Certification as to Availability of Funds on Contracts.

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

**SECTION 1.** Section 103-39, Hawaii Revised Statutes, is amended to read:

**"Sec. 103-39 Contract not binding unless appropriation available.** No such contract shall be binding or of any force unless the comptroller of the State or the director of finance of the county as the case may be, indorses thereon his certificate that there is an available unexpended appropriation or balance of an appropriation over and above all outstanding contracts sufficient to cover the amount required by the contract; provided that this section shall not apply to any price-term, open-end, or requirements contracts under which the total amount to be paid to the contractor cannot be accurately estimated at the time the contract is to be awarded.

Notwithstanding the requirement for certification set forth above, certification of a portion of the total funds required for a contract may be permitted in the following instances:

- (1) When an immediate call for tenders will result in significantly more favorable contract terms and conditions to the State or county agency than a call for tenders made at a later date; or
- (2) When an extension of the contract period beyond the period permitted by currently available funds will (a) significantly reduce the amounts of the periodic payments to be made by a State or county agency, or (b) result in significantly more favorable contract terms

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\*Edited accordingly.

## ACT 30

and conditions to the State or county agency, or (c) promote competition among qualified bidders and attract qualified bidders who otherwise may be precluded from bidding.

Provided, such certification for partial funding shall be permitted only if the comptroller of the State or the director of finance of a county, as the case may be, certifies either that there exists substantial assurance that the necessary funds will be available for the payments set forth in the contract or that special fund revenues will be sufficient to cover the cost of the contract.

In all cases of certification for partial funding, the contract and the certificate shall state that availability of funds in excess of the amount certified as available shall be contingent upon future appropriations or special fund revenues. All contracts partially funded shall be enforceable only to the extent to which funds have been certified as available.

In any contract involving not only local funds but supplemental funds from the federal government, this section shall be applicable only to that portion of the contract price involved in the contract as is payable out of local funds. As to such portion of the contract price as is expressed in the contract to be payable out of federal funds, such contract shall be construed to be an agreement to pay such portion to the contractor, only out of federal funds to be received from the federal government when the federal funds are so received, and shall not be construed as a general agreement to pay such portion at all events out of any funds other than those which are received from the federal government. This paragraph shall be liberally construed so as not to hinder or impede the State or any county in contracting for any project involving financial aid from the federal government."

SECTION 2. 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 material or the underscoring.\*

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

(Approved May 23, 1974.)

## ACT 30

H.B. NO. 2179-74

A Bill for an Act Relating to Nonpresentment of Warrants.

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

SECTION 1. Section 40-68, Hawaii Revised Statutes, is amended to read:

**"Sec. 40-68 Nonpresentment of warrants.** Any warrant drawn upon the State treasury shall be presented at the treasury for payment before the close of the fiscal year next after the fiscal period in which it has been issued. All warrants not so presented within such time shall be deemed to have been paid, and any moneys held at the expiration of such time in a special fund or account for the payment of such warrants shall thereupon be transferred to the

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\*Edited accordingly.

general fund; provided that within the period of ten fiscal years immediately following the year in which an amount of money was so transferred to the general fund, the payee or assignee of such warrant, or, if the payee is deceased, the executor or administrator of the estate of the payee, or if the estate of the payee is closed, to any person lawfully entitled to the undisposed property of the deceased payee, upon filing with the comptroller a claim for recovery and any supportive evidence required by the comptroller, shall be paid the amount of such warrant out of any available moneys in the general fund not otherwise appropriated upon a warrant newly drawn by the comptroller."

**SECTION 2.** 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 material or the underscoring.\*

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

(Approved May 24, 1974.)

## ACT 31

H.B. NO. 2190-74

A Bill for an Act Relating to Marriage Licenses, Solemnization, and Certification.

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

**SECTION 1.** Section 572-6, Hawaii Revised Statutes, is amended to read:

**'Sec. 572-6 Application; license; limitations.** In order to secure a license to marry, the persons applying therefor shall appear personally before an agent authorized to grant marriage licenses and shall file with him an application in writing. The application shall be accompanied by a statement signed and sworn to by each of the persons, setting forth: his or her full name, age, race, residence, occupation, if any; their relationship, if any; the full names of parents, and whether living or dead; whether previously married and the manner of the dissolution of the prior marriage or marriages; any other items required by the standard marriage certificate as recommended by the public health service, national center for health statistics, subject to approval of and modification by the department of health. The agent shall indorse on the application, over his signature, the date of the filing thereof and shall issue a license which shall bear on its face the date of issuance. Every license shall be of full force and effect for thirty days commencing from and including the date of issuance. After the thirty-day period, the license shall become void and no marriage ceremony shall be performed thereon.

It shall be the duty of every person, legally authorized to grant licenses to marry, to immediately report the issuance of every marriage license to the agent of the department of health in the district in which the license is issued,

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\*Edited accordingly.

## ACT 32

setting forth all facts required to be stated in such manner and on such form as the department may prescribe."

SECTION 2. Section 572-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 572-13 Record of solemnization; marriages, reported by whom; certified copies.** (a) Record keeping. Every person authorized to solemnize marriage shall make and preserve a record of every marriage by him solemnized, comprising the names of the man and woman married, their place of residence, and the date of their marriage.

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

(b) Marriages, reported by whom. It shall be the duty of every person, legally authorized to perform the marriage ceremony, to immediately report 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.

(c) Certified copies of certificate of marriage. The department of health shall deliver one certified copy of the certificate of marriage to the persons married. The certificate shall be prima facie evidence of the fact of marriage in any proceeding in any court.

The department of health shall upon request, furnish to any applicant additional certified copies of the certificate of marriage or any part thereof.

Copies of the contents of any certificate on file in the department, certified by the department shall be considered for all purposes the same as the original.

The department may prescribe reasonable fees, if any, to be paid for certified copies of certificates."

SECTION 3. Section 572-14, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 338-26, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 338-27, Hawaii Revised Statutes, is repealed.

SECTION 6. 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

ACT 32

H.B. NO. 2192-74

A Bill for an Act Relating to Fees for Vital Statistics Certified Copies, Searches, Transcripts and Summaries and Corrections.

\*Edited accordingly.

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

SECTION 1. Section 338-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 338-14 Fees for certified copies and searches; transcripts or other statistical summaries of vital records for National Center for Health Statistics; certified copies for veterans and others; and corrections on vital statistics certificates.** (a) The department of health shall prescribe the fees, if any, to be paid for certified copies of certificates except that in no case shall the total fee for a certified copy exceed \$1.50, or for a search of the files and records when no certified copy is made; provided that the department shall furnish, free of charge, a certified copy of any of the records, or a certification of birth, to any veteran of the armed forces of the United States, his wife, any member of the immediate family of a veteran or the next of kin of a deceased veteran, when required for use in connection with a claim based on service in the armed forces of the United States. Subject to sections 338-16, 338-17, and 338-18, the National Center for Health Statistics, may obtain transcripts and statistical summaries on computer tapes of certificates or, without payment of fees, certified copies; provided the State is put to no expense in connection therewith.

A fee of \$3 shall be charged for any correction in the items on a vital statistics certificate initiated by the registrant or his parent or representative if he is a minor.

(b) The department may prescribe fees for searches of files and records not involving the issuance of certified copies at a rate not to exceed \$3 per hour or a fraction thereof.

(c) The department shall keep an account of all fees collected and shall deposit them to the general fund of the State."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

ACT 33

S.B. NO. 2200-74

A Bill for an Act Amending Chapter 480, Hawaii Revised Statutes.

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

SECTION 1. Section 480-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 480-13 Suits by persons injured; amount of recovery, injunctions.** (a) Any person who is injured in his business or property by reason of anything forbidden or declared unlawful by this chapter:

\*Edited accordingly.

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- (1) May sue for damages sustained by him, and, if the judgment is for the plaintiff, he shall be awarded a sum not less than \$1,000.00 or threefold damages by him sustained, whichever sum is the greater, and reasonable attorneys fees together with the cost of suit; provided, however, that no showing that the proceeding or suit would be in the public interest (as these terms are interpreted under section 5(b) of the Federal Trade Commission Act) is necessary when the party against whom the proceeding or suit is brought is a merchant as that term is defined in chapter 490 of the Hawaii Revised Statutes; and
  - (2) May bring proceedings to enjoin the unlawful practices, and if the decree is for the plaintiff, he shall be awarded reasonable attorneys fees together with the cost of suit.
- (b) The remedies provided in this section are cumulative and may be sought in one action."

SECTION 2. 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 material or the underscoring.\*

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

(Approved May 24, 1974.)

## ACT 34

S.B. NO. 2215-74

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:

(a) Section 11-15, Hawaii Revised Statutes, is amended to read:

**"Sec. 11-15 Application to register.** Any person qualified to and desiring to register as a voter in any county, may present himself at any time during business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as a voter. Each applicant shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) Social security number;
- (3) Date of birth;
- (4) Age;
- (5) Residence;
- (6) Place of current employment, if any;
- (7) That the residence stated in the affidavit is not simply because of the person's presence in the State but that the residence was acquired with the intent to make Hawaii the person's legal residence with all the accompanying obligations therein;

\*Edited accordingly.

(8) That the person is a citizen.

The applicant shall swear to the truth of the allegations in his application before the clerk, who is authorized to administer oaths. Unless contested by a qualified voter, the clerk may accept, as *prima facie* evidence, the allegation of the applicant in information required in the affidavit in item 7. In any other case where the clerk shall so desire or believe the same to be expedient, he may demand that the applicant furnish substantiating evidence to the allegations of his application.

If the clerk is satisfied that the applicant is entitled to be registered as a voter, the applicant shall then affix his signature to the affidavit and the clerk shall affix his signature; or the clerk shall enter 'Unable to sign' and the reason in the space for the applicant's signature. A voter having once been registered shall not be required to register again for any succeeding election, except as hereinafter provided. The affidavits so approved or accepted by the clerk shall thereupon be numbered appropriately, filed by the clerk and kept in some convenient place so as to be open to public inspection and examination.

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section, provided that no parent, spouse, sibling, or offspring of a candidate, nor the candidate, shall be eligible to serve as a subordinate."

(b) Section 11-92, Hawaii Revised Statutes, is amended to read:

**"Sec. 11-92 Precincts; polling places; central polling areas; special, special primary and special general election precincts.** The chief election officer shall issue a proclamation establishing one or more precincts in each representative district. No earlier than thirty days prior to the issuance of the proclamation, the chief election officer shall notify the political parties and publish a notice of his intent once in a newspaper of general circulation. The chief election officer shall provide a suitable polling place for each precinct. Schools, police stations, fire stations, and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelters for this purpose whenever public buildings are not available and shall cause such polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. It shall be lawful for the chief election officer to establish a central polling area for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precinct involved.

Before the establishment of any central polling area the chief election officer shall notify the political parties and publish a notice once in a newspaper of general circulation. The notice shall state the time and place of a hearing pursuant to chapter 91. After the hearing a regulation shall be issued establishing the central polling place.

No change shall be made in the boundaries of any precinct nor shall a central polling area be established later than 4:30 p.m. on the ninetieth day prior to an election.

Notwithstanding the last paragraph if the chief election officer or the county clerk in county election determines that the number of candidates or issues on the ballot in a special, special primary or special general election

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does not require the full number of established precincts, such precincts may be consolidated for the purposes of the special, special primary or special general election into a small number of special, special primary or special general election precincts. A special, special primary or special general election precinct shall be considered the same as an established precinct for all purposes, including precinct official requirements provided in section 11-71. Not later than 4:30 p.m. on the tenth day prior to the special, special primary or special general election the chief election officer or the county clerk shall give public notice in a newspaper of general circulation in the area in which the special, special primary or special general election is to be held of the special, special primary or special general election precincts and their polling places. Notices of such consolidation shall also be posted on election day at the established precinct polling place giving the location of the special, special primary or special general election precinct polling place."

(c) Section 11-173.5, Hawaii Revised Statutes, is amended to read:

**"Sec. 11-173.5 Contests for cause in primary and special primary elections.** (a) In primary and special primary election contests, the complaint shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the sixth day after a primary or special primary election and shall be accompanied by a deposit of \$25 for costs of court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the fifth day after service thereof.

(b) In primary and special primary election contests the court shall hear the contest in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall not later than 4:30 p.m. on the fourth day after the return give judgment fully stating all findings of fact and of law. The judgment shall decide what candidate was nominated or elected, as the case may be, in the manner presented by the petition, and a certified copy of the judgment shall forthwith be served on the chief election officer or the county clerk, as the case may be, who shall place the name of the candidate declared to be nominated on the ballot for the forthcoming general or special general election. The judgment shall be conclusive of the right of the candidate so declared to be nominated; provided, that this subsection shall not operate to amend or repeal section 12-41."

SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended to read:

(a) Section 12-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 12-4 Nomination papers: qualifications of signers.** No person shall sign the nomination papers of more than one candidate, partisan or nonpartisan, for the same office, unless there is more than one office in a class in which case no person shall sign papers for more than the actual number of offices in a class. Nomination papers shall be construed in this regard according to priority of filing, and the name of any person appearing thereon shall be counted only so long as this provision is not violated, and not thereafter.

No name on nomination papers shall be counted, unless the signer is a registered voter, eligible to vote for the candidate at the next election. To determine if the signers are eligible to vote for the candidate, the chief elec-

tion officer or clerk may use lists prepared in accordance with section 11-24."

(b) Section 12-6, Hawaii Revised Statutes, is amended to read:

**"Sec. 12-6 Nomination papers: time for filing; fees.** Nomination papers shall be filed as follows:

- (1) For members of Congress, state, and county offices, with the chief election officer or county clerk in case of county offices not later than 4:30 p.m. on the forty-fifth day prior to the primary, special primary or special election (but if such a day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding); provided that any state candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective county clerk. The clerk shall transmit to the office of the chief election officer the state candidate's declaration of candidacy without delay. However, if a special primary or special election is to be held by a county and the county charter requires that the council shall issue a proclamation calling for the election to be held within a specified period of time, and if that requirement would not allow the filing of nomination papers with the appropriate office by the sixtieth day prior to the day for holding such primary or special election, the council shall establish the deadline for the filing of nomination papers in the proclamation calling for the election.
- (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary, special primary or special election which shall be paid into the treasury of the State, or the county, as the case may be, as a realization:
  - (A) For governor, lieutenant governor, United States senators, and United States representatives—\$75;
  - (B) For mayor—\$50; and
  - (C) For all other offices—\$25.
- (3) Upon the receipt by the chief election officer or the county clerk of the nomination papers of a candidate, the day, hour, and minute when it was received shall be endorsed thereon."

(c) Section 12-31, Hawaii Revised Statutes, is amended to read:

**"Sec. 12-31 Selection of party ballot.** No person shall be entitled to vote at a primary or special primary election who shall refuse to state his party preference or nonpartisanship to the precinct officials, unless he wishes to vote only for the board of education. If the person desiring to vote is not challenged, one of the precinct officials shall give him one and only one official primary or special primary ballot of the party designated, or the official nonpartisan primary or special primary ballot, or the official board of education ballot, if so designated.

In any primary or special primary election in the year 1970 and thereafter, no person shall be entitled to select a primary or special primary ballot of a type other than that which he had selected at the next preceding primary or special primary election in which he voted, unless, not later than 4:30 p.m. on the ninetieth day preceding the primary or special election (but if such

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day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) in which such ballot is to be selected, he has registered with the county clerk to change his party to another party or to a nonpartisan designation. A voter shall be entitled to select any one primary or special primary ballot if:

- (1) He did not vote in any preceding primary or special primary election; or
- (2) His party is disqualified under section 11-61; or
- (3) He voted in a board of education race only; or
- (4) He is a newly registered voter; or
- (5) He reregisters after having his name removed from the general county register.

In all primary or special primary elections the precinct officials shall note the voter's party selection where the voters list indicates no previous party selection. This information shall be forwarded to the county clerk."

(d) Chapter 12, Part IV, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 12-42 Unopposed candidates declared elected.** (a) Any candidate running for any office in the State of Hawaii in a special election or special primary election who is the sole candidate for that office shall, after the close of filing of nomination papers, be deemed and declared to be duly and legally elected to the office for which he is a candidate.

(b) Any candidate running for any office in the State of Hawaii in a special general election who was only opposed by a candidate or candidates running on his own ticket in the special primary election and is not opposed by any candidate running on any other ticket, nonpartisan or otherwise, and is nominated at the special primary election shall, after the special primary, be deemed and declared to be duly and legally elected to the office for which he is a candidate at the special primary election regardless of the number of votes received by him."

SECTION 3. Chapter 15, Hawaii Revised Statutes, is amended as follows:

(a) Section 15-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 15-1 Who may vote by absentee ballot.** (a) Any voter who will be unable to appear at his polling place during the hours of voting at any election because of absence from the island, county, or district in which he is registered may cause his vote to be cast by absentee ballot subject to this chapter.

(b) Any voter who will be unable to appear at the polls on election day for medical, physical, or religious reasons shall be entitled and enabled to vote an absentee ballot as may be prescribed by the rules and regulations promulgated by the chief election officer; provided that any voter who by reason of physical disability is unable to mark his ballot shall be authorized to receive assistance in marking thereof.

(1) Any voter competent to vote at any election shall be allowed to vote under this section if he falls into the following categories:

- (A) Confined in any hospital;
  - (B) Confined in any public institution for the care of indigents or aged persons;
  - (C) Confined in any leprosy institution or settlement located on the same island in which the person is registered to vote, or if the person is registered to vote in the county of Kalawao, and due to physical ailments or infirmities is unable to attend the polls; or
  - (D) Confined in any penal institution for a misdemeanor or as a pre-trial detainee and is unable to attend the polls.
- (2) Any voter who is confined to his home by reason of illness or physical disability which will prevent him from attending the polls or who by reason of any religious belief, ruling, doctrine or standard will be prevented from attending the polls.
- (c) Any other voter unable to appear at the polls on election day for causes determined by the chief election officer by rule to be good and sufficient, shall be entitled to vote as provided by this chapter and the rules and regulations promulgated thereunder."

(b) Section 15-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 15-7 Absentee voter precinct.** An absentee precinct shall be established at the office of the respective county clerks or a place designated by the clerk in the county seat. The absentee precinct shall be established under the precinct requirements of chapter 11; provided section 11-72 shall be applied to the absentee precinct instead of to the representative district. The absentee precinct shall meet before election day to handle the absentee voters who are voting in person, and the county clerk shall determine if there should be more than one such precinct in the county. The county clerk shall also determine the number of precinct officials needed to man the precinct. All absentee precincts established to handle absentee voters who are voting in person shall be closed at 4:30 p.m. the day before the election.

The absentee precinct shall be reopened on election day for the purpose of counting all absentee ballots received in the mail or delivered to the county clerk. In no case shall the reply envelope be opened prior to election day.

The county clerk may appoint deputy county clerks to handle absentee voting in person in remote areas where there is no county clerk's office. Deputy county clerks shall also be appointed in those areas where past experience has indicated that it would be a hardship on the voters to require them to appear at the clerk's office."

(c) Section 15-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 15-8 Receipt and disposition of absentee ballots.** Upon receipt of the envelope marked 'Absentee Ballot Enclosed' from any person voting under this chapter, the county clerk or the precinct officials of the absentee precinct shall time stamp the reply envelope and deposit it in the correct absentee ballot container. On election day the container shall be opened by the precinct officials of the absentee precinct. Prior to opening the envelopes and counting the ballots, the envelopes shall be checked for the following:

- (1) Sufficiency of statement;
- (2) If the signature corresponds with the absentee request or register;

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- (3) If the voter is a registered voter and has complied with the requirements of section 11-15 or 11-16; and
- (4) If the envelope appears to be tampered with.

If an absentee precinct is established at the county clerk's office prior to election day, the precinct officials of the precinct shall check the envelopes for the above requirements prior to depositing them in the container. All envelopes that have been marked as invalid prior to election day shall be re-checked on election day.

If any of the above requirements is not met, the precinct official shall mark across the face of the envelope 'Invalid,' kept in the custody of the county clerk and disposed of as prescribed for ballots in section 11-154. If the above requirements are met, the envelope may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee precincts using paper ballots, counting of absentee votes may begin after noon of election day. In those absentee precincts using electronic ballot cards the absentee ballots shall be transported in sealed containers and under security to the counting center for counting. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed. In absentee precincts using voting machines, the machine shall not be read until the polls have officially closed.

Any person violating this section shall be guilty of an election offense under section 19-6."

SECTION 4. Chapter 17, Hawaii Revised Statutes, is amended as follows:

- (a) Section 17-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 17-2 United States Representative.** When a vacancy occurs in the representation of this State in the United States House of Representatives, the chief election officer shall issue a proclamation for an election to fill the vacancy unless the unexpired term is for less than one hundred eighty days. If the unexpired term is less than one hundred eighty days, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds. The proclamation shall be issued not later than on the sixtieth day prior to the election to fill the vacancy and shall contain the date, time, and places where the special election is to be held, the time within which nomination papers shall be filed, the time for transmitting to county clerks the notice designating the offices for which candidates are to be elected, the time for transmitting to county clerks lists of candidates to be voted for at the special election and such other matters as provided for in section 11-91 and which are not inconsistent with this section. The special election shall be conducted and the results ascertained so far as practicable, 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 and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the representative causing the vacancy."

SECTION 5. Chapter 19, Hawaii Revised Statutes, is amended as follows:

(a) Section 19-2, Hawaii Revised Statutes, is repealed in entirety.

(b) Section 19-6, Hawaii Revised Statutes, is amended to read:

**"Sec. 19-6 Misdemeanors.** The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.
- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or card of instructions or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance.
- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.
- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include but not be restricted to the following:
  - (A) The distribution, circulation, posting, or staking of campaign cards, pamphlets, and other literature;
  - (B) The use of public address systems and other public communication media;
  - (C) The use of motor caravans or parades;
  - (D) The use of entertainment troupes or the free distribution of goods and services.

The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.

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- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 or a mailing ballot voted under chapter 15A other than those authorized to do so under chapters 15 and 15A.
  - (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15 or for voting by mailing ballots under chapter 15A.
  - (10) Every person who, being a candidate for election, or an agent of any candidate, or a member of any committee acting for or on behalf of any candidate, or in charge of any committee or political party to which money is contributed during an election or which spends money in any election, fails to file the statement of expenses or of lack of expenses, as required by law.
  - (11) Any person making any anonymous contribution to any candidate, party, or committee as defined in section 11-191, or any candidate, party, or committee receiving any such contribution or entering any contribution falsely in his accounts.
  - (12) Any unauthorized person found in possession of any voting machine or keys thereof.
  - (13) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.
  - (14) Any person who, knowing that he is not entitled to register or to vote, registers or votes; and any person taking any oath in this title prescribed or authorized to be administered and wilfully making oath to any false statement of fact, or wilfully making a false answer to any question put to him thereunder."
- (c) Section 19-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 19-7 Penalty.** Any person convicted of a misdemeanor under this chapter shall be fined not more than \$1000 or imprisoned not more than one year, or both."

SECTION 6. 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

ACT 35

H.B. NO. 2466-74

A Bill for an Act to Amend Chapter 265, HRS, 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 hereby amended by amending sections 30 and 33 thereof to read as follows:

\*Edited accordingly.

(a) "**Sec. 265-30 Notice to property owners.** The notice specified in section 265-29 shall be given by (1) publishing the same in a daily newspaper of general circulation in the county where the sidewalks or curbs are to be constructed, maintained, or repaired, once in each of three consecutive weeks, or, (2) by mailing a copy of such notice by certified mail to each of the abutting owners at their last known address, or (3) by both publication and certified mail.

The sixty days specified in section 265-29 shall run from the last day of publication (where the notice is so published) or (where no notice is published) from the date of receipt of the certified mail."

(b) "**Section 265-33 Procedure if owner fails to clean; notice.** If such owner, after receiving notice from the city and county, fails, within twenty days after such notice, to clean such sidewalk, or fails and neglects to keep such sidewalk clean and free from weeds and noxious growths, then and thereupon the city and county shall proceed to clean the sidewalk, as may be reasonably required, and the cost thereof shall be collected from the property owner, if not immediately paid, by action in the district court.

The notice shall be sent to the property owner by mailing it to his last known place of abode, or address or by personal service by an employee of the city and county of the notice on the premises of the owner abutting or adjacent to the particular sidewalk requiring the attention, work, and service."

**SECTION 2.** 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

## ACT 36

H.B. NO. 2508-74

A Bill for an Act Relating to State Chartered Credit Unions.

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

**SECTION 1.** Chapter 410, Hawaii Revised Statutes, is amended as follows:

1. By amending section 410-6, Hawaii Revised Statutes, to read as follows:

"**Sec. 410-6 Credit union division; establishment.** A separate division may be established within the department of regulatory agencies to carry out the purposes of this chapter."

2. By amending section 410-9, Hawaii Revised Statutes, to read as follows:

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\*Edited accordingly.

## ACT 36

**"Sec. 410-9 Fees other than examination fee.** For the purpose of paying the costs incident to the ascertainment of whether an organization certificate should be approved, the subscribers to any such certificate shall pay, at the time of filing their organization certificate, the amount prescribed by the commissioner, which shall not exceed \$20 in any case; and on the approval of any organization certificate they shall also pay a fee of \$5. Not later than January 31 of each calendar year, each credit union shall pay to the credit union division of the department of regulatory agencies for the preceding calendar year, a supervision fee in accordance with a graduated scale prescribed by this section on the basis of assets as of December 31 of such preceding year, but the fee shall in no event be less than \$10, as follows:

Total Assets	Maximum Fee
\$500,000 or less .....	25 cents per \$1,000
Over \$500,000 and not over	
\$1,000,000 .....	\$125 plus 20 cents per \$1,000 in excess of \$500,000
Over \$1,000,000 and not over	
\$2,000,000 .....	\$225 plus 15 cents per \$1,000 in excess of \$1,000,000
Over \$2,000,000 and not over	
\$5,000,000 .....	\$375 plus 10 cents per \$1,000 in excess of \$2,000,000
Over \$5,000,000 .....	\$675 plus 5 cents per \$1,000 in excess of \$5,000,000

No annual supervision fee shall be payable by the credit union with respect to the year in which its charter is issued except in cases of conversion from a credit union chartered under the provisions of the Federal Credit Union Act to a credit union chartered under this chapter, or in which final distribution is made in its liquidation or the charter is otherwise canceled.

Failure of any credit union to pay any amount as herein provided shall be grounds for the revocation of the charter of the credit union failing to make the payment.

Fees collected under this section shall be deposited to the credit of a general fund and be available for the purposes of administering this chapter."

3. By amending subsection (e) of section 410-12, Hawaii Revised Statutes, to read as follows:

"(e) Multiple accounts may be issued in joint tenancy with any person designated by the credit union member. The person first named in any such joint account shall be a member of the credit union. A nonmember named in the joint account shall not acquire the right to vote, obtain loans, or hold office because of his inclusion in the joint account."

4. By amending section 410-36, Hawaii Revised Statutes, to read as follows:

**"Sec. 410-36 Charter cancellation.** Upon completion of a voluntary liquidation as provided in section 410-28, or upon completion of the liquidation in cases under section 410-35, or after the assets and liabilities of a credit union for the purpose of consolidation is provided in section 410-33, the com-

missioner shall forthwith cancel the charter of the credit union or credit unions liquidated or absorbed in consolidation without any other or further notice to the credit union or to any person. A certified copy of the order or certificate of the commissioner shall be recorded with the department of regulatory agencies. The department of regulatory agencies shall note on the margin of the record of the articles of incorporation of the credit union the volume and page where the order or certificate canceling its charter is recorded and shall be entitled to a fee of \$2 therefor. In case of voluntary liquidation under section 410-28 or consolidation under section 410-33, the credit union shall record the order or certificate of the commissioner and pay the fee therefor. In case of liquidation under section 410-35, the commissioner or liquidating agent as therein provided shall record the order or certificate of the commissioner and pay the fee therefor out of the assets of the credit union as an expense of liquidation."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

## ACT 37

H.B. NO. 2738-74

A Bill for an Act Relating to Safety Glazing Materials.

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

SECTION 1. Section 321-131, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-131 Definitions.** In interpreting this part, the following words shall have the following meanings:

'Safety glazing material' means any glazing material such as tempered glass, laminated glass, wire glass or rigid plastic, which meets the test requirements of American national standards institute standard z-97.1-1966 and such further requirements as may be adopted by the department of health after notice and hearing as required by chapter 91 and which are so constructed, treated, or combined with other materials as to minimize the likelihood of cutting and piercing injuries resulting from human contact with the glazing material.

'Hazardous locations' means those installations to be glazed or reglazed, in commercial and public buildings, known as framed or unframed glass entrance doors; and those installations to be glazed or reglazed, in residential buildings, dwellings, commercial buildings, and public buildings known as sliding glass doors including the fixed glass panels which are part of such units, storm doors, shower doors, bath tub enclosures, and immediately ad-

\*Edited accordingly.

## ACT 38

jacent fixed or operable panels which may be mistaken for means of ingress or egress, and any other installation, to be glazed or reglazed, wherein the use of other than safety glazing materials would constitute an unreasonable hazard as the director of health may determine after notice and hearings as required by chapter 91, whether or not the glazing in such doors, panels, enclosures and other installations is transparent.

'Immediately adjacent fixed or operable panels' means the first fixed or operable glass panels on either side of, and on the same plane as the door itself, but excluding such glass panels:

(a) Eighteen inches in width or less; or

(b) The nearest vertical edge of which is located more than twenty-four inches horizontally of the nearest vertical edge of the entrance or exit door; or

(c) Eighteen inches or more above floor level."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

## ACT 38

S.B. NO. 1733-74

A Bill for an Act Relating to the Hawaii Penal Code.

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

SECTION 1. Section 708-836, Hawaii Penal Code, is amended to read as follows:

**"Sec. 708-836. Unauthorized control of propelled vehicle.** (1) A person commits the offense of unauthorized control of a propelled vehicle if he intentionally exerts unauthorized control over another's propelled vehicle by operating the vehicle without the owner's consent or by changing the identity of the vehicle without the owner's consent.

(2) "Propelled vehicle" means an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle.

(3) It is an affirmative defense to a prosecution under this section that the defendant reasonably believed that the owner would have authorized the use had he known of it.

(4) Unauthorized control of a propelled vehicle is a class C felony."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

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\*Edited accordingly.

A Bill for an Act Relating to Theft.

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

SECTION 1. Section 830, chapter 8, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended by adding a new subsection (9) to read as follows:

**"(9) Shoplifting.**

- (a) He conceals or takes possession of the goods or merchandise of any store or retail establishment, with intent to defraud.
- (b) He alters the price tag or other price marking on goods or merchandise of any store or retail establishment, with intent to defraud.
- (c) He transfers the goods or merchandise of any store or retail establishment from one container to another, with intent to defraud.

The unaltered price or name tag or other marking on goods or merchandise, or duly identified photographs thereof, shall be *prima facie* evidence of value and ownership of such goods or merchandise. Photographs of the goods or merchandise involved, duly identified in writing by the arresting police officer as accurately representing such goods or merchandise, shall be deemed competent evidence of the goods or merchandise involved and shall be admissible in any proceedings, hearings, and trials for shoplifting, to the same extent as the goods or merchandise themselves."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 24, 1974.)

A Bill for an Act Relating to Employment Security.

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

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

**"Sec. 383-1 Definitions, generally.** As used in this chapter, unless the context clearly requires otherwise:

- (1) 'Base period,' with respect to benefit years beginning after June 30, 1951, means the four completed calendar quarters immediately preceding the first day of an individual's benefit year.
- (2) 'Benefits' means the money payments payable to an individual, as provided in this chapter, with respect to his unemployment.

\*Edited accordingly.

## ACT 40

- (3) 'Benefit year' with respect to any individual means the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with section 383-32 shall be deemed a 'valid claim' for the purpose of this paragraph if the individual has satisfied the conditions required under section 383-29(5). Nothing in sections 383-29 and 383-30, except subsection 383-29(5), shall affect the filing of a 'valid claim' or the establishment of a 'benefit year.' For the purposes of this paragraph a week with respect to which an individual files a valid claim shall be deemed to be 'in,' 'within,' or 'during' that benefit year which includes the greater part of such week.
- (4) 'Department' means the department of labor and industrial relations.
- (5) 'Calendar quarter' means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof, as the department may by regulation prescribe.
- (6) 'Director' means the director of labor and industrial relations of the State.
- (7) 'Contributions' means the money payments required by this chapter to be made into the state unemployment compensation fund by any employing unit on account of having individuals in its employ.
- (8) 'Employing unit' means any individual or type of organization, including the State, any of its political subdivisions, any instrumentality of the State or its political subdivisions, any partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had one or more individuals performing services for it within this State.
  - (A) All individuals performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be performing services for a single employing unit for all the purposes of this chapter.
  - (B) Each individual employed to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by the employing unit for all the purposes of this chapter, whether the individual was hired or paid directly by the employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work.
- (9) 'Employer' means:
  - (A) Any employing unit which for some portion of a day within the

- current calendar year has or had in employment one or more individuals; and
- (B) For the effective period of its election pursuant to section 383-77, any other employing unit which has elected to become subject to this chapter.
- (10) 'Employment office' means a free public employment office or branch thereof operated by the State or any other state as a part of a state-controlled system of public employment offices or by a federal agency charged with the administration of an unemployment compensation program or free public employment offices.
- (11) 'Federal Unemployment Tax Act' means chapter 23 of subtitle C of the Internal Revenue Code of 1954.
- (12) 'Fund' means the unemployment compensation fund established by this chapter.
- (13) 'Insured work' means employment for employers.
- (14) 'Referee' means the referee for unemployment compensation appeals.
- (15) 'State' includes, in addition to the states of the United States, the District of Columbia, Puerto Rico, and Virgin Islands.
- (16) 'Unemployment.' An individual shall be deemed 'unemployed' in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full time work if the wages payable to him, with respect to such week are less than his weekly benefit amount. The department shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment, of individuals attached to their regular jobs, and other forms of short-time work, as the department deems necessary. 'Week of unemployment' means a week in which an individual is deemed unemployed.
- (17) 'Week' means any period of seven consecutive days as the department may by regulation prescribe.
- (18) 'American vessel' means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.
- (19) 'Weeks of employment' means all those weeks within each of which the individual has performed services in employment for one or more employers subject to this chapter or with respect to which he has received remuneration from one or more employers subject to this chapter in the form of vacation, holiday, or sickness pay or similar remuneration."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include

## **ACT 41**

the brackets, the bracketed material or the underscoring.\*

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

(Approved May 24, 1974.)

## **ACT 41**

H.B. NO. 3051-74

A Bill for an Act Relating to Inconsistency Between Chapter 476 of the Hawaii Revised Statutes and Federal Laws and Regulations.

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

SECTION 1. Section 476-1.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 476-1.5 Application when inconsistent with federal provisions or regulations.** With regard to any transaction governed by federal law, no contract or statement of buyer's rights shall be required by this chapter to contain any disclosure or other provision which is inconsistent and no seller or buyer shall be required to do any act which is inconsistent with the requirements of such federal law or with the regulations of any federal agency promulgated thereunder and when any requirement of this chapter and any requirement of federal law or regulations of any federal agency promulgated thereunder are in pari materia, or upon the same subject matter, compliance with the requirement of such federal law or regulations shall constitute compliance with the requirement of this Chapter, even though the transaction is one of a class exempted from such federal law or regulations."

SECTION 2. 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 material, or the underscoring.\*

SECTION 3. This Act shall take effect June 7, 1974.

(Approved May 24, 1974.)

## **ACT 42**

S.B. NO. 1601-74

A Bill for an Act Relating to the Hawaii Income Tax Law.

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

SECTION 1. The purpose of this Act is to broaden the definition of a "person totally disabled" as found in Section 235-1, Hawaii Revised Statutes, so that taxpayers afflicted with painful and disabling, but not totally disabling illness or sicknesses can qualify for income tax exemptions. The present law is very specific in its definition of a "person totally disabled" and makes no allowances for persons afflicted with such conditions as arthritis, rheumatism, heart ailments, emphysema and the like.

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\*Edited accordingly.

SECTION 2. Section 235-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-1 Definitions.** 'Blind' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. The impairment of sight shall be certified to by the state department of health or by any state, county, or city and county medical officer duly authorized by the state department of health for this purpose, on the basis of a written report on an examination performed by a qualified ophthalmologist or qualified optometrist duly authorized by the state department of health.

'Corporation' means the same as in the Internal Revenue Code. A 'domestic corporation' is one organized under the laws of the State. A 'foreign corporation' is any other corporation.

'Deaf' means a person whose average loss in the speech frequencies (500-2000 Hertz) in the better ear is 82 decibels, A.S.A., or worse. The impairment of deafness shall be certified to by the department of health or by any state, county, or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified otolaryngologist duly authorized by the department of health.

'Dividend' means any distribution by a corporation to its shareholders or holders of an interest therein which is treated as a dividend by the Internal Revenue Code.

'Fiduciary' means the same as in the Internal Revenue Code.

'Fiscal year' means the same as in the Internal Revenue Code.

'Individual' means a person other than a trust, estate, partnership, or corporation, as defined.

'Gross income,' 'adjusted gross income,' and 'taxable income' respectively mean the same as gross income, adjusted gross income, and taxable income as defined and determined under the Internal Revenue Code, except as otherwise provided in this chapter.

'Head of household' means any individual who qualifies as a head of household under the Internal Revenue Code.

'Income tax law of 1901' means the income tax law enacted by Act 20 of the Session Laws of 1901 as it read from time to time prior to the enactment of the income tax law of 1932.

'Income tax law of 1932' means the income tax law enacted by Act 44 of the Second Special Session Laws of 1932, as it read from time to time prior to the enactment of the income tax law of 1957.

'Income tax law of 1957' means the income tax law enacted by the Twenty-Ninth Legislature, as it reads from time to time.

'Includes' and 'including' when used in a definition shall not be deemed to exclude other things otherwise within the meaning of the term defined.

'Person totally disabled' means a person who is: totally and permanently disabled, either physically or mentally, which results in the person's

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inability to engage in any substantial gainful business or occupation.

The disability shall be certified to by the department of health or by any state, county or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified physician duly authorized by the department of health.

'Nonresident' means every individual other than a resident.

'Nonresident estate' or 'nonresident trust' means one other than resident.

'Partnership' has the meaning explained in section 235-60.

'Person' includes an individual, a trust, estate, partnership, association, company, or corporation.

'Regulated investment company' means a corporation which qualifies as such under sections 851 and 852 of the Internal Revenue Code.

'Resident' means (1) every individual domiciled in the State, and (2) every other individual whether domiciled in the State or not, who resides in the State. To 'reside' in the State means to be in the State for other than a temporary or transitory purpose. Every individual who is in the State more than two hundred days of the taxable year in the aggregate shall be presumed to be a resident of the State. This presumption may be overcome by evidence satisfactory to the department of taxation that the individual maintains a permanent place of abode outside of the State and is in the State for a temporary or transitory purpose. No person shall be deemed to have gained or lost a residence simply because of his presence or absence in compliance with military or naval orders of the United States, or while engaged in aviation or navigation, or while a student at any institution of learning.

'Resident estate' means an estate of a resident decedent the fiduciary of which was appointed by a court of this State and the administration of which is carried on in this State, and 'resident trust' means a trust of which the fiduciary is a resident of the State or the administration of which is carried on in the State.

'Taxable year' means the calendar year or the fiscal year ending during such calendar year upon the basis of which income is computed under this chapter. 'Taxable year' includes, in the case of a return made for a fractional part of a year under this chapter or under regulations prescribed by the department of taxation, the period for which such return is made, and in cases where the department terminates the taxable year in accordance with section 231-24 and levies a jeopardy assessment on income for such portion or period of a year under section 235-109, then the period or portion of the year for which the jeopardy assessment is made.

'Taxpayer' means a person subject to a tax imposed by this chapter.

'Trade or business' includes the performance of the functions of a public office.

'Uniformed services of the United States' means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term 'uniformed services of the United States'

applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training.

SECTION 3. 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 material, or the underscoring.\*

SECTION 4. This Act shall take effect for taxable years beginning on or after January 1, 1975.

(Approved May 24, 1974.)

ACT 43

S.B. NO. 1729-74

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. Section 281-36, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 281-36 Special conditions, retail dealers' licenses.** If the premises for which a retail dealer's license is issued are not used exclusively for the sale of the liquors specified therein, then a space upon the premises shall be set aside specially for the sale of such liquors except for beer and wine which may be displayed within and sold from any place within the licensed premises, subject, however, to such guidelines as may be established by rules and regulations of the commission."

SECTION 2. New statutory material is underscored. In printing this Act the revisor of statutes need not include the underscoring.\*

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

(Approved May 24, 1974.)

ACT 44

H.B. NO. 645

A Bill for an Act Relating to Tort Actions and Liability.

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

SECTION 1. Section 663-1.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 663-1.5 Exception to liability.** (a) Any person who in good faith renders emergency care, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from his acts or omissions, except for such damages as may result from his gross negligence or wanton acts or omissions.

\*Edited accordingly.

## ACT 45

(b) No act or omission of any rescue team operating in conjunction with a hospital or an authorized emergency vehicle of the hospital or the State or county, while attempting to resuscitate any person who is in immediate danger of loss of life, shall impose any liability upon the rescue team or the owners or operators of such hospital or authorized emergency vehicle, if good faith is exercised.

For the purposes of this section, 'rescue team' means a special group of physicians, surgeons, nurses, volunteers, or employees of the owners or operators of the hospital or authorized emergency vehicle who have been trained in cardio-pulmonary resuscitation and have been designated by the owners or operators of the hospital or authorized emergency vehicle to attempt to resuscitate persons who are in immediate danger of loss of life in cases of emergency.

This section shall not relieve the owners or operators of the hospital or authorized emergency vehicle of any other duty imposed upon them by law for the designation and training of members of a rescue team or for any provisions regarding maintenance of equipment to be used by the rescue team or any damages resulting from gross negligence or wanton acts or omissions."

**SECTION 2.** Section 663-1.5(b) of section 1 of this Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of the statutes need not include the brackets, the bracketed material, or the underscoring.\*

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

(Approved May 24, 1974.)

## ACT 45

H.B. NO. 834

A Bill for an Act Relating to the Confidentiality of Law Enforcement Records.

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

**SECTION 1.** Section 28-54, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 28-54 Law enforcement records.** (a) Confidentiality. All law enforcement records relating to the questioning, apprehension, detention, arrest, or charging of persons for or in connection with a criminal offense against whom no conviction is secured shall be deemed confidential and shall not be disclosed to or copies thereof transferred to any person other than (1) a law enforcement official of the State acting in the course and scope of his official duties; (2) a law enforcement official of the federal government or another state acting in the course and scope of his official

\*Edited accordingly.

duties, provided that the recipient law enforcement agency has agreed to keep said records confidential to the same extent as provided for herein; or (3) pursuant to an order of a court of competent jurisdiction.

(b) Retrieval of fingerprints and photographs. All fingerprints and photographs of persons against whom no charges of crime are preferred or against whom charges of crime are preferred and no convictions secured shall, when so requested in writing by such persons and within sixty days after such written request, be delivered to such persons or destroyed, unless it shall have been ascertained, from federal records or otherwise, that the persons concerned have a record of prior conviction or are fugitives from justice.

(c) Offense. A person commits the offense of breaching the confidentiality of law enforcement records if he knowingly discloses or transfers copies of law enforcement records relating to the questioning, apprehension, detention, arrest, or charging of persons for or in connection with a criminal offense against whom no conviction is secured, except as authorized pursuant to subsections (a) and (b).

(d) Misdemeanor. Breaching the confidentiality of law enforcement records is a misdemeanor."

SECTION 2. 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 material or the underscoring.\*

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

(Approved May 24, 1974.)

**ACT 46**

H.B. NO. 2431-74

A Bill for an Act Relating to the Office of the Ombudsman.

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

SECTION 1. Section 96-1, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) 'Agency' includes any permanent governmental entity, department, organization, or institution, and any officer, employee, or member thereof acting or purporting to act in the exercise of his official duties, except:

- (1) The judiciary and its staff;
- (2) The legislature, its committees, and its staff;
- (3) An entity of the federal government;
- (4) A multistate governmental entity;
- (5) The governor and his personal staff;
- (6) The lieutenant governor and his personal staff;
- (7) The mayors of the various counties; and
- (8) The councils of the various counties."

\*Edited accordingly.

## ACT 46

SECTION 2. Section 96-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 96-2 Ombudsman; office established, appointment, tenure, removal, qualifications, compensation, vacancy.** The office of ombudsman is established. The legislature, by a majority vote of each house in joint session, shall appoint an ombudsman who shall serve for a period of six years and thereafter until a successor shall have been appointed. An ombudsman may be reappointed but may not serve for more than three terms. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

No person may serve as ombudsman within two years of the last day on which he served as a member of the legislature, or while he is a candidate for or holds any other state office, or while he is engaged in any other occupation for reward or profit.

For the period beginning on July 1, 1969 and ending June 30, 1970, the salary of the ombudsman shall be the same as the salary of the circuit court judges. Effective July 1, 1970, the salary of the ombudsman shall be the same as the salary of the circuit court judges. The compensation of the ombudsman shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State.

If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the first assistant to the ombudsman becomes the acting ombudsman until a new ombudsman is appointed for a full term."

SECTION 3. Section 96-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 96-3 Assistance, staff, delegation, funding.** The ombudsman shall appoint a first assistant and such other officers and employees as may be necessary to carry out this chapter. All employees, including the first assistant, shall be hired by the ombudsman and shall serve at his pleasure. In determining the salary of each such employee, the ombudsman shall consult with the department of personnel services and shall follow as closely as possible the recommendations of the department. The first assistant's salary shall not exceed the percentage limitation established by law for a deputy director of a department. The ombudsman and his full-time staff shall be entitled to participate in any employee benefit plan.

The ombudsman may delegate to his appointees any of his duties except those specified in sections 96-12 and 96-13; provided that during the absence of the ombudsman from the island of Oahu, or his temporary inability to exercise and discharge the powers and duties of his office, such powers and duties as contained in sections 96-12 and 96-13 shall devolve upon the first assistant during such absence or inability.

The funds for the support of the office of the ombudsman shall be provided for in the act providing for the expenses of the legislature."

SECTION 4. Section 96-6, Hawaii Revised Statutes, is amended by

amending subsection (a) to read as follows:

"(a) The ombudsman may investigate any complaint which he determines to be an appropriate subject of investigation under section 96-8."

**SECTION 5.** 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 material, or the underscoring.\*

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

(Approved May 24, 1974.)

## ACT 47

H.B. NO. 2681-74

A Bill for an Act Relating to Take-over Bid Disclosures.

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

**SECTION 1.** Hawaii Revised Statutes is amended by adding thereto a new chapter to read as follows:

**"Sec. -1 Definitions.** As used in this chapter, unless otherwise indicated by the context:

- (1) 'Person' means an individual, a partnership, a corporation, a joint-stock company, an unincorporated organization or a trust.
- (2) 'Offeror' means each person who makes or in any way participates in making a take-over bid and includes two or more persons (i) whose take-over bids are made jointly or in concert or (ii) who intend to exercise jointly or in concert any voting rights attaching to the shares for which a take-over bid is made. An 'offeror' does not include any bank or broker-dealer loaning funds to an offeror in the ordinary course of its business or any broker-dealer, attorney, accountant consultant, employee or other persons furnishing information or advice to or performing administrative or ministerial duties for an offeror and not otherwise participating in the take-over bid.
- (3) 'Associate of an offeror' means: (i) any corporation or other organization of which the offeror is an officer or partner, or is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities, (ii) any person who is, directly or indirectly, the beneficial owner of 10 percent or more of any class of equity securities of the offeror, (iii) any trust or other estate in which the offeror has a substantial beneficial interest or as to which the offeror serves as a trustee or in a similar fiduciary capacity, and (iv) any relative or spouse of the offeror or any relative of such spouse, who has the same home as the offeror.
- (4) 'Offeree' means a person to whom a take-over bid is made.
- (5) 'Offeree company' means a corporation incorporated under the laws of the Kingdom, Republic or Territory of Hawaii or under the laws

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\*Edited accordingly.

## **ACT 47**

- of this State and doing business in this State whose shares are the subject of a take-over bid.
- (6) 'Equity security' means any shares of stock or similar securities or any securities convertible into such securities or carrying any warrant or right to subscribe to or purchase such securities or any such warrant or right.
  - (7) 'Take-over bid' means the offer, other than an exempt offer, to acquire any equity security of an offeree company pursuant to a tender offer or a request or invitation for tenders if after the acquisition thereof the offeror would be directly or indirectly the beneficial owner of more than 10% of any class of the outstanding equity securities of the offeree company.
  - (8) 'Exempt offer' means with respect to any class of equity securities of the offeree company (a) an isolated offer to purchase shares from individual stockholders and not made to stockholders generally, (b) an offer made by a corporation to purchase (i) its own shares or (ii) shares of a subsidiary at least 51% of the voting stock of which is owned beneficially by the parent corporation, (c) an offer to acquire shares of a corporation with less than 100 shareholders and one million dollars in assets.
  - (9) 'Commissioner' means the Commissioner of Securities as provided for in Chapter 485."

**"Sec. -2 Mandatory provisions of take-over bids.** The following provisions shall apply to every take-over bid:

- (1) The period of time within which shares may be deposited pursuant to a take-over bid shall be not less than 21 days nor more than 35 days from the date the take-over bid commences.
- (2) Shares deposited pursuant to a take-over bid may be withdrawn by an offeree or his agent by demand in writing on the offeror or the depository at any time up to 5 days prior to the date the take-over bid terminates.
- (3) A take-over bid may not be made for less than all the shares of a class.
- (4) Where an offeror varies the terms of a take-over bid before the expiration thereof by increasing the consideration offered, the offeror shall pay the increased consideration to each offeree whose securities are taken up even if they have been taken up and paid for before such variation of the take-over bid.
- (5) No offeror may make a take-over bid which is not made to offerees in this State or which is not made to offerees in this State on the same terms as the take-over bid is made to offerees outside this State."

**"Sec. -3 Registration of take-over bids; disclosure.** (a) It shall be unlawful for any person to make a take-over bid unless the take-over bid has been registered in accordance with the provisions of this chapter.

(b) The Commissioner shall receive and act upon applications for registration of take-over bids and may prescribe the forms upon which he may

require the applications to be duly signed by the applicant and sworn to by any person having knowledge of the facts and shall be filed in the office of the Commissioner.

(c) An application for registration of a take-over bid shall contain the following information and such other information as the Commissioner prescribes:

- (1) The name, nationality, address and business experience of the offeror and each associate of the offeror;
- (2) The terms and conditions of the take-over bid, which shall include the applicable provisions of Section -2;
- (3) The source and amount of the funds or other consideration used or to be used in making the take-over bid, and if any part of such funds or consideration is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of making such bid, a description of the transaction and the names of the parties thereto;
- (4) Any plans to sell or mortgage any assets of the offeree company to finance the take-over bid.
- (5) Any plans or proposals that the offeror may have to liquidate the offeree company, to sell its assets to or merge it with any other person, or to make any other material change in its business or corporate structure;
- (6) The number of shares for which the take-over bid is made which are owned directly or indirectly by the offeror and each associate of the offeror;
- (7) Any information as to any contracts, arrangements, or understandings with any person with respect to any securities of the offeree company, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof;
- (8) Complete information on the organization of the offeror, including without limitation the year of organization, form of organization, jurisdiction in which it is organized, a description of each class of the offeror's capital stock and of its long term debt, financial statements for the current period and for the three most recent annual accounting periods, a brief description of the location and general character of the principal physical properties of the offeror and its subsidiaries, a description of pending legal proceedings other than routine litigation to which the offeror or any of its subsidiaries is a party or of which any of their property is subject, a brief description of the business done and projected by the offeror and its subsidiaries and the general development of such business over the past five years, the names of all directors and executive officers together with biographical summaries of each for the preceding five years to date,

and the approximate amount of any material interest, direct or indirect, of any of the directors or officers in any material transaction during the past three years, or in any proposed material transactions to which the offeror or any of its subsidiaries was or is to be a party;

(9) Material information concerning the identity and background of any offeror who is not a corporation, including his material business activities and affiliations during the past three years and a description of any pending legal or administrative proceedings in which the offeror is a party.

(d) A record of the registration of take-over bids shall be kept in a register to be kept in the office of the Commissioner in which register shall also be recorded any orders entered by the Commissioner with respect thereto. The register and all information with respect to the take-over bid registered therein shall be open to public inspection.

(e) At the time of filing the application for registration as prescribed in this section, the applicant shall pay to the Commissioner, a fee of one-tenth of one percent of the aggregate consideration which the offeree is bound to pay for the equity securities for which a take-over bid is proposed to be made or \$200, whichever is greater.

(f) Registration of a take-over bid shall become effective 60 days after the date of filing the application for registration with the Commissioner unless delayed by order of the Commissioner, or unless prior thereto the Commissioner calls a hearing with respect to the take-over bid. The Commissioner may call a hearing if he deems it necessary or appropriate for the protection of offerees in this State, and shall call a hearing if so requested by the offeree company, acting by resolution of its board of directors. If a hearing is called, the registration of the take-over bid shall not become effective until so ordered by the Commissioner.

(g) If, following the hearing, the Commissioner finds that the take-over bid fails to provide for full and fair disclosure to offerees of all material information concerning the take-over bid or that the take-over bid is unfair or inequitable to offerees or will not be made to all stockholders on substantially equal terms or is in violation of this chapter, he shall by order deny registration of the take-over bid. If he finds that the take-over bid provides for full and fair disclosure to offerees of all material information concerning the take-over bid and that the take-over bid is fair and equitable to offerees and is made on substantially equal terms to all stockholders and complies with this chapter, he shall by order register the take-over bid. Registration of the take-over bid shall not be deemed an approval or recommendation of the take-over bid by the Commissioner."

**"Sec. -4 Revocation of registration of take-over bid; suspension during investigation; hearing.** (a) The Commissioner may issue a stop order denying effectiveness to, or suspending, or revoking the effectiveness of, any registration of a take-over bid if he finds that:

(1) The application for registration fails to provide full and fair disclosure to offerees of all material information concerning the take-over bid or that the take-over bid is not fair and equitable to offerees;

- (2) This chapter or any rule, order, or condition imposed under this chapter has been wilfully violated, in connection with the take-over bid by the offeror, any associate of the offeror, any partner, officer, or director of the offeror, any person occupying a similar status or performing similar functions, or any person, directly or indirectly, controlling or controlled by the offeror;
- (3) The take-over bid registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction."

**"Sec. -5 Commissioner as agent to accept service; consent to; actions in what circuit; notice to issuer.** Upon any application for registration of a take-over bid where the offeror is not domiciled in this State, there shall be filed with the application the irrevocable written consent of the offeror that in suits, proceedings, and actions growing out of the violation of this chapter, the service on the Commissioner of any notice, process, or pleading therein, authorized by laws of the State, shall be as valid and binding as if due service had been made on the offeror. Any such action shall be brought either in the circuit of the plaintiff's residence or in the circuit in which the Commissioner has his office. The written consent shall be authenticated by the seal of the offeror if it has a seal and by the acknowledged signature of a member of the copartnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it is an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association, and shall in such case be accompanied by a duly certified copy of the resolution of the board of directors, trustees, or managers of the corporation or association, authorizing the officers to execute the same. In case any process or pleadings mentioned in this chapter are served upon the Commissioner it shall be by duplicate copies, one of which shall be filed in the office of the Commissioner and another immediately forwarded by the Commissioner by registered mail to the principal office of the offeror against which the process or pleadings are directed."

**"Sec. -6 Delivery of application for registration to offeree company.** Each application for registration of a take-over bid shall be delivered to the offeree company prior to the date it is filed with the Commissioner and a certificate certifying as to such delivery shall accompany the application."

**"Sec. -7 Terms and conditions of take-over bid; recommendations to accept or reject.** A take-over bid shall be made only upon the terms and conditions set forth in the application for registration of the take-over bid. Any written solicitation or recommendation to offerees made by the offeree company to accept or reject a take-over bid shall be filed with the Commissioner not later than the time any such solicitations or recommendations are first published or sent or given to offerees."

**"Sec. -8 Injunctions.** Whenever it shall appear to the Commissioner, either upon complaint or otherwise, that any person is making a take-over bid in violation of this chapter, the Commissioner may, in addition to any other

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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 take-over bid or acting in violation of this chapter, to enjoin such person and such other person or persons from continuing such take-over bid or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter.

In any such court proceedings, the Commissioner may apply for and on due showing be entitled to have issued the court's subpoena requiring forthwith the appearance of any defendant and his employees, salesmen, or agents and the production of documents, books, and records as may appear necessary for the hearing of such petition to testify and give evidence concerning the acts or conduct or things complained of in the application for injunction. In the suit the equity courts have jurisdiction of the subject matter and a judgment may be entered awarding such injunction as may be proper."

**"Sec. -9 Remedies.** (a) Any offeror who:

- (1) Makes a take-over bid which does not comply with the provisions of this chapter, or
- (2) Makes a take-over bid by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading and who shall not sustain the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of such untruth or omission, shall be liable to any offeree whose shares are taken up pursuant to the take-over bid who may sue (i) to recover such shares, together with all dividends received thereon, costs and reasonable attorneys' fees, upon the tender of the consideration received from the offeror, or (ii) for the equivalent in damages, together with costs and attorneys' fees, if the offeror no longer owns such shares.
- (b) Every person who materially participates or aids in a take-over bid made by an offeror liable under subsection (a), or who directly or indirectly controls any offeror so liable, shall also be liable jointly and severally with and to the same extent as the offeror so liable, unless the person who so participates, aids or controls, sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist.
- (c) No suit shall be maintained to enforce any liability created under this section unless brought within two years after the transaction upon which it is based; provided, that if any person liable by reason of subsection (a) or (b) makes a written offer, before suit is brought, to return the shares taken up pursuant to the take-over bid, together with all dividends received thereon, upon the tender of the consideration received from the offeror, or to pay damages if the offeror no longer owns such shares, no offeree shall maintain a suit under this section who shall have refused or failed to accept such offer within ninety days of its receipt.
- (d) Any condition, stipulation or provision binding any offeree to waive

compliance with any provision of this chapter or of any rule or order hereunder shall be void."

**"Sec. -10 Penalty.** Whoever violates this chapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than three years, or both."

**"Sec. -11 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 a take-over bid or the right of the State to punish any person for any violation of any law."

**"Sec. -12 Appeals to circuit court, first circuit; time; bonds; costs; trial de novo; decree; further appeal.** An appeal may be taken by any aggrieved person from any final order of the Commissioner to the circuit court of the first circuit in the manner provided in chapter 91. The appellant shall execute a bond in the penal sum of \$1,000 to the State, with sufficient surety, to be approved by the Commissioner or the court, conditioned upon the faithful prosecution of the appeal to final judgment, and the payment of all such costs as shall be adjudged against the appellant. The appeal shall be heard de novo, and it may be given precedence by the court over other matters pending in the court. The court shall receive and consider evidence, whether oral or documentary, concerning the order of the Commissioner. If the order of the Commissioner is reversed the court shall by its mandate specifically direct the Commissioner as to his further action in the matter, including the making and entering of any order or orders in connection therewith, and the conditions, limitations, or restrictions to be therein contained; provided that the Commissioner shall not thereby be barred from thereafter revoking or altering the order for any proper cause which may thereafter accrue or be discovered. If the order is affirmed, the appellant shall not be barred after thirty days from filing a new application provided the application is not otherwise barred or limited. The appeal shall not in anywise suspend the operation of the order appealed from during the pendency of the appeal unless upon proper order of the Commissioner or the court. An appeal may be taken from the decree of the circuit court to the supreme court."

**"Sec. -13 Transfer prohibited.** The offeree company shall not transfer of record to an offeror any shares for which a take-over bid is made in violation of any provision of this chapter."

**"Sec. -14 Applicability of Chapter 485.** All of the provisions of Chapter 485 which are not in conflict with this chapter shall apply to each take-over bid."

**"Sec. -15 Severability.** If any provision or clause of this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application."

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

(Approved May 24, 1974.)

A Bill for an Act to Provide for the Licensure of Speech Pathologists and Audiologists.

*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 SPEECH PATHOLOGISTS AND AUDIOLOGISTS**

**Sec. -1 Purpose.** It is the policy and the purpose of this chapter to insure that the highest quality of speech pathology and audiology services are available to the people of this State. The public health and welfare requires that persons offering speech pathology and audiology services be in fact qualified in such fields; that a public authority competent to assess and prescribe the qualifications of speech pathologists and audiologists be established and continued; that only qualified persons be allowed to practice in the fields of speech pathology and audiology.

**Sec. -2 Definitions.** As used in this chapter:

- (1) 'Board' means the State Board of Speech Pathology and Audiology, established under section -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 and Hearing Association, the national administrative office of which is located in the District of Columbia, 9030 Old Georgetown Road (20014).

**Sec. -3 Practice as speech pathologist or audiologist; title or description of services.** (a) A person represents himself to be a speech pathologist when he 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; or when he purports to treat stuttering, stammering, or other disorders of speech.

(b) A person represents himself to be an audiologist when he 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.

**Sec. -4 Persons and practices not affected.** Nothing in this Act 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 a local, state, or 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 Act, 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 Act; 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 Act, if such services are performed for no more than five

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days in any calendar year and in cooperation with a speech pathologist or audiologist licensed under this Act, and if such person meets the qualifications and requirements for application for licensure described in paragraphs (1)-(3) of section -5 of this Act. However, a person not a resident of this State who is not licensed under this Act, but who is licensed under the law of another state which has established licensure requirements at least equivalent to those established by section -5 of this Act, 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 Act.

**Sec. -5 Eligibility for licensure.** To be eligible for licensure by the board as a speech pathologist or audiologist, a person shall:

- (1) Be of good moral character;
- (2) Be a citizen of the United States, or shall have declared under oath his intention to make application to become a citizen when he becomes eligible to make such application;
- (3) Posses at least a master's degree or its equivalent in the area of speech pathology or audiology, as the case may be, from an educational institution recognized by the board;
- (4) Submit to the board evidence of eligibility for meeting the requirements of the American Speech and Hearing Association for the certificate of clinical competence in speech pathology and/or audiology;
- (5) Pass a written examination approved by the Board.

**Sec. -6 Board of Speech Pathology and Audiology.** (a) There is hereby established within the department of regulatory agencies a state board of speech pathology and audiology consisting of seven members who shall be appointed by the governor in a manner prescribed in section 26-34.

(b) The membership of the board shall include two speech pathologists, two audiologists, and three public members, one of whom shall be licensed to practice medicine in the State and hold a certificate of qualification from the American Board of Otorhinolaryngology. For purposes of the initial appointments to the board, the original speech pathologists and audiologists appointed shall meet all requirements of section -5 except those relating to examination. Subsequent appointees shall be fully licensed speech pathologists or audiologists.

All members of the board shall be residents of the State.

(c) Members shall serve for a term of three years, provided, that of the initial appointees, two shall serve for terms of one year; two shall serve for terms of two years; and three shall serve for terms of three years. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year, except for the first appointed members, who shall serve through the last calendar day of the year in which they are appointed before commencing the terms for which they are appointed as prescribed by this section.

(d) The board shall meet during the first month of each calendar year to select a chairman and for other appropriate purposes. At least one additional meeting shall be held before the end of each calendar year. Further meetings may be convened at the call of the chairman or the written request of any two board members. The board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of chapter 92.

(e) Members of the board shall not receive any compensation for performance of the duties imposed upon them by this chapter, but shall be entitled to necessary traveling expenses.

(f) The director of regulatory agencies shall employ clerks, proctors, examiners and other personnel under the provisions of chapters 76 and 77 to assist the board in the performance of its duties.

(g) Four members of the board shall constitute a quorum for all purposes, but in no instance shall a meeting of the two speech pathologist members and two audiologist members alone be considered a quorum.

**Sec. -7 Functions and powers of the Board.** (a) The board shall, in accordance with the provision of chapters 91 and 92 administer, coordinate, and enforce the provision of this chapter.

(b) The board shall, in accordance with the provisions of chapter 91, adopt rules and regulations relating to professional conduct to effectuate the policy of this chapter, including but not limited to regulations which establish ethical standards of practice, and for other purposes, and may amend or repeal the same.

**Sec. -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) 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.

**Sec. -9 Application for examination.** (a) A person eligible for licensure under section -5 of this chapter and desirous of licensure shall make application for examination to the board at least 30 days prior to the date of examination, upon a form and in such a manner as the board shall prescribe.

(b) Any application shall be accompanied by the fee prescribed by section -15 of this chapter, which fee shall in no case be refunded.

(c) A person who fails an examination may make application for re-examination if he again meets the requirements of subsections (a) and (b) of this section.

**Sec. -10 Examination for license.** (a) Each applicant for licensure under this chapter shall take a written examination in accordance with procedures prescribed by the board. Standards for acceptable performance shall be established by the board.

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(b) Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine.

(c) The board may examine in whatever theoretical or applied fields of speech pathology or audiology it considers appropriate and may examine with regard to a person's professional skills and judgment in the utilization of speech pathology or audiology techniques and methods.

(d) The board shall maintain a permanent record of all examination scores.

**Sec. -11 Waiver of examination or parts thereof.** (a) The board shall waive the requirements of paragraphs (3) through (5) of section -5 for applicants for licensure who, on the effective date of this chapter, are actually engaged in this State in the practice of speech pathology or audiology, upon proof of bona fide practice presented to the board in a manner prescribed by regulations promulgated by the board.

(b) The board may waive the examination and grant licensure to any applicant who shall present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the board to be equivalent to those set forth in this Act.

**Sec. -12 Issuance of license.** The board shall issue a license to any person who meets the requirements of this chapter and who pays to the board the initial license fee prescribed in section -15 of this chapter.

**Sec. -13 Suspension and revocation of license.** (a) The board may refuse to issue or renew a license, or may suspend or revoke a license where the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct may result from:

- (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) Being guilty of unprofessional conduct as defined by the rules established by the board, or violating the Code of Ethics adopted and published by the board;
- (3) Being convicted of a felony in any part of the United States;
- (4) Violating any lawful order, rule, or regulation rendered or adopted by the board;
- (5) Violating any provision of the chapter.

(b) The board shall deny any application for, or suspend, revoke, or impose probationary conditions upon a license as ordered by the board in any decision made after hearing as provided in this chapter. One year from the date of revocation of a license under this section, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for such reinstatement.

(c) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, made to a charge of a felony or of any offense involving moral turpitude, is a conviction within the meaning of this section. At the direction

of the board and after due notice and hearing in accordance with the provisions of chapter 91, the license of the person so convicted shall be suspended or revoked or the board shall decline to issue a license when:

- (1) The time for appeal has elapsed;
- (2) The judgment of conviction has been affirmed on appeal; or
- (3) An order granting probation has been made suspending the imposition of sentence.

**Sec. -14 Renewal of license.** (a) Licenses issued under this chapter expire at midnight, December 31 of each year if not renewed.

(b) Every person licensed under this chapter shall, on or before December 31, 1975 and each year thereafter, pay a fee for renewal of his license to the board. The board may, in the event payment of the renewal fee is rendered after December 31 of any given year, renew a license upon payment of the renewal of license fee plus a late renewal payment penalty, which penalty shall equal the amount prescribed by the board according to the authority vested in it by section -15 of this chapter, multiplied by the number of full months which have elapsed since expiration of the license. No person who requests renewal of license, whose license has expired, shall be required to submit to examination as a condition to renewal, if such renewal application is made within two years from the date of such expiration.

(c) A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

(d) A license revoked on disciplinary grounds is subject to expiration as provided in subsection (2) of this section, but it may not be renewed. If such license is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated plus the late renewal payment penalty defined in subsection (b) of this section.

(e) Any person who fails to renew his license within the five years after the date of its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new license if he meets the requirements of this Act.

**Sec. -15 Fees.** (a) The board shall prescribe, and publish in a manner it deems appropriate, fees in amounts determined by the board for the following purposes:

- (1) Application for examination;
- (2) Initial licensing;
- (3) Renewal of licensing;
- (4) Late renewal payment monthly penalty.

(b) Every person to whom a license is issued pursuant to this chapter shall, as a condition precedent to its issuance, and in addition to any application, examination, or other fee, pay the prescribed initial license fee. The

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board may, by regulation, provide for the waiver of all or part of such fee where the license is issued less than 120 days before the date on which it will expire.

(c) All fees received by the board and monies collected under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

**Sec. -16 Penalties.** Any person who violates any provision of this chapter or any rule or regulation promulgated thereunder shall upon conviction be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or imprisoned in the county jail for a period not exceeding six months, or both.

**Sec. -17 Severability provision.** If any part of this chapter is for any reason held unconstitutional, inoperative, or void, such holding of invalidity shall not affect the remaining portions of the Act; and it shall be construed to have been the legislative intent to pass this Act without such unconstitutional, invalid, or inoperative part therein; and the remainder of this chapter, after the exclusion of such part or parts, shall be valid as if such parts were not contained therein."

**SECTION 2. Effective date.** This Act shall take effect sixty days after its approval.

(Approved May 24, 1974.)

## ACT 49

S.B. NO. 2152-74

A Bill for an Act Relating to Criminal Trespass.

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

SECTION 1. Section 814, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(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 enclosed in a manner designed to exclude intruders or are fenced; or
- (b) He enters or remains unlawfully in or upon the premises of any school, as defined pursuant to section 297-1, after reasonable warning or request to leave by school authorities or police officer."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 25, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to the Establishment of a Board on Geographic Names.

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

**SECTION 1. Purpose.** The purpose of this Act is to create a State Board on Geographic Names to assure uniformity in the use and spelling of the names of geographic features within the State.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

## **“CHAPTER STATE BOARD ON GEOGRAPHIC NAMES**

**Sec. -1 State board on geographic names.** There shall be in the department of land and natural resources a State board on geographic names, consisting of the following persons or their representatives: the chairman of the board of land and natural resources, the chairman of the Hawaiian homes commission, the director of the department of planning and economic development, the president of the University of Hawaii, the State land surveyor, and the director of the Bernice P. Bishop Museum. The members of the board shall serve without compensation.

The provisions of section 26-34 shall not be applicable to this board.

**Sec. -2 Chairman, secretary.** The representative from the department of land and natural resources shall serve as secretary of the board and as custodian of its official records. The board shall select one of its members as chairman of the board to serve for a term of four years or until his successor is selected.

**Sec. -3 Responsibilities of the board.** (a) The board shall designate the official names and spellings of geographic features in Hawaii and provide for circulation thereof to the appropriate State and other agencies. In its deliberations, the board shall solicit and consider the advice and recommendations of the appropriate county government officials, and, should the board desire, other knowledgeable persons.

(b) The department of land and natural resources shall publish an annual list of its decisions, together with information regarding location, the origin and meaning of names, and alternate names and spellings for the features named, which list together with the pertinent information shall be sent to the board of geographic names of the United States.

(c) The departments of the State shall use or cause to be used on all maps and documents prepared by or for them the names and spellings approved by the board on geographic names; provided, that such names or spellings shall not be contrary to legally established names or spellings."

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

(Approved May 25, 1974.)

A Bill for an Act Relating to Schools and Attendance.

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

SECTION 1. Chapter 298, Hawaii Revised Statutes is amended by adding a new part to be appropriately designated and to read:

### **"PART II. SCHOOL ENTRY EXAMINATION"**

**Sec. 298- Definitions.** As used in this part, "school" means any day care center, child care facility, headstart program, preschool, kindergarten, elementary, or secondary school, public or private, including any special school for children in the State.

**Sec. 298- Immunization upon entering school; tuberculin test.** (a) No child shall be admitted to any school for the first time in the State unless such child presents to the appropriate school official certification from a licensed physician stating that the child has received immunizations against communicable diseases as required by the department of health.

(b) No child shall be admitted to any school for the first time in the State unless such child presents to the appropriate school official certification from a licensed physician or other authorized personnel stating the child has received a tuberculin test or x-ray.

**Sec. 298- Provisional entrance to school.** (a) A child may enter school provisionally upon submitting written proof from a licensed physician or an authorized representative of the department of health stating that the child is in the process of receiving the required immunizations or tuberculin test. Further certification showing that the required immunizations and tuberculin test have been completed must be submitted to the appropriate school official no later than three months after the child first entered the school.

**Sec. 298- Exemptions.** A child may be exempted from the required immunizations:

- (1) If a licensed physician certifies that the physical condition of the child is such that immunizations would endanger his life or health; or
- (2) If any parent, custodian, guardian, or any other person in loco parentis to a child objects to immunization in writing on the grounds that such immunization conflicts with his bona fide religious tenets and practices.

Upon showing the appropriate school official satisfactory evidence of such exemption, no certificate or other evidence of immunization shall be required for entry into school.

**Sec. 298- Exemptions from immunization; not recognized; epidemic conditions.** If at any time there is, in the opinion of the department of health, danger of an epidemic from any of the communicable diseases for which immunization is required under this part, no exemption from immunization against such disease shall be recognized. Quarantine shall be a legal alternative to immunization.

**Sec. 298- Immunization of indigent children.** The department of health shall provide all immunizations and tuberculin tests to comply with this part, as far as public funds will permit, to each child whose parents, guardians, or custodians cannot afford to have the child immunized or tested for tuberculosis, and who have not been exempted under section 298-. Nothing in this section shall preclude the department of health from distributing immunizations and vaccines to physicians or other authorized persons as required by law or by the rules of the department of health.

**Sec. 298- Physical examination required.** No child shall be admitted to any school for the first time in the State unless such child presents to the appropriate school official a certification from a licensed physician stating that the child has undergone a physical examination. The physical examination shall be performed within a year of the date of entry into school. A child may enter school provisionally upon submitting written proof from a licensed physician or other authorized representative of the department of health stating that the child is in the process of undergoing a physical examination. Further certification showing that the required physical examination has been completed must be submitted to the appropriate school official no later than three months after the child first entered the school.

**Sec. 298- Health certificates.** The department of education shall provide health certificate forms for immunization and physical examination to the schools, private physicians, and authorized personnel of the department of health. Any immunization record signed by a licensed physician may be accepted by the appropriate school official as certification of immunization if the information is transferred to the health certificate form and verified by the appropriate school official.

**Sec. 298- Notification for noncompliance.** If a child does not complete his immunization and tuberculin requirement under section 298- or his physical examination requirement under section 298- within the three month period provided after provisional entry into school, the department of education shall refer the child to the department of health. The department of health shall cause a notice to be sent to the parent of the child stating that if the required immunizations, tuberculin test, or physical examination is not completed within thirty days of the date of the notice, the child shall not be admitted to school.

**Sec. 298- Rules.** The department of health shall adopt rules relating to immunization and tuberculin testing under this part. Immunizations required, and the manner and frequency of their administration shall conform with recognized standard medical practices. The list of diseases and minimum requirements for protection under this part may be revised whenever the department of health deems it necessary for the protection of public health.

**Sec. 298- Enforcement.** The department of health shall administer and enforce the immunization and tuberculin test requirements under this part."

SECTION 2. The present chapter 298, sections 298-1 to 298-26, Hawaii Revised Statutes, shall be renumbered as "Part I: School Attendance, Generally."

## ACT 52

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

(Approved May 25, 1974.)

## ACT 52

H.B. NO. 2892-74

A Bill for an Act Relating to Workmen's Compensation.

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

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 386-23.6 Weekly benefit adjustments for recipients of services of attendants.** Any permanently and totally disabled employee awarded and receiving compensation under section 386-23 or 386-23.5, but:

- (1) Who is no longer receiving weekly benefits shall, without application, be entitled to a resumption of weekly benefits from the special compensation fund in an amount equal to a percentage of the current maximum weekly benefit determined by multiplying the current maximum weekly benefit rate by a fraction, the numerator of which is the weekly benefit amount he had been receiving and the denominator of which is the maximum weekly benefit rate applicable at the time the weekly benefit award was made.
- (2) Who is receiving one-half of weekly benefits from the special compensation fund in an amount equal to a percentage of the current maximum weekly benefit rate determined by multiplying the current maximum weekly benefit rate by a fraction, the numerator of which is twice the amount he had been receiving and the denominator of which is the maximum weekly benefit rate applicable at the time the weekly benefit award was made."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 25, 1974.)

## ACT 53

H.B. NO. 3094-74

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

\*Edited accordingly.

for legislative relief as to the following named persons, firms, and corporations 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  
REFUND OF TAXES:

	<b>Division</b>	<b>Amount</b>
Higa, Shinki (Real Property)	First	\$ 543.48
Hurst, Ruth (Real Property)	First	215.29
Matsushima, Yano (Real Property)	Second	73.27
Chak, Inc. (Real Property)	Third	316.50

Chapter 662, Hawaii Revised Statutes  
JUDGMENTS AGAINST THE STATE AND SETTLEMENT OF CLAIMS:

		<b>Amount</b>
Henry, Mary Anne and Charles M.		\$26,330.30
Civil No. 31261, First Circuit		
Date of Judgment: February 25, 1972		
Henry, Mary Anne		
Amount of Judgment:	\$24,000.00	
4% Interest:	2,330.30	
Henry, Charles M.		
Amount of Judgment:	1,218.90	1,337.26
4% Interest:	118.36	
Viveiros, Jo Ann		16,893.51
by Viveiros, Joseph H. and Viveiros, Joseph H.		
Civil No. 33459, First Circuit		
Date of Judgment: April 25, 1972		
Amount of Judgment:	\$15,491.23	
4% Interest:	1,402.28	
Uperesa, Wayne G.		3,142.03
by Tofili, Nellie		
Civil No. 36160, First Circuit		
Date of Judgment: May 24, 1973		
Amount of Judgment:	\$3,000.00	
4% Interest:	142.03	
Liana, Moses		8,560.03
Civil No. 33487, First Circuit		
Date of Judgment: May 30, 1973		
Amount of Judgment (State's Share):	\$8,178.23	
4% Interest:	381.80	
Ing, Leroy V. B.		21,837.37
Civil No. 35853, First Circuit		
Date of Judgment: July 23, 1973		
Amount of Judgment:	\$20,982.00	
4% Interest:	855.37	
Cox, Jean		24,549.15
Civil No. 31720, First Circuit		
Date of Settlement: November 23, 1973		
Amount of Settlement:	\$24,549.15	

## ACT 53

Perez, Irene		11,093.10
Civil No. 2856, Third Circuit		
Date of Judgment: October 4, 1973		
Amount of Judgment:	\$10,741.14	
4% Interest:	351.96	
Lau, Dai Chi, Lau, Ding Yat and Lau, Daisy Dai Chi		
Civil Nos. 36350 and 39705, First Circuit		
Date of Judgment: November 1, 1973		
Lau, Dai Chi, as Administrator		20,593.98
Amount of Judgment:	\$20,000.00	
4% Interest:	593.98	
Lau, Ding Yat and Lau, Daisy Dai Chi		29,088.98
Amount of Judgment:	\$28,250.00	
4% Interest:	838.98	
Ochs, Thomas L.		5,145.21
Civil No. 36834, First Circuit		
Date of Judgment: November 7, 1973		
Amount of Judgment:	\$5,000.00	
4% Interest:	145.21	
Ludwig, William		512.66
Civil No. 36416, First Circuit		
Date of Judgment: December 11, 1973		
Amount of Judgment:	\$500.00	
4% Interest:	12.66	
Asato, Rose Y. and Yeisei		16,969.62
Civil No. 34199, First Circuit		
Date of Judgment: December 13, 1973		
Amount of Judgment:	\$15,940.78	
4% Interest:	1,028.84	
Bellman, Martin L. and Young Ju		4,989.78
Civil No. 36911, First Circuit		
Date of Judgment: February 5, 1974		
Amount of Judgment:	\$4,895.88	
4% Interest:	93.90	
Dillingham Corp. dba Hawaiian Tug and Barge		14,471.01
Civil No. 36348, First Circuit		
Date of Judgment: September 26, 1973		
Amount of Judgment:	\$14,000.00	
4% Interest:	471.01	
Arneson, Charles V. N. by T. G. Arneson		114,481.23
and T. G. Arneson		
Civil No. 34705, First Circuit		
Date of Judgment: January 22, 1974		
Amount of Judgment:	\$112,158.17	
4% Interest:	2,323.06	
American Civil Liberties Union of Hawaii		5,325.00
Brandenburger v. Thompson		
Civil No. 71-3450, U.S. District Court		
Payment of Attorney's Fees		
Section 37-77, Hawaii Revised Statutes		

**MISCELLANEOUS CLAIMS**

	<b>Amount</b>
U.S. Government Interagency Motor Pool Damages to car by patient at Waimano Training School and Hospital, May 8, 1973	\$105.00
Otsuka, Glenn Damages to car by patient at Waimano Training School and Hospital, August 28, 1973	6.82
Jocson, Benjamin Damages to car by patient at Waimano Training School and Hospital, August 7, 1973	48.15
St. Onge, Dennis E. Damages to car by patient at Waimano Training School and Hospital, April 17, 1973	53.84
Taniguchi, Edwin K. Reimbursement for purchase of personal property (contact lens) which was lost in the performance of official duty, February 16, 1973	26.00
Murata, Iris H. Damages to car by patient at Hawaii State Hospital, November 30, 1973	175.77
Lovelette, Leland H. Reimbursement for loss of personal property (wristwatch band) caused by a patient at Hawaii State Hospital, March 21, 1973	10.00

SECTION 2. The sums hereinabove appropriated shall be paid upon warrants issued by the comptroller of the State upon vouchers approved by the director of taxation in the several amounts and to the respective persons hereinabove set out as to claims for overpayment of taxes, and shall be paid upon warrants issued by said comptroller 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, and all unexpended balances thereof after payment shall lapse into the general fund of the State.

SECTION 4. If any portion of this Act or its application to any circumstance 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 May 25, 1974.)

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

SECTION 1. Section 404 of Act 9, Session Laws of Hawaii 1972 (Hawaii Penal Code), is amended to read:

**"Sec. -404 Examination of defendant with respect to physical or mental disease, disorder, or defect.** (1) Whenever the defendant has filed a notice of intention to rely on the defense of physical or mental disease, disorder, or defect excluding responsibility, or there is reason to doubt his fitness to proceed, or reason to believe that the physical or mental disease, disorder, or defect of the defendant will or has become an issue in the case, the court shall immediately suspend all further proceedings in the prosecution. If a trial jury has been empanelled, it shall be discharged or retained at the discretion of the court. The dismissal of the trial jury shall not be a bar to further prosecution.

(2) Upon suspension of further proceedings in the prosecution, the court shall appoint a State-employed physician or certified clinical psychologist designated by the director of health from within the department of health and two additional unbiased, qualified physicians, or one qualified physician and one certified clinical psychologist, to examine and report upon the physical and mental condition of the defendant. In each case the court shall appoint no more than one certified clinical psychologist and at least one of the physicians appointed by the court shall be a psychiatrist. The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose, and may direct that one or more qualified physicians retained by the defendant be permitted to witness and participate in the examination.

(3) In such examination any method may be employed which is accepted by the medical profession for the examination of those alleged to be suffering from physical or mental disease, disorder, or defect and the examiners may, upon approval of the court, secure the services of clinical psychologists and other medical or paramedical specialists to assist in the examination and diagnosis.

(4) The report of the examination shall include the following:

- (a) A description of the nature of the examination;
- (b) A diagnosis of the physical or mental condition of the defendant;
- (c) An opinion as to his capacity to understand the proceedings against him and to assist in his own defense;
- (d) An opinion as to the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was impaired at the time of the conduct alleged; and
- (e) When directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is required to establish an element of the offense charged.

(5) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and

shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of physical or mental disease, disorder, or defect.

(6) The report of the examination, including any supporting documents, shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.

(7) Any examiner shall be permitted to make a separate explanation reasonably serving to clarify his diagnosis or opinion.

(8) There shall be made accessible to the examiners all existing medical, social, and other pertinent records in the custody of public agencies notwithstanding any other statutes.

(9) The compensation of persons making or assisting in the examination, other than those retained by the non-indigent defendant, who are not undertaking the examination upon designation by the director of health as part of their normal duties as employees of the State or a county, shall be paid by the State."

SECTION 2. Section 411 of Act 9, Session Laws of Hawaii 1972 (Hawaii Penal Code), is amended to read:

**"Sec. -411 Legal effect of acquittal on the ground of physical or mental disease, disorder, or defect excluding responsibility; commitment; conditional release; discharge; procedure for separate post-acquittal hearing.**

(1) When a defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the court shall, on the basis of the report made pursuant to section 404, if uncontested, or the medical evidence given at the trial or at a separate hearing, make an order as follows:

- (a) The court shall order him to be committed to the custody of the director of health to be placed in an appropriate institution for custody, care, and treatment if the court finds that the defendant presents a risk of danger to himself or the person or property of others and that he is not a proper subject for conditional release; or
- (b) The court shall order the defendant to be released on such conditions as the court deems necessary if the court finds that the defendant is affected by physical or mental disease, disorder, or defect and that he presents a danger to himself or the person or property of others, but that he can be controlled adequately and given proper care, supervision, and treatment if he is released on condition; or
- (c) The court shall order him discharged from custody if the court finds that the defendant is no longer affected by physical or mental disease, disorder, or defect, or, if so affected, that he no longer presents a danger to himself or the person or property of others and is not in need of care, supervision, or treatment.

(2) The court shall, upon its own motion or on the motion of the prosecuting attorney or the defendant, order a separate post-acquittal hearing for the purpose of taking evidence on the issue of the risk of danger which the defendant presents to himself or to the person or property of others.

(3) When ordering such a hearing the court shall appoint a state-employed physician or certified clinical psychologist designated by the director

## **ACT 54**

of health from within the department of health plus two additional, unbiased, qualified physicians, or one qualified physician and one certified clinical psychologist, including, if possible, at least one or more of the examiners who participated in the examination and report made pursuant to section 404, to examine the defendant and to report within thirty days, or such longer period as the court determines to be necessary for the purpose, as to his physical and mental condition. In each case the court shall appoint no more than one certified clinical psychologist and at least one of the physicians appointed by the court shall be a psychiatrist. To facilitate such examination and the proceedings thereon, the court may cause the defendant, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of examination and may direct that qualified physicians retained by the defendant be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 404 (3), (4), (a) and (b), (6), (7), (8) and (9).

(4) Whether the court's order under subsection (1) is made on the basis of the medical evidence given at the trial or on the basis of the report made pursuant to section 404 or the medical evidence given at a separate hearing, the burden shall be upon the State to prove, by a preponderance of the evidence, that the defendant may not safely be discharged and that he should be either committed or conditionally released as provided in subsection (1)."

SECTION 3. Section 414 of Act 9, Session Laws of Hawaii 1972 (Hawaii Penal Code), is amended to read:

**"Sec. -414 Procedure upon application for discharge, conditional release, or modification of conditions of release.** Upon filing of an application pursuant to section 412 for discharge or conditional release, or upon the filing of an application pursuant to section 413 for discharge or for modification of conditions of release, the court shall appoint a State-employed physician or certified clinical psychologist designated by the director of health from within the department of health and two additional unbiased, qualified physicians, or one qualified physician and one certified clinical psychologist, including, if possible, at least one or more of the examiners who participated in the examination and report made pursuant to section 404, to examine the committed or conditionally released person and to report within thirty days, or such longer period as the court determines to be necessary for the purpose, their opinion as to his physical and mental condition. In each case the court shall appoint no more than one certified clinical psychologist and at least one of the physicians appointed by the court shall be a psychiatrist. To facilitate such examination and the proceedings thereon, the court may cause such person, if not then so confined, to be committed to a hospital or other suitable facility for the purpose of the examination and may direct that qualified physicians retained by the person be permitted to witness and participate in the examination. The examination and report and the compensation of persons making or assisting in the examination shall be in accord with section 404(3), (4)(a) and (b), (6), (7), (8), and (9)."

SECTION 4. Section 603 of Act 9, Session Laws of Hawaii 1972 (Hawaii Penal Code), is amended to read:

**"Sec. -603 Pre-sentence psychiatric and medical examination.** Before suspending or imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to psychiatric and other medical observation and examination for a period not exceeding sixty days or such longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. The defendant may be remanded for this purpose to any available clinic or hospital and, in addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists, physicians, or certified clinical psychologists to make the examination. If a single examiner is appointed, he shall be a qualified psychiatrist. If two or more examiners are appointed, at least one shall be a qualified psychiatrist and not more than one shall be a certified clinical psychologist. The report of the examination shall be submitted to the court."

SECTION 5. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 28, 1974.)

## ACT 55

S.B. NO. 1907-74

A Bill for an Act Relating to Remaining Unlawfully in Apartment Houses or on Hotel Premises.

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

SECTION 1. Section 813, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. -813 Criminal trespass in the first degree.** (1) A person commits the offense of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a dwelling or if he knowingly enters or remains unlawfully in or upon the premises of a hotel or apartment building.

(2) Criminal trespass in the first degree is a misdemeanor."

SECTION 2. Section 800, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended by adding definitions 22 and 23 to read as follows:

(22) "Hotel" means a structure in which all tenants are roomers or boarders.

(23) "Apartment building" means any structure containing one or more dwelling units which is not a hotel or a single-family residence.

SECTION 3. 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 material, or the underscoring.\*

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\*Edited accordingly.

## ACT 56

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

(Approved May 28, 1974.)

ACT 56

S.B. NO. 1745-74

A Bill for an Act Relating to Lapsed Warrant.

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

SECTION 1. Chapter 46 of the Hawaii Revised Statutes is amended by adding a new section thereto to be appropriately designated and to read as follows:

**"Sec. 46- Lapsed warrant.** Any law to the contrary notwithstanding, any warrant drawn upon any county treasury unless presented for payment before the close of the fiscal year next after the fiscal year in which it has been issued shall be deemed to be lapsed and shall not be paid, and any money held in the county treasury for payment of the warrant shall thereupon be deposited to the credit of the general fund of the county; provided, that within the period of ten fiscal years immediately following the year in which the warrant was lapsed, the payee or assignee of the warrant, or, if the payee is deceased, the executor or administrator of the estate of the payee, or if the estate of the payee is closed, to any person lawfully entitled to the undisposed property of the deceased payee, shall be entitled to payment of the amount of the warrant out of moneys not otherwise appropriated in the general fund upon filing with the director of finance of the county a claim for recovery supported by such evidence as may be deemed satisfactory by the director."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 28, 1974.)

ACT 57

S.B. NO. 1973-74

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:

**"Sec. 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:

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\*Edited accordingly.

- (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.

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

## ACT 58

designated by the commission to assure activities planned are timely and appropriate to commemorate the memory of King Kamehameha I.

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 28, 1974.)

## ACT 58

S.B. NO. 2051-74

A Bill for an Act Relating to the Administration of Oaths.

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

SECTION 1. Section 187-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 187-11 Failure to obey summons.** Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the officers, their agents and subordinates, upon his arrest for violation of the fish and game laws or regulations, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$500 or be imprisoned not more than six months, or both.

If any person fails to comply with a summons or citation issued to him, 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 any fish and game law or any rule or regulation promulgated 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 2. Section 266-24.1, Hawaii Revised Statutes, is amended to read:

**"Sec. 266-24.1 Arrest or citation.** Except when required by state law to take immediately before a district judge a person arrested for a violation of any provision of this part, including any rule or regulation adopted and promulgated pursuant to this part, any person authorized to enforce the provisions of this part, hereinafter referred to as enforcement officer, upon arresting a person for violation of any provision of this part, including any rule or regulation adopted and promulgated pursuant to this part shall, in the discretion of the enforcement officer, either (1) issue to the purported

\*Edited accordingly.

violator a summons or citation, printed in the form hereinafter described, warning him to appear and answer to the charge against him at a certain place and at a time within seven days after such arrest, or (2) take him without unnecessary delay before a district judge.

The summons or citation shall be printed in a form comparable to the form of other summonses and citations used for arresting offenders and shall be designed to provide for inclusion of all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district courts.

The original of a summons or citation shall be given to the purported violator and the other copy or copies distributed in the manner prescribed by the district courts; provided that, the district courts may prescribe alternative methods of distribution for the original and any other copies.

Summons and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the enforcement officer, upon his arrest for violation of any provision of this part, including any rule or regulation promulgated pursuant to this part, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$1,000, or be imprisoned not more than six months, or both.

In the event any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest.

When a complaint is made to any prosecuting officer of the violation of any provision of this part, including any rule or regulation promulgated thereunder, the enforcement officer who issued the summons or citation shall subscribe to it under oath administered by another official of the department of transportation whose names have been submitted to the prosecuting officer and who have been designated by the director of transportation to administer the same."

SECTION 3. Section 267-6.1, Hawaii Revised Statutes, is amended to read:

**"Sec. 267-6.1 Arrest or citation.** Except when required by State law to take immediately before a district judge a person arrested for a violation of any provision of this part, including any rule or regulation adopted and promulgated pursuant to this part, any person authorized to enforce the provisions of this part, hereinafter referred to as enforcement officer, upon arresting a person for violation of any provision of this part, including any rule or regulation adopted and promulgated pursuant to this part shall, in the discretion of the enforcement officer, either (1) issue to the purported violator a summons or citation, printed in the form hereinafter described, warning him to appear and answer to the charge against him at a certain place and at a time within seven days after such arrest, or (2) take him without unnecessary delay before a district judge.

## **ACT 58**

Said summons or citation shall be printed in a form comparable to the form of other summonses and citations used for arresting offenders and shall be designed to provide for inclusion of all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district courts.

The original of a summons or citation shall be given to the purported violator and the other copy or copies distributed in the manner prescribed by the district courts; provided that, the district courts may prescribe alternative methods of distribution for the original and any other copies.

Summons and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the enforcement officer, upon his arrest for violation of any provision of this part, including any rule or regulation promulgated pursuant to this part, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$1,000, or be imprisoned not more than six months, or both.

In the event any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest.

When a complaint is made to any prosecuting officer of the violation of any provision of this part, including any rule or regulation promulgated thereunder, the enforcement officer who issued the summons or citation shall subscribe to it under oath administered by another official of the department of transportation whose names have been submitted to the prosecuting officer and who have been designated by the director of transportation to administer the same."

SECTION 4. Section 486-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 486-16 Enforcement; summons or citation; penalty; right of entry and inspection; stopping vehicles.** The director and any authorized inspector may, upon arresting any person for violation of this chapter, including any rules and regulations promulgated thereunder, take the name, address, and any other pertinent information of such person and issue to him a summons and citation, printed in the form hereinafter described, summoning him to appear and answer to the charge against him at a certain place and at a time within seven days after such arrest.

There shall be a form of summons or citation for use in citing violators of this chapter and the rules and regulations promulgated by the director which do not mandate the physical arrest of such 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 designed to include all necessary information. The form and contents of the summons or citation shall be as adopted or prescribed by the district courts.

In every case when 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.

Any person who fails to appear at the place and within the time specified in the summons or citation issued to him shall be fined not more than \$500 or imprisoned not more than six months, or both, regardless of the disposition of the charge of which he was originally arrested.

In the event any person fails to comply with the summons or citation given on such person, or if any person fails or refuses to deposit bail as required and within the time permitted, the arresting officer or employee who issued the citation shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest.

The director may seize, without formal warrant, incorrect or unsealed weights and measures or amounts or packages of commodity found to be used, retained, offered, or exposed for sale or sold in violation of law.

The director may stop any vehicle subject to this chapter and require the driver to move the vehicle to a designated place for inspection.

The director may in the public interest serve suitable notices or warnings rather than resorting to prosecution for minor violations.

The director may enter and go into or upon at any reasonable time, without formal warrant, any structure, premises, or any other place where commercial transactions or articles subject to this chapter are being conducted or located.

When a complaint is made to any prosecuting officer of the violation of this chapter, including any rules and regulations promulgated thereunder, the arresting officer or employee who issued the summons or citation shall subscribe to it under oath administered by another official or officials of the department whose names have been submitted to the prosecuting officer and who have been designated by the Director of Weights and Measures to administer the same."

**SECTION 5.** New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 28, 1974.)

A Bill for an Act Relating to Sanitary Sewerage Service Charges.

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

\*Edited accordingly.

## **ACT 59**

**SECTION 1. Purpose.** The purpose of this Act is to regulate the rates and charges for sewerage services provided by a private person.

**SECTION 2.** Section 269-1, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 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 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 an aerial transportation enterprise as a common carrier; (2) means and includes any person, insofar as such person owns or operates a private sewer company or sewer facility; (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; and (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.

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 the 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 3. 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 material, or the underscoring.\*

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

(Approved May 28, 1974.)

## ACT 60

S.B. NO. 2189-74

A Bill for an Act Relating to the Real Estate Commission and the Real Estate Recovery Fund, Chapter 467, Hawaii Revised Statutes.

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

SECTION 1. Section 467-19, Hawaii Revised Statutes, is amended to read:

**"Sec. 467-19 Management of fund.** The sums received by the real estate commission for deposit in the real estate recovery fund shall be held by the commission in trust for carrying out the purpose of the real estate recovery fund. The real estate commission, as the trustee of the recovery fund, shall be authorized to expend such funds to retain private legal counsel to represent the commission in any action involving the real estate 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 real estate education fund, and which shall be available to the commission for educational purposes, which is hereby created."

SECTION 2. Section 103-3, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

## ACT 61

**"Sec. 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 provision 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) In the event the attorney general, for reasons deemed by him good and sufficient, declines such representation or counsel, or approves such department's expenditures; provided the governor thereupon waives the provision of this section.

For the purposes 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 shall become a deputy attorney general."

SECTION 3. 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 material or the underscoring.\*

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

(Approved May 28, 1974.)

## ACT 61

H.B. NO. 708

A Bill for an Act Relating to Consumer Protection.

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

SECTION 1. Chapter 487, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 487- Assurance of voluntary compliance.** In lieu of instituting or continuing an investigation or action pursuant to section 487-5(5), the director may accept written assurance of voluntary compliance from the person or persons suspected of violation. The director will obtain the agreement of the affected consumers where possible. In no event shall the fact that a person who enters into an assurance of voluntary compliance be considered an admission of violation, nor shall such written assurance constitute prima facie evidence of any violation. The assurance may include a stipulation for reim-

\*Edited accordingly.

busement to some or all consumers who have been damaged by an alleged unlawful act or practice and payment of costs of investigation. All assurances of voluntary compliance may be made a matter of public record. A consumer need not accept restitution pursuant to the stipulation, but his stipulated agreement to the assurance or his acceptance and full performance of restitution shall bar recovery of any other damages in any action on account of the same acts or practices by him against the person or persons making restitution."

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

(Approved May 28, 1974.)

**ACT 62**

H.B. NO. 1470

A Bill for an Act Relating to a Hunter-Safety Training Program.

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

**SECTION 1.** Chapter 191, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 191- Hunter-safety training program.** The department of land and natural resources shall establish a hunter-safety training program to provide instruction in hunter safety, principles of conservation, and sportsmanship. The director may establish a hunter-safety officer position to administer the program, outline all phases of instruction, conduct general supervision of individual programs, and distribute information on the program, or may contract the program to a qualified sportsmen's organization.

The department may construct, operate, and maintain public outdoor and indoor target ranges for the program.

The department shall prepare such reports as may be necessary to seek approval under Public Law 91-503 for federal assistance in this program of hunter-safety, conservation, and sportsmanship."

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$38,525, or so much thereof as may be necessary, for the development of a hunter-safety training program. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

**SECTION 3.** 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 material, or the underscoring.\*

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

(Approved May 28, 1974.)

\*Edited accordingly.

A Bill for an Act to Amend Section 142-66, HRS, Relating to Trespass of Animals on Public Roads and Lands, and Section 142-70, HRS, Relating to Expenses, Driving, Etc.

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

SECTION 1. Section 142-66 hereof is hereby amended to read as follows:

**"Sec. 142-66 On public roads, lands.** If any animal mentioned in section 142-63 trespasses or strays on any of the government roads bounded on both sides by legal fence, or upon any government land which is not used for animal husbandry situated in the counties of Hawaii, Maui and Kauai and the City and County of Honolulu, any police officer or such person as may be thereunto authorized by ordinance of the councils of said counties and city and county, may take up the animal and impound the same as said councils shall provide. The owner of the animals so taken up or impounded shall pay to the police officer or such person as may be authorized fees as provided in section 142-70 hereof. In addition, if any damage is done by the animals to a government road or land or improvements thereon, the owner thereof shall further pay such amount as shall be fixed by the directors of finance of said counties or city and county. In case the charges and pound fees are not paid, the animals impounded shall be sold at public auction as provided by any ordinance relating thereto."

SECTION 2. Section 142-70 hereof is hereby amended to read as follows:

**"Sec. 142-70 Expenses, driving, etc.** In all cases when animals are taken up for trespass, 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 conveying of animals, to be established by ordinance by the councils of the counties of Hawaii, Maui and Kauai and the City and County of Honolulu, in addition to forfeits and damages specified in the preceding sections of this part may be assessed against the owner of the animals."

SECTION 3. 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 material or the underscoring.\*

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

(Approved May 28, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to Land Fire Protection Law.

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

SECTION 1. Chapter 185, Hawaii Revised Statutes, is amended to read:

## **"CHAPTER 185 "LAND FIRE PROTECTION LAW**

**"Sec. 185-1 Responsible agency.** The department of land and natural resources shall take measures for the prevention, control, and extinguishment of forest fires on State owned and private lands within the forest reserves and public shooting grounds of the State and shall cooperate with established fire control agencies of the counties and the federal government in developing plans and programs and mutual aid agreements for assistance for the prevention, control and extinguishment of fires on forest, pasture, and brush lands not within forest reserves.

**"Sec. 185-2 Fire wardens and foresters.** The state forester shall be responsible for coordinating the work of fire wardens and reviewing their plans for fire protection and control. The forester in charge of state forest reserves on each island shall be the chief fire warden for that island and shall be in charge of all fire wardens on the island; provided that if members of the county or federal fire departments are fire wardens the chain of command will be defined by a mutual aid agreement between the department of land and natural resources and the county or federal government as provided in section 185-1. Fire wardens shall be appointed by the department of land and natural resources to serve without pay, for as many districts as in the opinion of the department may be needed for each island to give an adequate coverage and they shall be responsible for enforcing the fire prevention sections of this chapter in the district to which they are appointed.

**"Sec. 185-3 Powers and duties of foresters and fire wardens.** The state forester shall be responsible to the board of land and natural resources for supervision of the organization, plans and actions of the fire warden.

(1) The state forester. The state forester shall have the following duties and powers: review and approve plans, prepared by the chief fire warden, zoning each island under his jurisdiction into fire districts; recommend to the board the appointment of a fire warden for each fire district in accordance with section 185-2; appoint, pending the filling of vacant fire warden positions by the board or during periods when a fire warden is unable, because of illness, absence from the district, or for any valid reason, to perform or attend to his duties for periods not to exceed two months, special fire wardens who shall serve without compensation but who shall have the same benefits, powers and duties as district fire wardens during the term of their appointments; establish procedures and guidelines for the prevention, control and extinguishment of fires coming within the meaning of fires in this chapter; establish procedures, guidelines and conditions for the issuance of fire permits and

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for determining periods when forest areas shall be closed; close forest areas when necessary; summon when he deems it necessary men and fire fighting equipment, supplies and materials needed to extinguish fires; act as fire boss or assign a fire boss to supervise the operations of controlling and extinguishing fires; arrest without warrant any person committing in his presence any of the offenses prohibited by this chapter; and to do any act which the chief fire warden or district warden is empowered to perform under this chapter.

(2) Chief fire warden. The chief fire warden of each island shall have the following duties and powers: prepare a master plan for zoning the island into fire districts; make recommendations to the state forester who will then recommend to the board for the appointment of fire wardens for each fire district; take necessary measures for the prevention, control, and extinguishment of fires coming within the meaning of this chapter; supervise the work of fire wardens, and, when necessary, recommend to the state forester for the appointment for periods of time limited to two months of special fire wardens to serve without compensation who shall have the same powers as district fire wardens during their term of appointment; issue fire warning notices during dry periods or other seasons when fire hazards are great; close forest reserves to public access during dry periods when necessary to reduce fire risk, except it shall be lawful for the owner or his agents or other persons regularly engaged in harvesting, processing or moving farm or forest products to enter the closed area for essential residential or commercial purposes, issue burning permits and authorize fire wardens to issue burning permits as provided in section 185-7; receive, audit, and if correct, approve and transmit to the board through the state forester, all reports and accounts for expenses incurred in the prevention, control, and extinguishment of any fires which come within the meaning of this chapter; summon when he deems necessary additional fire fighting assistance, equipment, supplies, or materials to assist fire wardens in fighting a fire; assume full responsibility, upon relieving any fire warden of such responsibility, for directing the control and extinguishment of any fire coming within the meaning of this chapter, including directing the control and extinguishment of any fire on or threatening any government or private lands in forest reserves and public shooting grounds; conduct educational work in the protection of forest, pasture, and brush lands against fires; arrest without warrant any person committing in his presence any of the offenses prohibited by this chapter.

“(3) District fire warden. The district fire warden shall have the following duties and powers within his assigned district: advise the chief fire warden of the need of fire warning notices; and, if issued, assist in posting the warnings; issue burning permits, when authorized by the chief fire warden; summon and have control of (unless relieved by the state forester or chief fire warden as herein provided) all persons, equipment, apparatus, supplies, and materials used or needed for fighting a fire; authority to incur expenses for the purposes of and in accordance with this part, provided, that the district fire warden may relinquish such authority to the chief fire warden of the island; submit to the chief fire warden a correct and itemized account of expenses, together with a report of the fire on forms supplied by the department;

arrest without warrant any person committing in his presence any of the offenses prohibited by this chapter.

**"Sec. 185-4 Payment for fire fighting.** No federal, state, or county agency summoned by a fire warden to assist in extinguishing a fire shall be reimbursed for expenses incurred in such fire fighting.

"No owner, lessee, or occupier of any lands upon which a fire has occurred, nor any employee of such persons, nor any person who has any vested interest in and to the lands or his employees shall be entitled to the compensation provided for in this chapter, for his services and materials rendered in and upon the land in the extinguishment of any fire; provided the prohibition contained in this paragraph shall not apply to owners or persons holding interests to any lands which have been surrendered to the department of land and natural resources under agreement as a public forest reserve for a period of ten years or more or as a public shooting ground for a period of five years or more or to any owner who suffered a fire as a result of his allowing his land to be used by the general public without compensation.

"The department shall pay all expenses for wages of persons, use of equipment, supplies, or materials summoned or used by the state forester, or a fire warden, for controlling and extinguishing any fire coming within the meaning of this chapter.

"All expenses incurred in controlling or extinguishing a fire by the state forester, or a fire warden, shall be payable from the governor's contingent fund, provided such has been established by the legislature, and provided the fire suppression budget is exceeded, and the owner, lessee, or agency having control over the lands has not been negligent in starting or failing to control or extinguish a fire. Any person, agency, or corporation summoned by the state forester, or a fire warden to assist in extinguishing a fire eligible under this chapter to claim for reimbursement for wages, equipment use, supplies, or materials must submit an itemized statement of such claims to the chief fire warden through the district fire warden within sixty days after the fire has been extinguished in order to have it honored.

**"Sec. 185-5 Rates of pay for fire fighting.** Persons summoned by the state forester or a fire warden or by anyone authorized by the state forester or a fire warden for controlling or extinguishing a fire, within the meaning of this chapter, and who are eligible for compensation under this chapter, shall receive compensation at an hourly rate equivalent to the prevailing entry level rate of the civil service classification for the skill for which he is called on to perform. The rental rates of equipment shall not exceed the prevailing inter-departmental rates for equipment of similar type as established by the department of accounting and general services and supplies or material expended shall be paid for at the actual cost of replacement.

**"Sec. 185-6 Insurance protection.** All persons who have performed services required under this chapter, which services are made compensable under the terms of this chapter, shall, in case of injury or death arising out of and in the performance of the functions pursuant to this chapter, or their dependents, be entitled to all of the benefits provided in chapter 386 includ-

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ing medical services and supplies; provided that for the purposes of such benefits, average weekly wages shall be computed on the basis of earnings from the usual employment of such persons. The cost thereof shall be a charge upon the appropriate fund.

**"Sec. 185-7 Fire danger periods, setting fires, penalties.** During periods of weather when the state forester determines that the possibility of fire is particularly dangerous on any island the chief fire warden of such island shall establish a fire danger period by causing a fire warning to be issued by publishing a notice containing information setting forth the fact and a designation of the areas within which burning is prohibited without a permit, in a paper of general circulation in the area affected or by posting notices in public places with similar information. During such periods no fires other than a fire contained in a closed, screened container, which shall prevent the spread of a fire shall be started for purposes of burning forest, pasture, or brush lands or for burning flammable material within 500 feet of forest, pasture, or brush land unless a burning permit is first obtained from the state forester or a fire warden as provided herein. The issuance of permits shall be at the discretion of the issuing officer who shall take into account whether the issuance of a permit is compatible with safety. Holders of permits shall start no fires during a heavy wind or without sufficient help present to control same and shall maintain a constant watch over the fires until they have been extinguished. Every person who discards burning material within a closed fire area, or, every person who sets a fire on land within the closed fire area without a permit, or, every person who wilfully, maliciously, or negligently sets a fire which burns property not owned, leased, or controlled by him shall be guilty of a misdemeanor. Any person violating this section shall be fined not less than \$25 nor more than \$5,000. Setting fires or causing them to be set or allowing them to escape shall be *prima facie* evidence of wilfulness, malice, or negligence under this section; provided that nothing herein contained shall apply to a person who, in good faith, sets a back fire to check a fire already burning. A 'closed fire area' is defined as the area wherein burning is prohibited during a fire danger period.

**"Sec. 185-8 Government agencies to assist.** All agencies of the state or its political subdivisions shall assist in extinguishing any fire when duly summoned by the state forester or any fire warden.

**"Sec. 185-9 Obstructing the state forester or fire wardens penalty.** Any person who obstructs or interferes with or prevents the state forester or any fire warden or any person in the performance of any duty authorized by this chapter shall be fined not less than \$25 nor more than \$500."

SECTION 2. 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 material or the underscoring.\*

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

(Approved May 28, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to Annulment, Divorce, and Separation.

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

**SECTION 1. Purpose.** The purpose of this Act is to amend sections of Chapter 580, Hawaii Revised Statutes, so that such chapter applies equally to males and females without discrimination against either by reason of their sex.

**SECTION 2.** Sections 580-9, 580-12, 580-13, 580-15, 580-24, 580-51, 580-74, Hawaii Revised Statutes, are amended to read as follows:

**Sec. 580-9 Temporary support, etc.** After the filing of a complaint for divorce or separation the court may make such orders relative to the personal liberty and support of either spouse pending the complaint as he may deem fair and reasonable and may enforce the orders by summary process. The court may also compel either spouse to advance reasonable amounts for the compensation of witnesses and other expenses of the trial, including attorney's fees, to be incurred by the other spouse and may from time to time amend and revise the orders.

**Sec. 580-12 Sequestration of property.** All property within the State of a party to a matrimonial action may by order of the court be sequestered and applied to the payment of any allowance in such action by the court for the support and maintenance of either spouse or for the support, maintenance, and education of minor children, whether temporary or permanent, where service or notice has been effected by any of the methods set forth in section 580-3.

**Sec. 580-13 Security and enforcement of maintenance and alimony.** Whenever the court makes an order or decree requiring a spouse to provide for the care, maintenance, and education of children, or for an allowance to the other spouse, the court may require the person subject to such order or decree to give reasonable security for such maintenance and allowance. Upon neglect or refusal to give the security, or upon default of the person subject to such order or decree and such person's surety to provide the maintenance and allowance, the court may sequester such person's personal estate, and the rents and profits of such person's real estate, and may appoint a receiver thereof and cause such person's personal estate and the rents and profits of such person's real estate to be applied towards such maintenance and allowance, as to the court shall from time to time seem just and reasonable.

**Sec. 580-15 County attorneys to represent court.** The county attorneys of Maui and Kauai and the corporation counsels of the city and county of Honolulu and the county of Hawaii, within their respective counties, shall when and to the extent authorized by their respective county governing bodies and upon request of the family court represent the court in any contempt proceedings for the enforcement of any order or decree for support of a spouse or child support or both.

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**Sec. 580-24 Allowance for spouse and family.** Every person who is deceived into contracting an illegal marriage with a man or woman having another spouse living, under the belief that he or she was unmarried, may be entitled to a just allowance for the support of the deceived spouse and family out of the property of the deceiving spouse, which the deceived spouse may obtain at any time after action commenced upon application to the family court having jurisdiction. In addition to the allowance, the court may also compel the defendant to advance reasonable amounts for the compensation of witnesses and other reasonable expenses of trial to be incurred by the plaintiff.

**Sec. 580-51 Modification of alimony on remarriage.** Upon remarriage of a spouse in whose favor a final decree or order for support and maintenance has been made, the family court in the circuit in which the final decree or order was made, shall, upon application of any party in interest, or of anyone on such party's behalf, and proof of the remarriage of the spouse for whom support was ordered, after such notice to such spouse as the court may direct, rescind, and annul such decree or order as to support and maintenance of such spouse.

**Sec. 580-74 Support of spouse and children.** Upon decreeing a separation, the court may make such further decree for the support and maintenance of either spouse and for the support, maintenance, and education of minor children, by either spouse, or out of the property of either spouse, as may appear just and proper.

SECTION 3. 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 material, or the underscoring.\*

SECTION 4. This Act shall take effect upon approval.

(Approved May 28, 1974.)

## ACT 66

H.B. NO. 2771-74

A Bill for an Act Relating to Uniform Gifts to Minors.

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

SECTION 1. Section 553-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 553-1 Definitions.** In this chapter, unless the context otherwise requires:

- (1) An "adult" is a person who has attained the age of eighteen years.
- (2) A "bank" is a bank, trust company, national banking association, credit union supervised by the State or the federal government, or building and loan association, and includes any corporation included in the meaning of the terms as defined in chapters 403, 406, and 407.

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\*Edited accordingly.

- (3) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.
- (4) "Court" means any of the circuit courts of the State.
- (5) The "custodial property" includes:
  - (A) All securities, life insurance policies, annuity contracts, and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;
  - (B) The income from the custodial property; and
  - (C) The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender, or other disposition of such securities, money, life insurance policies, annuity contracts, and income.
- (6) A "custodian" is a person so designated in a manner prescribed in this chapter; the term includes a successor custodian.
- (7) A "financial institution" is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state, or a federal credit union or a credit union chartered and supervised under the laws of a state; "insured financial institution" is one, deposits (including a savings, share, certificate, or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation or by the federal savings and loan insurance corporation.
- (8) A "guardian" of a minor means the general guardian, guardian, tutor, or curator of his property or estate appointed or qualified by a court of this State or another state.
- (9) An "issuer" is a person who placed or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation, or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.
- (10) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor, or curator of his property or estate.
- (11) A "life insurance policy or annuity contract" means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this State on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this act or on the life of a member of the minor's family.
- (12) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles, and aunts, whether-

## **ACT 66**

- er of the whole blood or the half blood, or by or through legal adoption.
- (13) A "minor" is a person who has not attained the age of eighteen years.
- (14) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral trust certificate, transferable share, voting trust certificate, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate or deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.
- (15) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar, or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation or surrendered securities.
- (16) A "trust company" is a bank authorized to exercise trust powers in the State."

**SECTION 2.** Section 553-4, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) To the extent that the custodial property is not so expended the custodian shall deliver or pay it over to the minor on his attaining the age of eighteen years or, if the minor dies before attaining the age of eighteen years, he shall thereupon deliver or pay it over to the estate of the minor."

**SECTION 3.** Section 553-7, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (a) is not eligible, dies or becomes legally incapacitated before the minor attains the age of seventeen years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (a), a donor, his legal representative, the legal representative of the custodian, or an adult member of the minor's family may petition the court for the designation of a successor custodian. If the minor has attained the age of seventeen years, the minor may designate the successor custodian."

**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 material, or the underscoring.\*

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

(Approved May 28, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to Automatic Elevators.

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

SECTION 1. Section 132-9.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 132-9.5 Automatic elevators.** (a) Every owner, as defined in section 132-9, of a building in the State with more than five floors above or below ground, in which there is an elevator having automatic operation shall provide that one or more elevators in such building shall be arranged for use by firemen as follows:

- (1) A key-operated switch with light jewel shall be provided adjacent to the elevator at the street floor landing and may be provided at other landings subject to the discretion of the fire marshal. The key-operated switch shall remove the elevator from normal service and place it on firemen's service.
- (2) The key-operated switch shall, when operated, cancel existing car calls, prevent registration of further car calls, prevent the opening of the elevator doors except at the landing at which the switch is located, and cause the car to travel to that landing bypassing other landing calls. The light jewel shall be illuminated when the car is returning to the firemen's landing in response to the operation of the key-operated switch.
- (3) When the car arrives at the firemen's landing, the doors shall open and remain open until closed by the operation of the elevator from the car.
- (4) A key-operated switch shall be provided in the car which can be operated only by the key which operates the firemen's landing switch and which, when operated, shall permit operation of the elevator only from the car-operating buttons and cause the elevator to bypass landing calls.

(b) In any case where a contract for the installation of an elevator in a building with more than five floors above or below ground, has been entered on or after July 1, 1974, the elevator shall meet all requirements of the American National Standard Safety Code for Elevators, A17.1-1971, and supplements A17.1a-1972 and A17.1b-1973, as amended from time to time.

(c) The installation, operation, and maintenance of the safety feature prescribed in subsection (a) shall comply with Appendix E of the American National Standard Safety Code for Elevators A17.1-1971, as amended from time to time, and with rules and regulations promulgated in conformity with chapter 91 by the fire marshal.

(d) The fire marshal shall, after consultation with the director of labor and industrial relations as administrator of the Hawaii Occupational Safety and Health Law under chapter 396 promulgate rules and regulations in conformity with chapter 91 necessary for the purposes of this section as it applies to all elevators contracted for, before July 1, 1974.

## **ACT 68**

(e) Any person who violates this section shall be subject to the penalties provided in section 132-15."

SECTION 2. 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 material, or the underscoring.\*

SECTION 3. This Act shall take effect on July 1, 1974.

(Approved May 28, 1974.)

## **ACT 68**

S.B. NO. 601

A Bill for an Act Relating to Social Services.

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

SECTION 1. **Purpose.** The purpose of this Act is to enable persons who may be blind, aged, or disabled and thus eligible to apply for benefits under the Social Security Act as amended by P.L. 92-603 and P.L. 93-233 to receive a loan from the State.

The purpose of the loan is to prevent hardship for those applicants who are unable to receive an advance payment or a presumptive eligibility payment under the Social Security Act, as amended.

SECTION 2. Chapter 346, Hawaii Revised Statutes is amended by adding a new section to be appropriately numbered and to read as follows:

**"Sec. 346- Loans to applicants for federal supplemental security income.** Notwithstanding any laws to the contrary, the department of social services and housing may, out of its operating funds, make loans to any person otherwise eligible for public assistance as provided in Sections 346-52, 346-54, or 346-56 and is an applicant for benefits under the Federal Supplemental Income Program subject to the following conditions:

- (a) The Federal Bureau of Supplemental Security Income has denied applicant's request for advance payment or finding of presumptive eligibility for supplemental security income;
- (b) The loan or loans shall be for a period not to exceed the action of the Federal Bureau of Supplemental Security Income approving or disapproving assistance under its program;
- (c) The loan or loans shall bear no interest;
- (d) The loan or loans shall not exceed the amount of assistance otherwise available to the applicant under Section 346-57;
- (e) The loan or loans shall be repaid by the applicant out of the retro-active supplemental security income payments, provided that nothing herein shall restrict the federal government from making direct payments to the State for such loan or loans, and provided further that the loan or loans shall be discharged and no repayment shall be required from an applicant whose application for

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\*Edited accordingly.

- federal supplemental security income assistance has been disapproved;
- (f) The applicant shall not be eligible for general assistance under the provisions of Section 346-71, provided that he shall become eligible for such assistance upon disapproval of the application for federal supplemental security income assistance.

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

(Approved May 29, 1974.)

**ACT 69**

S.B. NO. 878

A Bill for an Act Relating to a Statewide Trail and Access System.

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

**SECTION 1. Purpose.** The purpose of this Act is to provide for the conceptual planning, coordination, development, land acquisition, construction and implementation for a statewide trail and access system, to be known as the Na Ala Hele (Walking Trails) Project, whereby such a system would (a) supply a wide range of recreational needs for major user groups, including fishermen, snorkelers, hikers, children, campers, photographers, environmentalists, explorers and historians; (b) provide a showcase of Hawaii's unique natural and cultural treasures for environmental education and for the appreciation of nature and history by both residents and visitors; (c) help to develop the economic potential of a region by a method compatible with maintenance of natural and cultural resource values; and (d) provide for a healthy, non-vehicular mode of transportation which would open up trails along stream systems and urban trails for children going to school.

**SECTION 2.** There shall be a statewide trail and access system. The initial planning, coordination, and development of the statewide system shall include:

- (1) Design of an administrative structure.
- (2) Statewide inventory of all trails.
- (3) Development of criteria for the designation of state trails and designation of the appropriate implementing agencies for the different classes of trails.
- (4) Establishment of procedures for assuring the trail rights-of-way.
- (5) Drafting of a model legislation necessary for the implementing of a statewide trail and access system.

**SECTION 3.** Funds appropriated for the purposes of the statewide trail and access system shall be expended by the department of land and natural resources. The department shall consult with the department of planning and economic development, and other state, county, and federal agencies affected by the statewide trail and access system in expending funds for the purposes of the system.

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

(Approved May 29, 1974.)

## **ACT 70**

**ACT 70**

H.B. NO. 2277-74

A Bill for an Act Relating to Land Licenses.

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

SECTION 1. Section 171-6 is amended by adding a new sub-paragraph to be appropriately designated and to read as follows:

“( ) Set, charge and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose;”

SECTION 2. 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 material, or the underscoring.\*

SECTION 3. This Act shall take effect upon approval.

(Approved May 29, 1974.)

**ACT 71**

S.B. NO. 1517-74

A Bill for an Act Relating to Descent of Property.

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

SECTION 1. Section 532-2, Hawaii Revised Statutes, is amended to read:

**“Sec. 532-2 To heirs.** Whenever any person dies intestate, his property, both real and personal, of every kind and description, shall descend to and be divided among his heirs, as in this chapter prescribed; provided, however, that upon the death, testate or intestate, of any occupier or lessee of public land, holding under an existing certificate of occupation or an existing nine hundred and ninety-nine year homestead lease, succession to the decedent's interest in such land shall be determined as provided in section 171-99(e).”

SECTION 2. 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 material or the underscoring.\*

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

(Approved May 29, 1974.)

**ACT 72**

S.B. NO. 1702-74

A Bill for an Act Relating to Uniform Disclaimers of Property Interests.

*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:

\*Edited accordingly.

**"CHAPTER  
UNIFORM DISCLAIMER OF PROPERTY  
INTERESTS ACT**

**Sec. -1 Right to disclaim interest in property.** A person, or the representative of an incapacitated or protected person, to whom an interest in or with respect to property or an interest therein devolves by whatever means may disclaim it in whole or in part by delivering or filing a written disclaimer under this chapter. The right to disclaim exists notwithstanding any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction. The right to disclaim shall not survive the death of the person having it.

**Sec. -2 Time of disclaimer.** (a) If the property or interest has devolved to the disclaimant under a testamentary instrument or by the laws of intestacy, the disclaimer shall be filed, if of a present interest, not later than six months after the death of the deceased owner or deceased donee of a power of appointment and, if of a future interest, not later than six months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested. The disclaimer shall be filed in the circuit court of the county in which proceedings for the administration of the estate of the deceased owner or deceased donee of the power have been commenced. A copy of the disclaimer shall be delivered in person or mailed by registered or certified mail to any personal representative of the deceased owner or deceased donee.

(b) If a property or interest has devolved to the disclaimant under a nontestamentary instrument or contract, the disclaimer shall be delivered or filed, if of a present interest, not later than six months after the effective date of the nontestamentary instrument or contract and, if of a future interest, not later than six months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested. If the person entitled to disclaim does not have actual knowledge of the existence of the interest, the disclaimer shall be delivered or filed not later than six months after he has actual knowledge of the existence of the interest. The effective date of a revocable instrument or contract is the date on which the maker no longer has power to revoke it or to transfer to himself or another the entire legal and equitable ownership of the interest. The disclaimer or a copy thereof shall be delivered in person or mailed by registered or certified mail to the person who has legal title to or possession of the interest disclaimed.

(c) A surviving joint tenant or tenant by the entirety may disclaim as a separate interest any property or interest therein devolving to him by right of survivorship. A surviving joint tenant or tenant by the entirety may disclaim the entire interest in any property or interest therein that is the subject of a joint tenancy or tenancy by the entirety devolving to him, if the joint tenancy or tenancy by the entirety was created by act of a deceased joint tenant or tenant by the entirety, the survivor did not join in creating the joint tenancy or tenancy by the entirety, and has not accepted a benefit thereunder.

## ACT 72

(d) If real property or an interest therein is disclaimed, a copy of the disclaimer shall also be recorded in the office of the bureau of conveyances, unless the title to the real property is registered in the land court, in which event a copy of the instrument shall be presented for registration in the same manner as a deed or other voluntary instrument and a memorandum thereof shall be made on the certificate of title and on the owner's duplicate certificate.

**Sec. -3 Form of disclaimer.** The disclaimer shall:

- (1) Describe the property or interest disclaimed;
- (2) Declare the disclaimer and extent thereof; and
- (3) Be signed by the disclaimant.

**Sec. -4 Effect of disclaimer.** (a) If property or an interest therein devolved to a disclaimant under a testamentary instrument or under the laws of intestacy and the deceased owner or donee of a power of appointment has not provided for another disposition, it devolves as if the disclaimant had predeceased the decedent or, if the disclaimant was designated to take under a power of appointment exercised by a testamentary instrument, as if the disclaimant had predeceased the donee of the power. Any future interest that takes effect in possession or enjoyment after the termination of the estate or interest disclaimed takes effect as if the disclaimant had predeceased the decedent or the donee of the power. A disclaimer relates back for all purposes to the date of death of the decedent or of the donee.

(b) If property or an interest therein devolved to a disclaimant under a nontestamentary instrument or contract and the instrument or contract does not provide for another disposition, it devolves as if the disclaimant had died before the effective date of the instrument or contract. A disclaimer relates back for all purposes to that date. A future interest that takes effect in possession or enjoyment at or after the termination of the disclaimed interest takes effect as if the disclaimant had died before the effective date of the instrument or contract that transferred the disclaimed interest.

(c) The disclaimer or the written waiver of the right to disclaim is binding upon the disclaimant or person waiving and all persons claiming through or under him.

**Sec. -5 Waiver and bar.** The right to disclaim property or an interest therein is barred by:

- (1) An assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor;
- (2) A written waiver of the right to disclaim;
- (3) An acceptance of the property or interest or a benefit thereunder; or
- (4) A sale of the property or interest under judicial sale made before the disclaimer is effected.

**Sec. -6 Remedy not exclusive.** This chapter shall not abridge the right of any person to waive, release, disclaim, or renounce property or an interest therein under any other statute.

**Sec. -7 Application.** An interest in property that exists on the effective date of this chapter as to which, if a present interest, the time for filing

a disclaimer under this chapter has not expired or, if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within six months after the effective date of this chapter.

**Sec. -8 Uniformity of application and construction.** This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states enacting it.

**Sec. -9 Short title.** This chapter may be cited as the Uniform Disclaimer of Property Interests Act."

SECTION 2. Chapter 538, Hawaii Revised Statutes, is repealed.

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

(Approved May 29, 1974.)

ACT 73

S.B. NO. 1802-74

A Bill for an Act Relating to Limitation of Actions Arising out of Improvements to Real Property.

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

SECTION 1. Section 657-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 657-8 Limitation of action for damages based on construction to improve real property.** No action to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of any condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of such injury, shall be brought against the owner of the real property or any other person having an interest therein or in the improvement or against any registered or duly licensed person performing or furnishing professional or licensed services in the design, planning, supervision, or observation of construction or construction of the improvement to real property more than two years after the cause of action has accrued, but in any event not more than six years after the completion of the improvement except that this provision shall not apply to surveyors for their own errors in boundary surveys. This section shall not apply to actions for damages resulting from the negligent conduct of the owner of the real property or any other person having an interest therein or in the improvement in the repair or maintenance of the improvement.

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

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

\*Edited accordingly.

## **ACT 74**

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

(Approved May 29, 1974.)

## **ACT 74**

**S.B. NO. 2065-74**

A Bill for an Act Relating to the Termination of Parental Rights by the Family Courts.

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

SECTION 1. Section 571-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) The family courts may terminate the parental rights in respect to any minor as to any legal parent:

- (1) Who has deserted the minor without affording means of identification for a period of at least 90 days or who has voluntarily surrendered the care and custody of the minor to another for a period of at least two years;
- (2) Who, when the minor is in the custody of another, has failed to communicate with the minor when able to do so for a period of at least two years, or has failed to provide for care and support of the minor when able to do so as required by law or judicial decree for a period of at least one year;
- (3) Who has neglected, ill treated or abused the minor to such an extent that legally authorized judicial action has been taken pursuant to section 571-11(2) (A), which has resulted in the removal of the minor from the physical custody of the parent;
- (4) Who is found to be mentally ill or mentally retarded to an extent requiring institutional care and therefore incapacitated from giving consent to the adoption of the minor;
- (5) When it is shown to the satisfaction of the court that the legal father of a child is not his natural father or
- (6) Whose child has been removed from his physical custody pursuant to legally authorized judicial action under section 571-11(2) and the family court finds that the parent is not able to provide, and will never be able to provide, the care necessary for the well being of such child.

Such authority may be exercised only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the minor in the family court of the circuit in which the parent or the minor resides and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. In the event that the personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24."

SECTION 2. 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 material or the underscoring.\*

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

(Approved May 29, 1974.)

**ACT 75**

**H.B. NO. 82**

A Bill for an Act Relating to the Revised Uniform Disposition of Unclaimed Property Act.

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

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

**“CHAPTER  
REVISED UNIFORM DISPOSITION OF  
UNCLAIMED PROPERTY ACT**

**Sec. -1 Definitions and use of terms.** As used in this chapter, unless the context otherwise requires:

- (1) “Banking organization” means any bank, trust company, savings bank, or a private banker engaged in business in this State.
- (2) “Business association” means any corporation, other than a public corporation, joint stock company, business trust, partnership, or any association for business purposes of two or more individuals.
- (3) “Director” means the director of finance.
- (4) “Financial organization” means any savings and loan association, building and loan association, credit union, or investment company, engaged in business in this State.
- (5) “Holder” means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.
- (6) “Life insurance corporation” means any association or corporation transacting within this State the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.
- (7) “Owner” means a depositor in case of a deposit; a beneficiary in case of a trust; a creditor, claimant, or payee in case of other choses in action; or any person having a legal or equitable interest in property subject to this chapter, or his legal representative.

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\*Edited accordingly.

- (8) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.
- (9) "Utility" means any person who owns or operates within this State, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

**Sec. -2 Property held by banking or financial organizations or by business associations.** The following property held or owing by a banking or financial organization or by a business association is presumed abandoned:

- (1) Any demand, savings, or matured time deposit made in this State with a banking organization, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within seven years:
  - (A) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or
  - (B) Corresponded in writing with the banking organization concerning the deposit; or
  - (C) Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization.
- (2) Any funds paid in this State toward the purchase of shares or other interest in a financial organization or any deposit made therewith in this State, and any interest or dividends thereon, excluding any charges that may lawfully be withheld, unless the owner has within seven years:
  - (A) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or
  - (B) Corresponded in writing with the financial organization concerning the funds or deposit; or
  - (C) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial organization.
- (3) Any sum payable on checks certified in this State or on written instruments issued in this State on which a banking or financial organization or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that with the exception of traveler's checks, has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler's checks, that has been outstanding for more than fifteen years from the date of its issuance, unless the owner has within seven years, or within fifteen years in the case of traveler's checks, corresponded in writing with the banking or financial organization or business association concerning it, or

otherwise indicated any interest as evidenced by a memorandum on file with the banking or financial organization or business association.

- (4) Any funds or other personal property, tangible or intangible, removed from a safe deposit box or any other safekeeping repository in this State on which the lease or rental period has expired due to non-payment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than seven years from the date on which the lease or rental period expired.

**Sec. -3 Unclaimed funds held by life insurance corporations.** (a) Unclaimed funds, as defined in this section, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within this State. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.

(b) "Unclaimed funds", as used in this section, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than seven years after the moneys became due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceding seven years, (1) assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan, or (2) corresponded in writing with the life insurance corporation concerning the policy. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

**Sec. -4 Deposits and refunds held by utilities.** The following funds held or owing by any utility are presumed abandoned:

- (1) Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility service to be furnished in this State, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than seven years after the termination of the services for which the deposit or advance payment was made.
- (2) Any sum which a utility has been ordered to refund and which was received for utility services rendered in this State together with any interest thereon, less any lawful deductions, that has remained un-

claimed by the person appearing on the records of the utility entitled thereto for more than seven years after the date it became payable in accordance with the final determination or order providing for the refund.

**Sec. -5 Undistributed dividends and distributions of business associations.** Any stock or other certificate of ownership, or any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, is presumed abandoned if:

- (1) It is held or owing by a business association organized under the laws of or created in this State; or
- (2) It is held or owing by a business association doing business in this State, but not organized under the laws of or created in this State, and the records of the business association indicate that the last known address of the person entitled thereto is in this State.

**Sec. -6 Property of business associations and banking or financial organizations held in course of dissolution.** All intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in this State, that is unclaimed by the owner within two years after the date for final distribution, is presumed abandoned.

**Sec. -7 Property held by fiduciaries.** All intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person is presumed abandoned unless the owner has, within seven years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary:

- (1) If the property is held by a banking organization or a financial organization, or by a business association organized under the laws of or created in this State; or
- (2) If it is held by a business association, doing business in this State, but not organized under the laws of or created in this State, and the records of the business association indicate that the last known address of the person entitled thereto is in this State; or
- (3) If it is held in this State by any other person.

**Sec. -8 Property held by state courts and public officers and agencies.** All intangible personal property held for the owner by any court, public corporation, public authority, or public officer of this State, or a political subdivision thereof, that has remained unclaimed by the owner for more than seven years is presumed abandoned.

**Sec. -9 Miscellaneous personal property held for another person.** All intangible personal property, not otherwise covered by this chapter, including any income or increment thereon and deducting any lawful charges, that is held or owing in this State in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable is presumed abandoned.

**Sec. -10 Reciprocity for property presumed abandoned or escheated under the laws of another state.** If specific property which is subject to sections -2, -5, -6, -7, and -9 is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of that state, the specific property is not presumed abandoned in this State and subject to this chapter if:

- (1) It may be claimed as abandoned or escheated under the laws of such other state; and
- (2) The laws of such other state make reciprocal provision that similar specific property is not presumed abandoned or escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this State by a holder who is subject to the jurisdiction of this State.

**Sec. -11 Report of abandoned property.** (a) Every person holding funds or other property, tangible or intangible, presumed abandoned under this chapter shall report to the director with respect to the property as herein-after provided.

- (b) The report shall be verified and shall include:

- (1) Except with respect to traveler's checks and money orders the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of \$25 or more presumed abandoned under this chapter;
- (2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his last known address according to the life insurance corporation's records;
- (3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under \$25 each may be reported in aggregate;
- (4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and
- (5) Other information which the director prescribes by rule as necessary for the administration of this chapter.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The director

## **ACT 75**

may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under this chapter knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(g) The initial report filed under this chapter shall include all items of property that would have been presumed abandoned if this chapter had been in effect during the ten-year period preceding its effective date.

**Sec. -12 Notice and publication of lists of abandoned property.** (a) Within one hundred and twenty days from the filing of the report required by section -11, the director shall cause notice to be published at least once each week for two successive weeks in a newspaper of general circulation in the county in this State in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this State, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this State.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property," and shall contain:

- (1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.
- (2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the director.
- (3) A statement that if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction within 65 days from the date of the second published notice, the abandoned property will be placed not later than 85 days after such publication date in the custody of the director to whom all further claims must thereafter be directed.

(c) The director is not required to publish in such notice any item of less than \$25 unless he deems such publication to be in the public interest.

(d) This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section -2.

**Sec. -13 Payment or delivery of abandoned property.** Every person who has filed a report under section -11, within twenty days after the time specified in section -12 for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed aban-

doned under section -2 within twenty days after the filing of the report, shall pay or deliver to the director all abandoned property specified in this report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section

-12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the director, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

**Sec. -14 Relief from liability by payment or delivery.** Upon the payment or delivery of abandoned property to the director, the State shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the director under this chapter is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Any holder who has paid moneys to the director pursuant to this chapter may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the director shall forthwith reimburse the holder for the payment.

**Sec. -15 Income accruing after payment or delivery.** When property is paid or delivered to the director under this chapter, the owner is not entitled to receive income or other increments accruing thereafter.

**Sec. -16 Periods of limitation not a bar.** The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this chapter or to pay or deliver abandoned property to the director.

**Sec. -17 Sale of abandoned property.** (a) All abandoned property other than money delivered to the director under this chapter shall within one year after the delivery be sold by him to the highest bidder at public sale in whatever county in the State affords in his judgment the most favorable market for the property involved. The director may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property.

(b) Any sale held under this section shall be preceded by a single publication of notice thereof, at least three weeks in advance of sale in a newspaper of general circulation in the county where the property is to be sold.

(c) The purchaser at any sale conducted by the director pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The director shall execute all documents necessary to complete the transfer of title.

**Sec. -18 Deposit of funds.** (a) All funds received under this chapter, including the proceeds from the sale of abandoned property under section -17, shall forthwith be deposited by the director in the general fund of the State. Before making the deposit he shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address to each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

(b) Before making any deposit to the credit of the general fund, the director may deduct:

- (1) Any costs in connection with the sale of the abandoned property;
- (2) Any costs of mailing and publication in connection with any abandoned property; and
- (3) Reasonable service charges.

**Sec. -19 Claim for abandoned property paid or delivered.** Any person claiming an interest in any property delivered to the State under this chapter may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the director.

**Sec. -20 Determination of claims.** (a) The director shall consider any claim filed under this chapter and may hold a hearing and receive evidence concerning it. If a hearing is held, he shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard by him and the reasons for his decision. The decision shall be a public record.

(b) The claim shall be paid without deduction for costs of notices or sale or for service charges.

**Sec. -21 Judicial action upon determinations.** Any person aggrieved by a decision of the director or as to whose claim the director has failed to act within ninety days after the filing of the claim, may commence an action in the circuit court to establish his claim. The proceeding shall be brought within ninety days after the decision of the director or within one hundred and eighty days from the filing of the claim if the director fails to act. The action shall be tried de novo without a jury.

**Sec. -22 Election to take payment or delivery.** The director, after receiving reports of property deemed abandoned pursuant to this chapter, may decline to receive any property reported which he deems to have a value less than the cost of giving notice and holding sale, or he may, if he deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates. Unless the holder of the property is notified to the contrary within one hundred and twenty days after filing the report required under section -11, the director shall be deemed to have elected to receive the custody of the property.

**Sec. -23 Examination of records.** The director may at reasonable times and upon reasonable notice examine the records of any person if he has

reason to believe that such person has failed to report property that should have been reported pursuant to this chapter.

**Sec. -24 Proceeding to compel delivery of abandoned property.** If any person refuses to deliver property to the director as required under this chapter, he shall bring an action in a court of appropriate jurisdiction to enforce such delivery.

**Sec. -25 Penalties.** (a) Any person who wilfully fails to render any report or perform other duties required under this chapter, shall be punished by a fine of \$25 for each day such report is withheld, but not more than \$1,000.

(b) Any person who wilfully refuses to pay or deliver abandoned property to the director as required under this chapter shall be guilty of a misdemeanor.

**Sec. -26 Rules and regulations.** The director is authorized to make necessary rules and regulations, pursuant to chapter 91, to carry out this chapter.

**Sec. -27 Effect of laws of other states.** This chapter shall not apply to any property that has been presumed abandoned or escheated under the laws of another state prior to the effective date of this chapter.

**Sec. -28 Severability.** If any provisions of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

**Sec. -29 Uniformity of interpretation.** This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**Sec. -30 Short title.** This chapter may be cited as the Uniform Disposition of Unclaimed Property Act."

SECTION 2. Section 287-13, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 403-211, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 507-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 507-8 Sale of detained baggage; notice; disposition of proceeds.** All baggage and property so held by the keeper of the hotel shall, after the expiration of three months from the date of the detention, be sold at public auction, after notice thereof published three times in a newspaper of general circulation in the county where the hotel is kept. The proceeds thereof shall be applied to the payment of the amount due and the expenses of the notice and sale. The balance, if any remaining, shall be paid over to the owner of the property or his representative. If the balance is not claimed by the owner within sixty days after sale, then the balance shall be paid over to the director of finance of the State and shall be kept by him in a special deposit for payment to the owner and shall be disposed of as provided in chapter ."

SECTION 5. Section 531-56, Hawaii Revised Statutes, is amended to read as follows:

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**"Sec. 531-56 Undistributed proceeds or balances, disposition.** When any balance remains in the hands of the clerk, after payment of all creditors' claims presented within the time limited in section 531-54, and no heirs at law, or devisees, or legatees of the decedent, entitled to the balance, can be located after reasonable search and inquiry, the clerk, after the expiration of one year after the publication, shall report the fact to the court, which shall forthwith enter an order forwarding such property to the state director of finance, and the clerk thereupon shall immediately deposit the money or funds, or any balance, with the director for disposition as provided in chapter . The director at any time may authorize the payment out of the general funds of the State of any amount so forwarded to any person who establishes to the satisfaction of the director that he is morally entitled thereto as an heir, devisee, or legatee of the decedent, and the person shall be entitled to receive the amount thereof out of any moneys in the treasury not otherwise appropriated, upon warrant drawn by the state comptroller."

SECTION 6. Section 532-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 532-14 Disposition by state.** If the intestate leaves no kindred, his estate shall be disposed of as provided in chapter ."

SECTION 7. Chapter 665, Hawaii Revised Statutes, is amended by repealing parts II and III.

SECTION 8. Section 246-63, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 246-63 Disposition of surplus moneys.** The officer charged with the duty of distributing the surplus arising from a tax sale under sections 246-56 to 246-61 shall pay from the surplus all taxes, including interest and penalties, of whatsoever nature and howsoever accruing, as provided in section 246-55, and further he may pay from the surplus the cost of a search of any records where such search is deemed advisable by him to ascertain the person or persons entitled to the surplus; provided, nothing herein contained shall be construed to require the tax collector to make or cause any such search to be made. If the officer is in doubt as to the person or persons entitled to the balance of the fund he may refuse to distribute the surplus and any claimant may sue the officer or his successor in office in the circuit court in the circuit within which the property sold was situated. The officer may require the claimants to interplead, in which event he shall state the names of all claimants known to him, and shall cause them to be made parties to the action. If in his opinion there may be other claimants who are unknown the officer may apply for an order or orders joining all persons unknown having or claiming to have any legal or equitable right, title, or interest in the moneys or any part thereof or any lien or other claim with respect thereto.

Any orders of the court or summons in the matter may be served as provided by law or the rules of court, and all persons having any interest in the moneys who are known, including the guardians of such of them as are under legal age or under any other legal disability (and if any one or more of them is under legal age or under other legal disability and without a guardian the

court shall appoint a guardian ad litem to represent them therein) shall have notice of the action by personal service upon them. All persons having any interest in the moneys whose names are unknown or who if known do not reside within the State, or for any reason cannot be served with process within the State shall have notice of the action as provided by sections 634-23 to 634-28, except that any publication of summons shall be in at least one newspaper published in the State and having a general circulation in the circuit within which the property sold was situated, and the form of notice to be published shall provide a brief description of the property which was sold.

All expenses incurred by the officer shall be met out of the surplus moneys realized from the sale.

SECTION 9. Section 507-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 507-15 Application of proceeds of sale.** Out of the proceeds of sale pursuant to section 507-14, the holder of the lien may retain the amount of the lien, plus twenty-five per cent thereof to cover expenses incurred in connection with the storage, handling, and sale of the article or lot of articles sold. Any balance remaining of the sale price of each article or lot of articles sold which is not claimed by the owner thereof within thirty days from the date of sale shall be deposited with the director of finance of the State for payment to the owner and shall be disposed of as provided in chapter ."

SECTION 10. Section 531-33, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 531-33 Procedure to dispose of unclaimed personality.** Whenever the administrator or executor of an estate is unable to discover any living heirs or legatees of his decedent, he shall give notice to all heirs or legatees by publication in such newspaper or newspapers and for such time as the court may direct, but not less than once a week for three successive weeks, of the date of the hearing upon his final accounts and direct all claimants of a distributive share in the estate of his decedent, to appear and present their claims at the hearing; provided, that the date of hearing shall be not less than ninety days after the first publication of the notice.

If no claims are presented at the hearing on the final accounts, or if such claims as may be allowed do not exhaust the personality of the estate, any personal estate remaining after the settlement and approval of the final accounts of the administrator or executor, and the payment of such distributive shares as may be allowed by the court, shall upon order of the court be transferred to the state director of finance by the administrator or executor.

The director shall cause to be sold at public auction all such personality as is transferred to him, except cash or bonds of the State.

The personal estate shall be disposed of as provided in chapter ."

SECTION 11. Section 531-34, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 531-34 Payments into court.** When property is distributed to a distributee, legatee, heir, or beneficiary who cannot be found, or who refuses to

accept the same, or to give a proper voucher therefor, and the same consists of money, or corporate stocks, or bonds, the executor, administrator, or trustee may deposit the property, in the name of the person entitled thereto, with the clerk of the circuit court in which the estate is pending in probate, or, in the case of a trust, with the clerk of the circuit court having jurisdiction over the subject matter of the trust, who shall give a receipt therefor and be liable upon his official bond therefor and be subject to chapter . The receipt shall be deemed and received with the same force and effect as if executed by the distributee, legatee, heir, or beneficiary. Any executor, administrator, or trustee under this section shall submit to the clerk of the court, at the time of making the deposit, an affidavit setting forth the period of time the money, or corporate stocks, or bonds have been in affiant's possession.

**SECTION 12.** Section 531-58, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 531-58 Estates of persons leaving no known relatives.** Every coroner, or medical examiner, who is called to investigate the death of any person leaving no known major relatives in the State, shall take immediate charge of such decedent's personal effects and if in the discretion of the coroner the value of such personal effect is in excess of \$100, forthwith deliver them to the clerk of the circuit court of the circuit in which such decedent died.

If after ten days no person appears, competent to initiate appropriate administration or probate proceedings, the clerk shall administer the estate pursuant to the provisions of this part; provided, that if such decedent's estate be of a value exceeding \$3,000, the clerk shall notify the judge of such circuit having charge of the probate calendar, and shall petition for the appointment of an appropriate administrator of such estate other than the clerk. In the meantime the clerk may take such steps as may be appropriate to preserve and conserve the real and personal property of the decedent. All expenses in connection with the taking possession, care and conservation of the property and with such proceedings shall be proper charges against the estate of the decedent. The corporation counsel or county attorney of each county shall advise, assist and represent as far as necessary any of such officers in the performance of any act or the institution or prosecution of any proceeding required by this section.

If such decedent's estate be of a value not exceeding \$100 and such decedent has no known relatives or whose relatives have failed to indicate any means of disposition of such estate, then the coroner, or medical examiner, having custody of such property shall dispose of such property in an appropriate manner, which may be any one of the following or a combination thereof:

- (1) Where the assets belonging to such estates consists only of money and is not in excess of \$100 and expenditures have been made in connection with such death, to reimburse the appropriate city and/or county office which made the disbursement to defray said expenses;
- (2) Where the estate consists of cash and/or personal belongings of monetary value, not exceeding \$100, to liquidate said personal belongings and apply the proceeds, together with the cash, if the total

- does not exceed \$100, in accordance with paragraph 1 hereinabove set forth;
- (3) Where the assets in the estate are of no monetary value (unsaleable) and in his best judgment and discretion can be used by some charitable institution, to donate said assets to whatever charitable institution is willing and able to pick up the assets in question;
  - (4) Where the assets have no value whatsoever or in such condition that, in his best judgment and discretion, a charitable institution cannot use said properties, or will not receive said properties, to destroy the same in any manner he sees fit; and
  - (5) If under paragraphs 1 and 2, there are assets remaining, then he shall forthwith forward the same to the state director of finance for disposition as provided in chapter .”

SECTION 13. Section 531-59, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 531-59 Estates not in excess of \$700.** Upon the death of any person dying intestate and leaving only personal property in the State not exceeding \$700 and where an administrator has not been appointed in the State, a clerk of the circuit court of the circuit wherein the person was domiciled or if not domiciled in the State, the circuit wherein he was residing or had personal property at the time of his death, may, upon the filing with the clerk by an interested person of a death certificate issued by a government agency and of an affidavit setting forth the above facts, the names of the heirs if known, and other pertinent facts as required by the clerk, collect or otherwise reduce to possession or turn into cash all assets of the estate. If after payment of funeral expenses as a preferred claim against the estate there are assets remaining, the clerk shall give notice to creditors and heirs as provided by section 531-52 by posting, or if there are sufficient funds, by posting and advertising, and if after the period and distribution of assets to creditors of deceased persons who have filed proper claims there are assets remaining, then the clerk upon the facts contained in the affidavit as to heirship, shall deliver the assets to the personal representative, if any, or if no personal representative has been appointed, then to the heirs in accordance with the statutes of descent of the State. If no creditors, personal representative, or heirs appear or are found within sixty days of the notice, the clerk shall convert all personal property into cash and forthwith deposit the same with the state director of finance for disposition as provided in chapter .”

SECTION 14. 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 material, or the underscoring.\*

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

(Approved May 29, 1974.)

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\*Edited accordingly.

## ACT 76

### ACT 76

H.B. NO. 1430

A Bill for an Act Relating to Public Institutions on Corrections and Rehabilitation.

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

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with Section 5 of Article VI of the Constitution of the State of Hawaii.

SECTION 2. The purpose of this Act is to appropriate additional monies to the department of social services and housing for the administration and operation of the Hawaii State Prison. Because of unforeseen events during the past several months, including the prison riots, which necessitated the incurrence of additional costs, the amount presently appropriated is insufficient to cover the operational costs of the prison for the fiscal year 1973-74. To avoid a breakdown in services, it is the intent of this Act to meet that urgent need.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$392,726, or so much thereof as may be necessary, to the Hawaii State Prison (SOC 402) to meet the prison's operating cost requirements for fiscal year 1973-74. The sum appropriated by this Act shall be supplementary to any appropriations made by the legislature for the fiscal year 1973-74; and provided that the expenditure of \$35,000 shall be contingent upon the enactment of H.B. No. 2867-74 or S.B. No. 2067-74 into law.

SECTION 4. The sum appropriated shall be expended by the department of social services and housing for purposes of this Act; provided, that the unexpended or unencumbered balance of the appropriations as of the close of business on June 30, 1974, shall lapse into the general fund of the State.

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

(Approved May 29, 1974.)

### ACT 77

H.B. NO. 2052-74

A Bill for an Act Relating to the Acquisition of Private Personal Property for Public Use.

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

SECTION 1. Section 101-71, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 101-71 Taking private personal property for public use.** In connection with the taking for public use of private real property, the State or any county may take for a public use private personal property which it deems necessary or convenient which has been permanently upon or has been used in connection with the real property being taken. Just compensation must be paid for personal property so taken. Actions under and by virtue of this section shall

be commenced by filing a complaint and issuing a summons thereon. If an action is initiated for the taking of the real property, the action for the taking of the personal property must be joined to it. The complaint shall contain, with reference to the personal property sought to be condemned, a statement of the use to which the property is to be put and a description of the property and shall join as defendants all persons who are owners or claimants thereof. The procedure for the acquisition of private personal property shall, except as otherwise expressly provided in this section, be the same as in other actions brought under this chapter unless the provision by its terms is clearly inapplicable to the acquisition of personal property."

**SECTION 2.** Statutory material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.\*

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

(Approved May 29, 1974.)

**ACT 78**

H.B. NO. 2196-74

A Bill for an Act Relating to the Disposition of Public Lands.

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

**SECTION 1.** Section 171-16 is amended by amending subsection (b) to read:

"(b) Drawings. Whenever a disposition by drawing by lots is proposed, notice inviting applications to participate in the drawing shall be published once a week for four successive weeks in a newspaper of general circulation published in the State and, in addition, in a newspaper of general circulation in the appropriate county, if the land is situated in the first, second, and fourth districts. The notice shall contain: (1) the qualifications required of applicants; (2) a general description of the land, including the address and tax map key; (3) specific use for which the disposition is intended; and (4) date by which all applications must be filed, which date shall be not less than fourteen days after the last publication date. Within forty-five days after the closing date for applications, the board shall select those qualified to participate in the drawing, notify all applicants as to whether or not they qualified, and conduct the drawing.

The notice of selection of applicants qualified to participate in the drawing, together with the notice of drawing, shall be mailed to each applicant, whether or not he, in fact, qualified. The notice of the drawing shall state the time and place of the drawing. In addition to the notice to each applicant, the board shall publish the notice of drawing at least three times within a period of ten days in a newspaper of general circulation in the State and, in addition, in a newspaper of general circulation in the appropriate county, if the land is

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\*Edited accordingly.

## ACT 79

situated in the first, second, and fourth district, each publication to be not oftener than once in two successive days. Upon completion of the drawing, the award shall be announced within one week, and the lease or patent issued within ninety days after the drawing or when the conditions of the sale are fulfilled."

SECTION 2. 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 material or the underscoring.\*

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

(Approved May 29, 1974.)

ACT 79

H.B. NO. 2276-74

A Bill for an Act Relating to Shoreline Setbacks.

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

SECTION 1. Section 205-33, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

**"Sec. 205-33 Prohibitions.** (a) It shall be unlawful to remove sand, coral, rocks, soil, or other beach compositions for any purpose, except for reasonable domestic, non-commercial use, within the shoreline area or within 1,000 feet seaward of it or in ocean water of 30 or less feet in depth, except that any sand mining operation which has been legally in operation for a period of at least two years immediately prior to June 22, 1970, may be continued for a period not to extend beyond July 1, 1975. However, if during the period prior to July 1, 1975, the sand mining operation is substantially increased, it shall be unlawful to further continue such mining operation. This prohibition shall not apply to the commercial mining of sand or other minerals, or taking of coral or rock in the territorial ocean when such mining or taking is located 1,000 or more feet from the shoreline or in ocean water of 30 or more feet in depth and has the written permission of all governmental agencies having jurisdiction thereof. Anything to the contrary notwithstanding, the prohibition shall not apply to sand mining for experimental purposes to be conducted by the Department of Ocean Engineering, University of Hawaii, in the off-shore waters, one-half mile north of Keauhou Bay, provided, however, that such sand mining for experimental purposes shall not commence until written permission is received from all governmental agencies having jurisdiction thereof; provided further that a federal environmental impact statement be prepared and approval received therefor; and provided further that said sand mining for experimental purposes shall be completed on or before April 30, 1977."

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

(Approved May 29, 1974.)

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\*Edited accordingly.

A Bill for an Act Relating to the Licensing of Drivers of Certain Categories of Motor Vehicles.

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

SECTION 1. Section 286-102, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-102 Licensing.** (a) No person, except one exempted under section 286-105 or one who holds an instruction permit under section 286-110, shall operate any category of motor vehicles listed in this section without first being appropriately examined and duly licensed as a qualified operator of that category of motor vehicles.

(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (1) Motor scooters;
- (2) Motorcycles and motor scooters;
- (3) Passenger cars of any gross vehicle weight and trucks having a gross weight rating of ten thousand pounds or less;
- (4) All of the motor vehicles in category (3) and buses;
- (5) All of the motor vehicles in category (3) and trucks having a gross vehicle weight rating of more than ten thousand pounds, other than tractor-semitrailer combinations and truck-trailer combinations;
- (6) All of the motor vehicles in category (5) and tractor-semitrailer combinations;
- (7) All of the motor vehicles in category (6) and truck-trailer combinations;
- (8) All of the motor vehicles in categories (4) and (5);
- (9) All of the motor vehicles in categories (4) and (6);
- (10) All of the motor vehicles in categories (4) and (7).

A school bus operator must be properly licensed to operate the category of vehicles that he operates as a school bus and in addition must hold a department of education school bus operator certificate as provided by rules or regulations promulgated pursuant to Act 58 of the 1973 Legislature.

(c) A person operating the following motor vehicles shall not only be examined and duly licensed pursuant to subsection (b) to operate the particular category of motor vehicles but in addition shall be examined and certified as provided in section 286- by a certificated fleet safety examiner:

- (1) Buses;
- (2) Trucks having a gross vehicle weight rating of more than 10,000 pounds;
- (3) Tractor-semitrailers;
- (4) Truck-trailers.

(d) No person, even if he is licensed to operate a motor vehicle in any of the categories provided in subsection (b) shall operate the motor vehicle for compensation, unless he:

## ACT 81

- (1) Is eighteen years of age or older and is examined as provided in section 286-108; and
  - (2) Satisfies additional requirements as established by the examiner of drivers under section 286-103.
- (e) No person shall receive a driver's license unless and until he surrenders to the examiner of drivers all valid driver's licenses in his possession issued to him by this or any other jurisdiction that is a party to the Driver License Compact. All such surrendered licenses issued by another jurisdiction shall be returned thereto, together with information that the person is licensed in this State. No such person shall be permitted to hold more than one compact jurisdiction driver's license at any time."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 30, 1974.)

## ACT 81

S.B. NO. 887

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

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

**"Sec. 431- Policyholder and other suits against insurer.** Where an insurer has contested its liability under a policy and is ordered by the courts to pay benefits under the policy, the policyholder, the beneficiary under a policy, or the person who has acquired the rights of the policyholder or the beneficiary under the policy shall be awarded, in addition to the benefits under the policy, reasonable attorney's fees together with the costs of suit."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 30, 1974.)

## ACT 82

H.B. NO. 2538-74

A Bill for an Act Relating to Health and Accident Insurance.

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

\*Edited accordingly.

**SECTION 1. Purpose.** The purpose of this Act is to provide that any health or accident policy issued which provides for the payment or reimbursement to the policyholder for certain services provided by persons licensed to practice medicine shall also apply to dentists practicing within the lawful scope of their licenses.

**SECTION 2.** Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 431- Dentists; included in surgical procedure coverage.** Notwithstanding any provision of any individual, group, or blanket policy of accident and sickness, medical or surgical expense insurance coverage or any provision of a policy, contract, plan, or agreement for medical service, issued on or after the effective date of this Act, whenever such policy, contract, plan or agreement provides for reimbursement or indemnity for any service related to surgical or emergency procedures which is within the lawful scope of practice of any practitioner licensed to practice medicine in this State, reimbursement or indemnification under such policy, contract, plan, or agreement shall not be denied when such services are performed by a dentist acting within the lawful scope of his license."

**SECTION 3.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 30, 1974.)

**ACT 83**

H.B. NO. 2590-74

A Bill for an Act Relating to Insurance.

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

**SECTION 1.** Section 431-288, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-288. Preferred or guaranteed stocks or shares.** An insurer may invest any of its funds, in an aggregate amount not exceeding fifteen per cent of its assets in preferred or guaranteed stocks or shares, other than common stocks, of solvent institutions existing under the laws of the United States or of any state, district, or territory thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition by the insurer are eligible as investments under sections 431-281 to 431-311; and if qualified under either of the following:

"(1) Preferred stocks or shares shall be deemed qualified if both these requirements are met:

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\*Edited accordingly.

## ACT 84

- (A) The net earnings of the institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by the insurer must have averaged per year not less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements applicable to the period; and
  - (B) During each of the last two years of such period the net earnings must have been not less than one and one-half times the sum of its fixed charges, contingent interest, and preferred dividend requirements for such year. The term preferred dividend requirements shall be deemed to mean cumulative or non-cumulative dividends whether paid or not.
- (2) Guaranteed stocks or shares shall be deemed qualified if the assuming or guaranteeing institution meets the requirements of section 431-285(1), construed so as to include as a fixed charge the amount of guaranteed dividends of such issue or the rental covering the guaranteee of such dividends."

SECTION 2. Statutory material to be repealed is bracketed. In printing this Act the Revisor of Statutes need not include the brackets or the bracketed material.\*

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

(Approved May 30, 1974.)

## ACT 84

S.B. NO. 1746-74

A Bill for an Act Relating to Lost, Stolen, Destroyed or Defaced Bonds and Coupons.

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

SECTION 1. Chapter 47, Hawaii Revised Statutes, is hereby amended by deleting Part III in its entirety and substituting in lieu thereof the following:

### **"PART III. LOST, STOLEN, DESTROYED OR DEFACED BONDS AND COUPONS**

**Sec. 47-41 Request for replacement or payment.** Any party claiming ownership of an interest bearing bond issued by a county or any interest coupon appertaining to an interest bearing bond of such county and which bond, coupon or both, as the case may be, has been lost, stolen, destroyed, wholly or in part, or so defaced as to impair its value, may file with the director of finance of such county a request for replacement or payment of such bond, coupon or both, as the case may be. Such request shall be in the form of an

\*Edited accordingly.

affidavit describing the bond, coupon or both, as the case may be, and explaining the circumstances under which the bond, coupon or both, as the case may be, was lost, stolen, destroyed or defaced. The affidavit shall be presented with such evidence as the director of finance may require to establish the ownership of the bond or coupon.

**Sec. 47-42 Issuance of duplicate.** When the director of finance is satisfied that the bond, coupon or both, as the case may be, is in fact lost, stolen, destroyed or defaced and that the claimant is the legal and beneficial owner of such bond, coupon or both, as the case may be, and that if lost or stolen, such bond, coupon or both, as the case may be, has not been acquired by a bona fide purchaser, he may thereupon, except as provided in sections 47-43 and 47-44, cause to be issued a duplicate thereof, such duplicate to be so marked as to adequately identify it as such to the county, any transfer agent, paying agent or bond registrar.

A duplicate bond issued in place of a bond lost, stolen, destroyed or defaced shall be lithographed or steel engraved, and shall be signed by the director of finance and shall bear the lithographed or engraved facsimile signature of the mayor of the county and shall be sealed with the seal or the lithographed or engraved facsimile seal of the county. Any duplicate coupon issued in place of any lost, stolen, destroyed or defaced coupon appertaining to an interest bearing bond of such county shall bear a lithographed or engraved facsimile of the signature of the director of finance. When a duplicate of the bond being replaced bears the facsimile signature of the mayor in office at the time of issuance of such duplicate bond and when a duplicate of the bond being replaced is signed by, or any coupon being replaced bears the facsimile signature of the director of finance in office at the time of issuance of such bond or coupon, the signatures of such mayor and director shall be valid and sufficient and shall have the same effect as that of the persons originally signing the bond or whose facsimile signature appears on such bond, coupon or both, as the case may be.

**Sec. 47-43 Payment to be made.** If a lost, stolen, destroyed or defaced bond, coupon or both, as the case may be, has matured, has been called for redemption or is due, as the case may be, at the time of request for replacement of such bond, coupon or both, as the case may be, the director of finance may pay the face value of the matured bond or coupon or the call price of the called bond, as the case may be.

**Sec. 47-44 Issuance of transferable certificate.** If a lost, stolen, destroyed or defaced bond, coupon or both, as the case may be, will mature, will be called for redemption or will become due, as the case may be, within a period of one year from the date of request for replacement, the director of finance may issue to the claimant a transferable certificate for the face value of the bond, coupon or both, as the case may be, such certificate to be in such form as shall be prescribed by the director.

**Sec. 47-45 Condition of replacement or payment.** The director of finance shall not provide for the issuance of a replacement for or the payment of the lost, stolen, destroyed or defaced bond, coupon or both, as the case may be,

## ACT 85

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

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

**Sec. 47-46 Disputed ownership.** If there are two or more claimants claiming adversely, each to the other or others, to be the owner in due course of the bond, coupon or both, as the case may be, alleged to have been lost, stolen, or destroyed or defaced, the director of finance may, in his discretion, require the claimants, if not within the State, to appoint agents within the State to accept service or process, or otherwise to submit to the jurisdiction of the courts of the State, and may bring suit on behalf of the State in any circuit court against the claimants, by interpleader, for the determination of the claimant or claimants entitled to the payment of the bond, coupon or both, as the case may be. Jurisdiction is hereby conferred upon the designated circuit court to hear and determine, without a jury, the suits and to determine whether any of the claimants is entitled to the payment, and, if so, which of the claimants is so entitled; provided that no such judicial determination shall dispense with the condition prescribed by section 47-45 requiring a surety bond before the payment of the claims. The cost of the suit shall be borne by the claimants and the court may decree the payment of such costs by any of the unsuccessful claimants, or the apportionments thereof, as may be deemed just. The decision of the court may be appealed to the supreme court in the same manner and subject to the same conditions and incidents as appeals in equity."

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

(Approved May 30, 1974.)

ACT 85

H.B. NO. 1482

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 201-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 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 (a) 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; (b) 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 the maximum utilization of same, including processed agricultural food products; and (c) make grants to and contracts with appropriate agencies, firms, or individuals for surveys, studies, research, and promotion.
- (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 prod-

## ACT 86

ucts 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 associations of producers and distributors of Hawaiian products to introduce new products to consumers. 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 2. 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 material, or the underscoring.\*

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

(Approved May 30, 1974.)

## ACT 86

H.B. NO. 3096-74

A Bill for an Act Relating to In-Service Training for Public Officers and Employees.

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

SECTION 1. **Purpose.** The purpose of this Act is to improve the management and analysis of public programs by providing for appropriate training and assistance to government officers and employees.

SECTION 2. **Institute for management and analysis in government established.** There shall be established an institute to assist in improving the management and analysis of public programs. This will be accomplished by providing training of various kinds focused on enhancing the ability of government officers and employees to analyze, evaluate, and manage programs and policies in the public sector; and by providing advice and assistance on these matters to agencies of government.

The institute will be located at a site and in facilities suitable to its purposes.

The full title of the institute shall be: The Hawaii Institute for Management and Analysis in Government.

SECTION 3. **Programs.** The institute will coordinate, arrange for, or conduct programs of instruction including classes, courses, workshops, seminars, and internships; it will coordinate, arrange for, or conduct long-range or

\*Edited accordingly.

basic studies related to program and policy choice problems in the public sector; it will offer technical advice and assistance within its sphere of competence; and it will provide a clearinghouse for information on new analytic and managerial techniques and on research findings relevant to the analysis of public policies and programs.

The programs of instruction will be designed for program managers and analysts at all levels who need to further improve their skills and abilities; for senior personnel desirous of refresher training; and for all personnel in all three branches and at all levels of government in the State of Hawaii, who are required to cope with significantly new methods, techniques, and developments.

**SECTION 4. Scholarships.** Departments may provide scholarships to public officers and employees desiring further training in areas related to their work. Scholarships shall be awarded after consideration of the potential benefit to the government of the proposed training. With respect to the kinds of training within the purview of the institute, the institute shall assist departments in developing criteria for the awarding of scholarships and in arranging the awardee's program of studies at the institution selected. With respect to scholarships in areas other than those assigned to the institute, the department of personnel services shall assist the departments in developing criteria for the award of scholarships to public officers and employees.

**SECTION 5. Identification of training needs.** The institute will coordinate the identification of training needs among all departments of the State with respect to program management and evaluation and program and policy analysis. The department of personnel services will coordinate the identification of all other training needs in the departments of the State. The faculty, staff and training facilities of the institute will be available to all employees of all three branches and at all levels of government in the State of Hawaii.

**SECTION 6. Organization and administration.** The institute will be a division within the department of budget and finance. Its affairs will be administered by a director appointed by and responsible to the director of finance. The institute will utilize the smallest practicable permanent staff for its direction and operation; it will draw on existing personnel within the State government insofar as possible for necessary supplementation. Where bona fide demands for services exceed the capabilities of the permanent staff as supplemented, additional personnel resources may be acquired on a contract basis without regard to chapters 76 and 77. Permanent staff will be covered by chapters 76 and 77.

The institute shall receive the full cooperation of all State departments in the use of staff members, facilities, and other resources necessary to accomplish the purposes of this chapter.

**SECTION 7. Revolving fund established.** There shall be established a revolving fund to be known as the Hawaii Institute for Management and Analysis in Government Revolving Fund for use by the director of the institute in carrying out the purposes of the institute. All appropriations, fees, charges, and other moneys collected in conjunction with operation of the institute shall be

## **ACT 87**

deposited in the revolving fund. Such amounts shall be expended from the fund by the director of the institute as may be necessary to defray the cost of operating the institute, including compensation of the director and the permanent staff and rental, renovation, improvement, and maintenance of the institute's facilities.

**SECTION 8. Financing of operations.** Revenues for the operation of the institute may be provided through the charging of tuition or such other fees as may be necessary to operate institute programs for services rendered to participating agencies and shall be made part of the revolving fund. The institute may receive donations, gifts, and allotments from other agencies, public and private, domestic and foreign, which are to be used at the discretion of the director of the institute to further the purposes of the institute.

**SECTION 9. Appropriation.** There is hereby appropriated from the general fund of the State the sum of \$250,000 into the revolving fund established under this Act.

**SECTION 10. Effective date.** This Act shall take effect upon its approval.

(Approved May 30, 1974.)

## **ACT 87**

S.B. NO. 1364

A Bill for an Act Relating to Weights and Measures and Packaging and Labeling; and Amending Chapter 486, Hawaii Revised Statutes.

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

SECTION 1. Section 486-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 486-9 Specific powers and duties of directors; regulations.** The director shall issue from time to time reasonable regulations for the enforcement of this chapter. These regulations shall have the force and effect of law and shall govern the use or application of weights and measures and weights and measures transactions in the State. The regulations may include:

- (1) standards of net weight, measure, or count, and reasonable standards of fill for any commodity in package form,
- (2) rules governing the technical and reporting procedures to be followed, and the report and record forms and marks of approval and rejection to be used, by inspectors of weights and measures in the discharge of their official duties,
- (3) exemptions from the sealing, labeling or marking requirements of this chapter,
- (4) rules governing the voluntary registration of servicemen and service agencies,
- (5) schedules and fees for licensing commercial weighing and measuring devices for testing or certification,

- (6) specifications, tolerances, and other technical requirements with respect to the packaging, handling, storing, advertising, labeling, dispensing, and selling of petroleum products which the director deems necessary for the protection of the consumer,
- (7) rules to assure that amounts of commodities or services sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest, and
- (8) standard methods of ingredient, nutritional, cholesterol, fat, fatty acids, dietary, vitamins and minerals, spices and flavors, and imitation foods labeling consistent with federal requirements.

These regulations shall include specifications, tolerances and other technical requirements designed to eliminate from use those weights and measures:

- (a) that are not accurate,
- (b) that are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly, or
- (c) that facilitates the perpetration of fraud.

The specifications, tolerances, and other technical requirements for commercial weighing and measuring devices as recommended and published by the National Bureau of Standards, together with regulations issued by the director under authority of this chapter, shall be the specifications, tolerances, and other technical requirements for weights and measures of the state.

The director may pursuant to chapter 91 adopt, in whole or in part, any amendment or supplement to the National Bureau of Standards publication or any subsequent similar publication by such bureau. For the purpose of this chapter, a weight or measure is "correct" when it conforms to all applicable sections of this chapter or to such regulations promulgated pursuant thereto; all other weights and measures are "incorrect".

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. Section 4, Act 134, Session Laws of Hawaii 1961, is amended to read:

\*Edited accordingly.

## **ACT 89**

“SECTION 4. All rights granted in each and every franchise aforementioned to install equipment in, on, above, along, or under public rights of way shall be further amended to read as follows:

‘Effective July 1, 1962 the company shall have the right to place, construct, erect, or otherwise build poles, wires, pipes, and other appurtenances in, on, above, along, or under public rights of way, provided that the proposed installation meets standards prescribed by the public utilities commission governing such installations.’”

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

## **ACT 89**

S.B. NO. 1565-74

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Section 437-28, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Grounds for suspension, revocation, or denial of issuance or renewal of a license. The board may, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, suspend, revoke, or deny the renewal of any license, or prior to such notice and hearing deny the issuance of any license, if it finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than a ten percent interest of such applicant or holder:

- (1) Has intentionally made a false statement of a material fact in his application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation; or
- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule, regulation, or order made pursuant to this chapter; or
- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase such motor vehicle; or

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\*Edited accordingly.

- (4) Has engaged in his business under a past or present license issued pursuant to this chapter, in such a manner as to cause injury to the public or to those with whom he is dealing; or
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem him to be an unfit or improper person to hold a license; or
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or
- (7) Has been convicted of a felony or misdemeanor involving moral turpitude, and has not been pardoned therefor. This restriction shall also apply to any corporate or partnership applicant or holder of a license, where a stockholder or general or limited partner owning directly or indirectly more than a ten per cent interest in such applicant or holder has been so convicted; or
- (8) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors; or
- (9) In the case of an individual applicant or holder of a license, is not at least twenty years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least twenty years of age; or
- (10) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of motor vehicle or any interest therein including an option to purchase; or
- (11) Has violated any of the laws pertaining to false advertising or to retail installment sales in the offering, solicitation, selling or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein; or
- (12) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (13) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause; or
- (14) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule or regulation adopted thereunder; or
- (15) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor; or
- (16) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed; or
- (17) Has entered or attempted to enter any one-payment contract, where

## **ACT 89**

the contract is required to be signed by the purchaser prior to removal of the motor vehicle for test driving from the seller's premises; or

(18) Being a salesman or dealer:

- (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer; or
- (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle; or
- (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesman clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or

(13) Being an applicant or holder of a dealer's license:

- (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for such new vehicles or without providing and maintaining adequate repair facilities and personnel for such new vehicles at either the main licensed premises or at any branch location; or
- (B) Has employed or proposed to employ any salesman who is not duly licensed under this chapter; or
- (C) Has sold or proposed to sell new motor vehicles without being franchised therefor; or

(20) Being an applicant or holder of an auction's license:

- (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
- (B) Has sold or proposed to sell new motor vehicles without being franchised therefor; or

(21) Being an applicant for a salesman's license:

- (A) Does not intend to be employed as a salesman for a licensed motor vehicle dealer; or
- (B) Does not intend to be employed as a salesman as his principal occupation; or
- (C) Intends to be employed as a salesman for more than one dealer; or

(22) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or

(23) Being a manufacturer, factory branch, factory representative, distributor, distributor branch or distributor representative:

- (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory

- branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with said dealer, by threatening to cancel the franchise agreement or by threatening to refuse at the expiration of the current franchise agreement, to enter a new franchise agreement with such dealer; or
- (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with said dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer; or
- (C) Has attempted to or has cancelled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon such cancellation or failure to renew the franchise agreement, the party cancelling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the business, goodwill, property and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting such compensation; provided such investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for his damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other; or
- (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to de-

liver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor, or production difficulty, or other similar cause beyond the reasonable control of the manufacturer; or

- (E) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging such dealer more for a new motor vehicle or services, parts, or accessories therefor or a higher rate of transportation for transporting such vehicle from the manufacturing or assembly plant to such dealer or any portion of such distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories therefor or for similar transportation for such vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon such franchised dealer in this State during the same period is deemed to have so discriminated against such franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of such discriminatory act against the franchised dealer in this State. The intent and purpose of this paragraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This paragraph shall be liberally interpreted to effect such intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph (E) shall prohibit establishing delivered prices or destination charges to dealers in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of such products to such dealers, including costs which are related to the geographical distances,

modes and costs of transportation involved in shipments to this State, or which meet those lower prices established by competitors; or

- (F) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by such dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of such new motor vehicles and cannot be removed therefrom without substantial expense; or
- (24) Has been convicted of a violation of section 291-38."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

ACT 90

S.B. NO. 1741-74

A Bill for an Act Relating to Bicycles.

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

SECTION 1. Section 249-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 249-15 Seizure and sale.** The sheriffs, their deputies, the treasurers, and deputy treasurers and any person authoritatively acting on behalf of the treasurer or deputy treasurer and all members of the police force of the several districts of the State may seize every bicycle liable to taxation and not tagged as required by section 249-14, and may hold the bicycle for a period of ten days, during which time it shall be subject to redemption by its owner on payment of the tax due and a penalty of 50 cents. All bicycles not so redeemed shall be sold by the sheriff, any deputy sheriff, any chief of police or his authorized subordinate, or treasurer or deputy treasurer, at public auction after first giving five days' public notice of the time and place of sale by advertisement in a newspaper published in the district, if any, or by posting notices in at least three public places in the district where the sale is to be held. Sale shall be made for the best price obtainable, which amount shall be forthwith paid over to the treasurer or his deputy, accompanied by a statement containing a description of the bicycles, their number, makes, and any other marks of identification. The treasurer or his deputy shall thereupon, after deducting from the

\*Edited accordingly.

## **ACT 91**

amount so received the amount of the tax and penalty due and costs of advertising, pay over to the owners of the bicycles any surplus there may be if it is possible to ascertain who the owners are. If at the expiration of ninety days the owners remain unknown, the surplus shall be paid into the treasury of the county, as a government realization, and all claims to such sums shall be forever barred."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.\*

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

(Approved May 31, 1974.)

## **ACT 91**

S.B. NO. 1790-74

A Bill for an Act Establishing a Fund for Driver Education and Training by Levying a Penalty Assessment on Certain Offenses Relating to Vehicles or their Drivers or Owners.

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

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

## **“CHAPTER DRIVER EDUCATION AND TRAINING FUND**

**Sec. -1 Definitions.** As used in this chapter:

- (1) ‘Driver,’ ‘owner,’ ‘parking,’ ‘standing,’ ‘stopping,’ and ‘vehicle’ have the meanings defined by section 291C-1.
- (2) ‘Conviction’ includes, in the case of a minor, not only a conviction of the offense but also an adjudication of delinquency by a family court, and any disposition of the case which involves an admission on the commission of the offense.

**Sec. -2 Driver education and training fund.** There is established in the state treasury a special fund to be known as the driver education and training fund. All penalty assessments collected pursuant to this chapter shall be deposited in the driver education and training fund to be expended by the administrative director of the courts for driver education and training programs administered by the judiciary department, subject to part III of chapter 37 to the extent that the same applies to appropriations for the judiciary department.

**Sec. -3 Penalty Assessments.** (a) A penalty assessment of \$1 shall be levied on conviction or forfeiture of bail for any offense involving a violation of a statute or county ordinance relating to vehicles or their drivers or owners,

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\*Edited accordingly.

except (1) offenses relating to stopping (when prohibited), standing, or parking; (2) offenses relating to registration; and (3) offenses by pedestrians.

(b) The penalty assessment levied by subsection (a) shall be paid for each offense, in addition to any fine or sentence of imprisonment or amount of bail forfeiture fixed or imposed by the court, and whether or not sentence or imposition of sentence is suspended.

(c) When a deposit of or security for bail is made or given, the amount thereof shall be sufficient to include the penalty assessment, which shall be added to the amount of bail fixed by the court. If bail is forfeited, the amount of the penalty assessment shall be transmitted by the clerk of the court for deposit in the driver education and training fund."

**SECTION 2. Special provisions as to application of this Act.** (a) Notwithstanding any other provision of this Act or any other law, all moneys deposited in the driver education and training fund (1) during the fiscal year 1973-74 shall be transferred to the general fund; (2) during the fiscal year 1974-75 are hereby authorized to be expended by the administrative director of the courts for driver education and training programs administered by the judiciary department, in lieu of any appropriation made from the general fund for the purpose for that fiscal year.

(b) Section -3 of the new chapter added by Section 1 of this Act shall not apply to any offense committed, or alleged to have been committed, prior to the taking effect of this Act.

**SECTION 3. Effective date.** This Act shall take effect on its approval.

(Approved May 31, 1974.)

A Bill for an Act Relating to Expungement of Arrest Records.

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

**SECTION 1. Purpose.** The purpose of this Act is to minimize or abolish extrajudicial penalties which may confront a person who has a record of arrest, even though such arrest did not lead to conviction. The expungement of such arrest record is necessary if the person is not to continue life under a cloud of doubt placed over him by prospective employers, fraternal organizations, and the public in general. At the same time, it is realized as a practical matter, that all records pertaining to an arrest are not separable from other court, police, and public records. Pending the day when technological advances in record-keeping are adopted by state and county agencies and permit a complete expungement of records pertaining to a person, this Act intends to accomplish at least a partial expungement coupled with a certificate issued to authorize declarations that as to a specific arrest, it did not occur.

**SECTION 2.** Chapter 731, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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**"Sec. 731- Expungement orders.** (a) The attorney general, upon application from a person arrested for, but not convicted of, a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest.

(b) Upon the issuance of the expungement order, the person applying for the order shall be treated as not having been arrested in all respects not otherwise provided for in this section.

(c) Upon the issuance of the expungement order, all records pertaining to the arrest which are in the custody or control of the State or any county government, and which are capable of being forwarded to the attorney general without affecting other records not pertaining to the arrest, shall be so forwarded for placement in a confidential file or if on magnetic tape or in a computer memory bank, shall be erased.

(d) Records filed under subsection (c) shall not be divulged except upon inquiry by:

- (1) A court of law or an agency thereof which is preparing a presentence investigation for the court; or
- (2) An agency of the federal government which is considering the subject person for a position immediately and directly affecting the national security.

Response to any other inquiry shall not be different from responses made about persons who have no arrest record.

(e) The attorney general shall issue to the person for whom an expungement order has been entered, a certificate stating that the order has been issued and that its effect is to annul the record of a specific arrest. The certificate shall authorize the person to state, in response to any question or inquiry, whether or not under oath, that he has no record regarding the specific arrest. Such a statement shall not make the person subject to any action for perjury, civil suit, discharge from employment, or any other adverse action.

(f) Nothing in this section shall affect the compilation of crime statistics as provided in part IV of chapter 28."

**SECTION 3.** This Act shall apply to records of arrest made prior to its effective date, as well as to those made subsequent to its effective date.

**SECTION 4.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 31, 1974.)

## ACT 93

S.B. NO. 2047-74

A Bill for an Act Relating to Time Limitation for Prosecution of Parking Violations.

\*Edited accordingly.

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

SECTION 1. Section 701-108, Hawaii Revised Statutes, is amended to read:

**"Sec. 701-108 Time limitations.**

(1) A prosecution for murder may be commenced at any time.

(2) Except as otherwise provided in this section and in section 740, prosecutions for other offenses are subject to the following periods of limitation:

- (a) A prosecution for a class A felony must be commenced within six years after it is committed;
- (b) A prosecution for any other felony must be commenced within three years after it is committed;
- (c) A prosecution for a misdemeanor or a parking violation must be commenced within two years after it is committed.
- (d) A prosecution for a petty misdemeanor or a violation other than a parking violation must be commenced within one year after it is committed.

(3) If the period prescribed in subsection (2) has expired, a prosecution may nevertheless be commenced for:

(a) Any offense an element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself not a party to the offense, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; and

(b) Any offense based on misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years.

(4) An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

(5) A prosecution is commenced either when an indictment is found or an information filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay.

(6) The period of limitation does not run:

- (a) During any time when the accused is continuously absent from the State or has no reasonably ascertainable place of abode or work within the State, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or
- (b) During any time when a prosecution against the accused for the same conduct is pending in this State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not in-

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clude the brackets, the bracketed material or the underscoring.\*

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

(Approved May 31, 1974.)

## ACT 94

S.B. NO. 2082-74

A Bill for an Act Relating to the Hawaii Water Carrier Law.

*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 HAWAII WATER CARRIER ACT

**Sec. -1** This chapter shall be called the Hawaii Water Carrier Law.

**Sec. -2 Declaration of policy.** The legislature of this State recognizes and declares that the transportation of persons and of property, for commercial purposes, by water within the State or between points within the State, constitutes a business affected with the public interest. It is intended by this chapter to provide for fair and impartial regulation of such transportation, so administered as to recognize and preserve the inherent advantages of such transportation, in the interest of preserving for the public the full benefit and use of the waterways consistent with the public safety and the needs of commerce: to promote safe, adequate, economical, and efficient service among carriers, to encourage the establishment and maintenance of reasonable rates and charges for transportation and related accessorial service, without unjust discrimination, undue preference or advantage, or unfair or destructive competitive practices, all to the end of developing, coordinating, and preserving a sound transportation system by water. This chapter shall be administered and enforced with a view to carrying out the above declaration of policy.

**Sec. -3 Administration; governing provisions of other acts.** This chapter shall be administered by the public utilities commission of the State and the provisions of this chapter and of chapter 269, not inconsistent with this chapter, shall govern its administration; provided that sections 269-4, 269-11, and 269-16 to 269-28 shall not, in any respect, apply to the regulation of water carriers.

**Sec. -4 Application of chapter, interstate, or foreign commerce.** This chapter shall not apply to commerce with foreign nations or to interstate commerce, except insofar as the application is permitted under the Constitution and laws of the United States.

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\*Edited accordingly.

**Sec. -5 Definitions.** As used in this chapter:

- (1) "Chapter" means this Water Carrier Law.
- (2) "Commission" means the public utilities commission.
- (3) "Person" or "persons" means any individual, firm, copartnership, corporation, company, association, or joint stock association; and includes any trustee, receiver, assignee, or personal representative thereof.
- (4) "Certificate" means a certificate of public convenience and necessity issued under this chapter to common carriers by water.
- (5) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of persons transported and the receipt, carriage, and delivery of these persons and their baggage.
- (6) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, and delivery, carriage, preservation, and all incidental services affecting these activities.
- (7) "Water carrier" or "common carrier by water" means any person who holds himself out to the general public as engaging in the transportation by water of passengers or property for compensation within the State or between points within the State.
- (8) "Vessel" means any watercraft or other artificial contrivance of whatever description which is used, or capable of being used, or intended to be used, as a means of transportation by water.
- (9) "Rates" includes rates, fares, tolls, rentals, and charges of whatever kind and nature unless the context indicates otherwise.
- (10) "Related companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the water carrier. The term "control," in reference to a relationship between any person or persons and another person or persons, includes actual as well as legal control, and indirect as well as direct control.

**Sec. -6 Exemptions, generally.** Notwithstanding any other provisions of this chapter, its contents shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person except where the transportation is undertaken by a water carrier to evade the regulatory purposes of this chapter;
- (2) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members;
- (3) Persons engaged in the transportation over water of passengers or property for compensation, other than transportation referred to in -5(7) under continuing contracts with one person or a limited number of persons either (A) for the furnishing of transportation services through the assignment of vessels for a continuing period of time to the exclusive use of each person served, or (B) for the

furnishing of transportation services designed to meet the distinct need of each individual customer;

- (4) Persons transporting their own property or employees where the transportation is in furtherance of a business or enterprise of fishing or taking of fish for profit or gain as a means of livelihood;
- (5) Persons engaged in business of transporting persons for sightseeing and other recreational activities.

**Sec. -7 General duties and powers of the commission.** The general duties and powers of the public utilities commission shall be:

- (1) To regulate water carriers, and to that end the commission shall have and utilize the investigative powers set forth in section 7 of chapter 269 as well as all of the duties and powers specifically enumerated in this chapter, and water carriers shall be subject to the duties set forth in sections 8 and 9 of chapter 269 as well as all of the duties specifically enumerated herein.
- (2) To establish such just and reasonable classifications of water carriers as the special nature of the services performed by the carriers shall require, and such just and reasonable rules, regulations, and requirements, consistent with this chapter, to be observed by the carriers so classified or grouped, as the commission deems necessary or desirable in the public interest. Such classifications, rules, regulations, and requirements shall be adopted and promulgated pursuant to the provisions of chapter 91 and shall have the force and effect of law.
- (3) Upon complaint in writing to the commission by any person or body politic, or upon its own initiative without complaint, the commission may investigate whether any water carrier has failed to comply with any provision of this chapter, or with any rule or order adopted or issued hereunder.

**Sec. -8 Reports and decisions of commission.** Whenever the public utilities commission inquires into the operations, operating rights, rates, safety of operations, or directs inquiry and investigation into water carrier activities regulated under this chapter, and holds public hearing thereon, it shall make a report in writing in respect thereto, which shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises. The provisions of chapter 91 shall apply.

**Sec. -9 Copies of schedules, tariffs, contracts, etc., kept as public records; evidence.** The copies of schedules and classifications and tariffs or rates, fares, and charges, and all contracts, agreements and arrangements between water carriers filed with the public utilities commission as herein provided, and any reports filed with the commission as required under this chapter shall be preserved as public records.

**Sec. -10 Applications for certificates of public convenience and necessity.** (a) Except as otherwise provided in this section and in sections -6 and -12, no water carrier shall engage in operations between points within the State, unless such carrier holds a certificate of public convenience and

necessity issued by the public utilities commission authorizing such operation, provided, however, that no new application shall be required for any common carrier by water who is the holder of a certificate of public convenience and necessity issued by the public utilities commission.

(b) Applications for certificates shall be made in writing to the commission, be verified under oath, and shall be in such form and contain such information, and be accompanied by proof of service upon interested parties as the commission shall, by regulation, require.

(c) A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to this chapter and the requirements, rules, and regulations of the commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise the application shall be denied.

(d) Any water carrier transporting passengers under any such certificate may occasionally deviate from the route over which it is authorized to operate under the certificate under such rules and regulations as the commission may prescribe.

**Sec. -11 No proprietary right in water.** No certificate issued under this chapter confers any proprietary or property right in the use of the waterways.

**Sec. -12 Temporary authority.** To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting the need, the public utilities commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a water carrier. The temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify, but for no more than a period of one hundred twenty days for any one immediate and urgent need.

**Sec. -13 Security for protection of public.** No certificate shall be issued to a water carrier or remain in force unless such carrier complies with such reasonable rules and regulations as the public utilities commission shall prescribe governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amounts as the commission may require.

**Sec. -14 Transfer of certificates of public convenience and necessity, and carrier property.** (a) For the purpose of the administration and application of subsections (a) and (b), the term "carrier" includes any water carrier subject to this chapter, or any carrier subject to the act of any other state or any act of the Congress of the United States under which interstate or foreign commerce by land, sea, or air, is regulated.

(b) No water carrier shall sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its property necessary or useful in the performance of transportation services for the public or any

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certificate of public convenience and necessity; nor shall any water carrier, by any means, directly or indirectly, merge or consolidate its property, certificates of public convenience and necessity, or any part thereof, with any other carrier, without first having secured from the public utilities commission an order authorizing it so to do, and every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with an order of the commission authorizing the same is void.

(c) No water carrier shall purchase or acquire, take or hold, any part of the capital stock of any other water carrier organized or existing under or by virtue of the laws of the State, without having been first authorized to do so by the commission. Every assignment or transfer of any stock by or through any person to any person, or otherwise, in violation of any of the provisions of this section is void and of no effect, and no transfer shall be made on the books of any water carrier. Nothing herein shall prevent the holding of stock heretofore lawfully acquired.

(d) Whenever a transaction is proposed under subsection (b) or (c) of this section, the water carrier or water carriers, or person or persons, seeking approval thereof shall present an application to the commission in such form as the commission may require and the commission may thereupon act upon the application with or without first holding a public hearing; provided, that if requested, it shall afford reasonable opportunity for interested parties to be heard. If the commission finds that subject to such terms and conditions as it shall find to be just and reasonable the proposed transaction will be consistent with the public interest, the commission shall enter an order approving and authorizing the transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable.

(e) Nothing in this section shall be construed to require a water carrier to secure from the commission authority to lease vessels, vessel equipment, or vessel towing equipment from another water carrier for the purpose of meeting the requirements of transportation, to execute any conditional sales contract for the purchase of vessels or equipment or any note and chattel mortgage on vessels or equipment securing the payment of all or any part of the purchase price of vessels or equipment; nor shall this section prevent the sale, lease, encumbrance, or other disposition by any water carrier of property which is not necessary or useful in the performance of its duties to the public, and any disposition of property by a water carrier shall be conclusively presumed to be property which is not necessary or useful in the performance of its duties to the public as to any purchaser, lessee, or encumbrancer dealing with such property in good faith and for value.

(f) Pending the determination of an application filed with the commission for approval of a consolidation or merger of the properties of two or more water carriers, or of a purchase, lease, charter, or contract to operate the properties of one or more water carriers, the commission may, in its discretion and without hearings or other proceedings, grant temporary approval, for a period not exceeding one hundred twenty days or for such additional period as the determination of an application may require, of the operation of the water carrier properties sought to be acquired by the persons proposing in the pending application to acquire the properties, if it shall appear that failure to grant

this temporary approval may result in destruction of or injury to such water carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

**Sec. -15 Suspension, change, and revocation of certificates.** Certificates shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any certificate may, upon application of the holder thereof, in the discretion of the public utilities commission, be amended or revoked, in whole or in part, or may upon complaint, or on the commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for wilful failure to comply with any provisions of this chapter, or with any lawful order, rule, or regulation of the commission promulgated thereunder, or with any term, condition, or limitation of the certificate; provided that no such certificate shall be revoked (except upon application of the holder) unless the holder thereof wilfully fails to comply within a reasonable time, not less than thirty days, to be fixed by the commission, with a lawful order or the commission, made as provided in this chapter, commanding obedience to this chapter, or to the rule or regulation of the commission thereunder, or to the term, condition, or limitation of the certificate or permit, found by the commission to have been violated by the holder; and provided further that the right to engage in transportation by virtue of any certificate or any application filed pursuant to section -10 or by virtue of temporary authority under section -12 may be suspended by the commission, upon reasonable notice of not less than fifteen days to the carrier, but without hearing or other proceedings, for failure to comply, and until compliance, with section -17(a) or with any lawful order, rule, or regulation of the commission promulgated thereunder.

**Sec. -16 Rates, fares and charges of common carriers by water.** (a) It shall be the duty of every water carrier of passengers to provide safe and adequate service, equipment, and facilities for the transportation of passengers and to establish, observe, and enforce just and reasonable rates, fares, and charges, and just and reasonable regulations and practices relating thereto, and to the issuance, form, and substance of tickets, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the transportation of passengers.

(b) It shall be the duty of every water carrier of property to provide safe and adequate service, equipment, and facilities for the transportation of property and to establish, observe, and enforce just and reasonable rates, charges, and classifications, and just and reasonable regulations and practices relating thereto, and to the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, and all other matters relating to or connected with the transportation of property.

(c) All charges made for any service rendered by any water carrier in the transportation of passengers or property or in connection therewith shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof, is prohibited and declared to be unlawful. It shall be unlawful for any water carrier to make, give, or cause any undue or un-

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reasonable preference or advantage to any particular person, locality, region, district, island, or description of traffic, in any respect whatsoever; or to subject any particular person, locality, region, district, island, or description of traffic to any unjust discrimination or undue or unreasonable prejudice or disadvantage in any respect whatsoever; provided that this subsection shall not be construed to apply to discrimination, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

(d) Any person or body politic may make complaint in writing to the commission that any such rate, fare, charge, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section. Whenever, after hearing, upon complaint or in an investigation on its own initiative, the commission shall be of the opinion that any individual rate, fare, or charge, demand, charged, or collected by any common carrier or carriers by water for transportation, or any rule, regulation, or practice whatsoever of the carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful rule, regulation, or practice thereafter to be made effective.

(e) In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of passengers or property by water carriers, and to prescribe classifications, regulations, and practices relating thereto, the commission shall give due consideration, among other factors, to the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient transportation service by the carriers at the lowest cost consistent with the furnishing of the service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management, to provide the service.

(f) Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith.

**Sec. -17 Tariffs of water carriers.** (a) Every water carrier shall file with the public utilities commission, and print, and keep open to public inspection, tariffs showing all the rates, fares, and charges for transportation, and all services in connection therewith, of passengers or property. The rates, fares, and charges shall be stated in terms of lawful money of the United States. The tariffs required by this section shall be published, filed, and posted in such form and manner, and shall contain such information as the commission by regulations shall prescribe; and the commission may reject any tariff filed with it which is not in consonance with this section and with the regulations. Any tariff so rejected by the commission shall be void and its use shall be unlawful.

(b) No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting the rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of a water carrier, except after forty-five days' notice of the proposed change

filed and posted in accordance with subsection (a) of this section. The notice shall plainly state the change proposed to be made and the time when it will take effect. The commission may in its discretion and for good cause shown allow the change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(c) No water carrier shall engage in the transportation of passengers or property unless the rates, fares, and charges upon which the same are transported by the carrier have been filed and published in accordance with this chapter.

(d) Whenever there is filed with the commission any schedule stating a new rate, fare or charge, for the transportation of passengers or property by a water carrier or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the carrier may on its own initiative, or shall by order of the commission served prior to the effective date of the schedule, file a pro forma statement of account which shall be prepared under the same form and in the same manner as prescribed by the commission's uniform system of accounts. An order of the commission requiring the filing of a pro forma statement may also order suspended the operation of the schedule, and may forbid the carrier to use the rate, fare, or charge, or the rule, regulation, or practice pending the procedures hereinafter set forth. Within fourteen days after receipt by the commission of the pro forma statement, the commission may either permit the rate, fare, or charge, or the rule, regulation, or practice to become effective on not less than one day's notice; or suspend it for a further period, not to exceed six months.

**Sec. -18 Accounts, records, and reports.** The public utilities commission may require annual, periodical, or special reports from all water carriers, prescribe the manner and form in which the reports shall be made, and require from the carriers specific and full, true, and correct answers to all questions upon which the commission may deem information to be necessary.

**Sec. -19 Unlawful operation.** (a) Any person knowingly and wilfully violating any provision of this chapter, or violating any certificate for which violation a penalty is not otherwise herein provided, shall be fined not less than \$100 nor more than \$500 for the first offense, and not less than \$200 nor more than \$500 for any subsequent offense. Each day of such violation shall constitute a separate offense.

(b) Any person, whether carrier, shipper, or consignee, or any officer, employee, agent, or representative thereof, who knowingly offers, grants, or gives, or solicits, accepts, or receives any rebate, concession, or discrimination in violation of any provisions of this chapter, or who by means of any false statement or representation or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, knowingly and wilfully assists, suffers, or permits any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare, or charge, or who knowingly and wilfully by

any such means or otherwise fraudulently seeks to evade or defeat regulation as in this chapter provided for water carriers, shall be fined not less than \$200 nor more than \$500 for the first offense and not less than \$250 nor more than \$2,000 for any subsequent offense.

(c) Any special agent, accountant, or examiner who knowingly and wilfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of section -18, except as he may be directed by the commission or by a court or judge thereof, shall be guilty of a misdemeanor, and shall be subject to a fine of not more than \$500 or imprisonment for not exceeding one year, or both.

(d) Any water carrier, or any officer, agent, employee, or representative thereof, who shall fail or refuse to comply with any provision of this chapter, or any rule, regulation, requirement or order thereunder, shall pay a penalty to the State in the sum of \$100 for each offense, and, in the case of a continuing violation, not to exceed \$50 for each additional day during which the failure or refusal continues. A penalty shall become due and payable when the person incurring it receives a notice in writing reasonably describing the violation and advising that the penalty is due.

**Sec. -20 Collection of rates and charges.** No water carrier shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid if such delivery or relinquishment without payment of all such rates and charges has been prohibited or restricted by rules and regulations of the commission, and if so prohibited and restricted, then delivery or relinquishment shall be made only under such rules and regulations as the public utilities commission may from time to time prescribe to govern the settlement of all the rates and charges, including rules and regulations for weekly or monthly settlement, and to prevent unjust discrimination or undue preference or prejudice; provided that this section shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any state or political subdivision thereof.

**Sec. -21 Recovery of overcharges or undercharges.** (a) All actions by water carriers or common carriers by water for the recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.

(b) For recovery of overcharges, actions shall be begun within three years from the time the cause of action accrues, and not after, subject to subsection (c) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation the period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof specified in the notice.

(c) If on or before the expiration of the three-year period of limitation in subsection (b) a common carrier by water begins action under subsection (a) for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, the period

shall be extended to include ninety days from the time the action is begun or the charges are collected by the carrier.

(d) The cause of action in respect of a shipment of property shall, for the purpose of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

(e) The term "overcharges" as used in this section means charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the commission.

**Sec. -22 Allowance to shippers for transportation services.** If the shipper of property transported under this chapter, directly or indirectly, renders any service connected with the transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this chapter and shall be no more than is just and reasonable; and the public utilities commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order.

**Sec. -23 Hearings.** (a) All hearings, investigations, and proceedings shall be governed by chapter 91 and by rules of practice and procedure adopted by the public utilities commission, and in the conduct thereof, the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding, or in the manner of taking testimony shall invalidate any order, decision or rule made, approved, or confirmed by the commission.

(b) Complaints may be made, in writing, by the commission on its own motion or by any person or body politic setting forth any act or thing done, or omitted to be done by any water carrier, including any rule, regulation, rate, or charge, heretofore established or fixed by or for any water carrier, in violation or claimed to be in violation, of any law or of any order or rule of the commission agreement if approval thereof is not prohibited by subsection (c) if it finds that, by reason of furtherance of the transportation policy declared in this chapter, the relief provided in subsection (e) should apply with respect to the making and carrying out of the agreement; otherwise, the application shall be denied.

**Sec. -24 Appeals.** From an order of the public utilities commission under this chapter, an appeal shall lie to the supreme court in the manner and within the time provided by the rules of court for an appeal from a judgment of a circuit court, provided the order is final, or if preliminary is of the nature defined by section 91-14(a). The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, revised, or modified in whole or in part.

**Sec. -25 Agreement between carriers.** (a) For purposes of this section the term "anti-trust laws" means any law of the State previously enacted pertaining to unlawful restraints of trade and monopolies.

(b) Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation, or establishment thereof, may, under such rules and regulations as the public utilities commission may prescribe, apply to the commission for approval of the agreement, and the commission shall by order approve any agreement, if approval thereof is not prohibited by subsection (d) or (e), if it finds that, by reason of furtherance of the transportation policy declared in this chapter, the relief provided in subsection (e) should apply with respect to the making and carrying out of the agreement; otherwise, the application shall be denied.

(c) The commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that the agreement is of the character described in subsection (b) of this section and is limited to matters relating to transportation under joint rates or over through routes; and for purpose of this subsection carriers by aircraft are carriers of one class; carriers by motor vehicles are carriers of one class; carriers by water are carriers of one class.

(d) The commission is authorized upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which the approval was granted is not or are not in conformity with the standard set forth in subsection (b), or whether any such terms and conditions are not necessary for purposes of conformity with the standard, and, after the investigation, the commission shall by order terminate or modify its approval of the agreement if it finds the action necessary to insure conformity with the standard, and shall modify the terms and conditions upon which the approval was granted to the extent it finds necessary to insure conformity with the standard or to the extent to which it finds the terms and conditions not necessary to insure each conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the commission determines to be reasonably necessary to avoid undue hardship.

(e) Parties to any agreement approved by the commission under this section and other persons are, if the approval of such agreement is not prohibited by subsection (c), relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of the agreement in conformity with the terms and conditions prescribed by the commission."

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

(Approved May 31, 1974.)

## ACT 95

S.B. NO. 2100-74

A Bill for an Act Relating to Escrows.

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

SECTION 1. Chapter 402, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 402- Escrow agreements.** In all escrow agreements involving the purchase of real property or appurtenances thereon and in which a company acts as a fiduciary party holding the funds in escrow, any interest earned on such funds during the holding thereof shall accrue to the credit of the purchaser in such transaction unless otherwise instructed in writing by the purchasers and sellers in the escrow."

SECTION 2. Chapter 449, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 449- Interest on funds.** In all escrow agreements involving the purchase of real property or appurtenances thereon and in which an escrow depository acts as a fiduciary party holding the funds in escrow, any interest earned on such funds during the holding thereof shall accrue to the credit of the purchaser in such transaction unless otherwise instructed in writing by the purchasers and sellers in the escrow."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 4. This Act shall take effect on July 1, 1974.

(Approved May 31, 1974.)

## ACT 96

H.B. NO. 342

A Bill for an Act Relating to Aviary Game Birds.

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

SECTION 1. Chapter 322, Hawaii Revised Statutes, is amended by adding new sections constituting a new part to be appropriately designated and to read as follows:

**"PART . AVIARY GAME BIRDS**

**Sec. 322- Definitions.** As used in this part, the term:

- (1) 'Aviary game bird' includes the various species of pheasant which are of a rare nature and generally propagated and raised for its ornamental and aesthetic purposes but does not pertain to birds raised for food, fighting or baiting or for similar commercial purposes.

\*Edited accordingly.

## ACT 97

- (2) 'Department' means the department of health.
- (3) 'Loft' means any structure in which aviary game birds are housed.

**Sec. 322- Aviary game bird permits.** The department shall issue an aviary game bird ownership permit to any owner who complies with the following requirements:

- (1) The loft is in compliance with regulations prescribed by the department and is maintained in a clean and orderly condition and kept in good repair.
- (2) The construction of the loft complies with the building code regulations and requirements of the county in which it is erected.

**Sec. 322- Scope of permit.** Any person to whom the department has issued an aviary game bird permit may erect and maintain one or more lofts of aviary game birds in the State as provided in the preceding section."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

## ACT 97

H.B. NO. 1807

A Bill for an Act Relating to the Renewal of Driver Licenses.

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

SECTION 1. Chapter 286-106, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-106 Expiration of licenses.** Every driver's license issued under this part, whether an original issuance or a renewal, shall expire on the fourth birthday of the licensee following the date of the issuance of the license, unless sooner revoked or suspended; provided that the license shall expire on the second birthday of the licensee following the issuance of the license if at that time the licensee:

- (1) Is sixty-five years of age or older;
- (2) Has been convicted of violations of the traffic laws of the State and of county traffic ordinances in the previous two years which, under the provisions of section 286-128, total nine points;
- (3) Is twenty-four years of age or younger; or
- (4) Exhibits a physical condition or conditions which the examiner of drivers reasonably believes has impaired the driver's ability to drive, unless the licensee:
  - (A) Obtains a certificate from a licensed physician that his physical condition or conditions do not impair his ability to drive; or

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\*Edited accordingly.

- (B) Is able to correct the physical impairment, or by using a vehicle adapted to overcome the physical impairment is to the satisfaction of the examiner of drivers able to drive safely.

SECTION 2. Section 286-107, Hawaii Revised Statutes, is repealed.

SECTION 3. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section which reads:

**"Sec. 286-107 License renewals; procedures and requirements.** (a) The examiner of drivers may accept an application for a renewal of a driver's license made not more than six months prior to the date of expiration.

If, however, within the twelve months' period immediately preceding the expiration of the license for which a renewal application is made, the applicant for renewal has been convicted for violations of State traffic laws or county traffic ordinances for which the courts have imposed, under section 286-128, a total of six or more points, or if the renewal is not applied for within ninety days after the expiration of the license, the applicant for renewal shall be treated as an applicant for a new license and examined as provided in Section 286-108.

(b) Except as otherwise provided in subsection (c) an applicant for a renewal of a driver's license shall appear in person before the examiner of drivers and the examiner of drivers shall administer such physical examinations as the State highway safety coordinator deems necessary to determine the applicant's fitness to continue to operate a motor vehicle.

(c) Any resident of this State who holds a category (1), (2) or (3) license and who by reason of his temporary absence from the State is unable to appear in person before the examiner of drivers to apply for a renewal of his driver's license, may, if he is not disqualified from renewing his license under subsection (a), apply for a renewal by mail. His request to have his license renewed by mail must be received by the examiner of drivers within ninety days after the expiration of his license. The examiner of drivers shall upon receipt of the request, furnish the applicant with all necessary forms and instructions. An application for renewal made pursuant to this subsection shall be accompanied by a statement from a licensed physician certifying that the applicant had been examined by him not more than six months prior to the expiration date of the applicant's license and that the applicant had been found by such examination to have met the physical requirements established by the State highway safety coordinator for the renewal of licenses. The application for renewal shall also be accompanied by:

- (1) a notarized statement of the applicant certifying  
(A) to the fact that he is a resident of this State;  
(B) to the fact that he does not possess any valid license to operate the same or similar category or categories of motor vehicles, issued by another licensing authority (unless such license is concurrently surrendered); and  
(C) to the fact that he has not been convicted for violations of State traffic laws or county traffic ordinances which under section 286-128 total six or more points, within the twelve month period

## **ACT 98**

immediately preceding the expiration of the license for which the renewal application is made; and

- (2) such other information as may be required by the examiner of drivers which is reasonably necessary to confirm the identity of the applicant and his fitness to continue to operate a motor vehicle.
- (d) An applicant for a renewal of his driver's license whether applying pursuant to subsections (b) or (c) shall pay the fee determined by the council of the appropriate county. Payment of the fee shall be by certified check or money order, tendered together with the application.

(e) No driver's license shall be renewed by the examiner of drivers unless the examiner of drivers is satisfied of the applicant's fitness to continue to operate a motor vehicle and unless the fee required by subsection (d) is tendered together with the application for renewal.

(f) A driver's license renewed pursuant to subsection (c) may validly be issued without incorporating a photograph of the licensee.

(g) No driver's license shall be renewable by mail for more than two consecutive renewals whether the license expires, under section 286-106, on the fourth birthday after issuance or on the second birthday after issuance.

(h) The State highway safety coordinator shall adopt rules and regulations pursuant to chapter 91, necessary for the purposes of this section, including rules and regulations governing the effect to be given to convictions for violations of traffic laws of a foreign jurisdiction, upon license renewal procedures."

**SECTION 4.** Notwithstanding the requirement of section 286-107(c), Hawaii Revised Statutes, which limits requests for renewals by mail to only those received within ninety days after expiration of the license, any resident of this State who holds a category (1), (2) or (3) license which expired prior to the effective date of this Act who otherwise qualifies under section 286-107(c), Hawaii Revised Statutes, to have his license renewed by mail, shall have a grace period of not more than six months after the effective date of this Act within which to request a renewal of his expired license. The examiner of drivers shall renew the license of any person requesting a renewal under this section if all other applicable requirements for renewal are met.

**SECTION 5.** 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

**ACT 98**

H.B. NO. 2073-74

A Bill for an Act Relating to Motor Vehicle Safety.

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

**SECTION 1.** Section 286-2, Hawaii Revised Statutes, is amended by

\*Edited accordingly.

adding thereto the definition of rental or U-drive motor vehicle to read as follows:

“Rental or U-drive motor vehicle” means a motor vehicle which is rented or leased or offered for rent or lease for a period of six months or less.”

SECTION 2. Section 286-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

(a) The following vehicles shall be certified as provided in subsection (e) once every six months:

- (1) Motor vehicles ten years of age or older,
- (2) Ambulances,
- (3) Trucks, truck-tractors, semitrailers, trailers, or pole trailers having a rated load capacity of one ton or more,
- (4) Buses,
- (5) Rental or U-drive motor vehicles.”

SECTION 3. 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 material, or the underscoring.\*

SECTION 4. This Act shall take effect on July 1, 1974.

(Approved May 31, 1974.)

**ACT 99**

H.B. NO. 2177-74

A Bill for an Act Relating to Vehicle Industry Licensing Act.

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

SECTION 1. Chapter 437-35, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 437-35 Penalty.** Any person who violates any provision of this chapter or rules and regulations of the board, or who engages in the business as, or serves in the capacity of, or acts as a motor vehicle dealer, motor vehicle salesman, motor vehicle auction, motor vehicle auctioneer, manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative in the State or otherwise engages in business or selling or negotiating for the purchase of motor vehicles in this State without being licensed as provided in this chapter shall be fined not more than \$1,000 or imprisoned not more than one (1) year and each day's violation or failure to comply shall be deemed a separate offense.”

SECTION 2. 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 material or the underscoring.\*

SECTION 3. This Act shall take effect upon approval.

(Approved May 31, 1974.)

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\*Edited accordingly.

A Bill for an Act Relating to the Statement of Total Indebtedness of the State to be Prepared by the Director of Finance.

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

SECTION 1. Section 39-92, Hawaii Revised Statutes, is amended to read:

**"Sec. 39-92 State debt statement.** The director of finance shall annually ascertain and set forth in a table or other summary a statement of the total indebtedness of the State as of November 1 of each year. The statement shall include the following:

- (1) The total indebtedness of the State, including both authorized but unissued bonds and issued and outstanding bonds; general obligation bonds and revenue bonds; and bonds which may be excluded under section 3 of article VI of the Constitution when determining the total indebtedness of the State for the purposes of that section and bonds which may not be so excluded, showing the amount of each type of such indebtedness.
- (2) The amount of the total indebtedness of the State which may be excluded under section 3 of article VI of the Constitution when determining the total indebtedness of the State for the purposes of that section. There shall be itemized and shown the amounts which may be excluded under each of clauses (a) through (b) of said section; in the case of revenue bonds, the undertaking, improvement or system for which such bonds are issued or are to be issued; and in the case of reimbursable general obligation bonds, the undertaking, improvement, system or political subdivision for which such bonds are issued or to be issued, and, except as to such bonds issued for a political subdivision, the revenues, user taxes, or both, from which the reimbursement to the general fund for the payment of the principal and interest of such bonds is to be made.
- (3) The amount of the total indebtedness of the State which may not be excluded when determining the total indebtedness of the State for the purposes of section 3 of article VI of the Constitution.
- (4) The amount of indebtedness of the State required to be paid or retired from such November 1 to and including the first day of the next succeeding fiscal year.
- (5) The net general fund revenues for each of the three preceding fiscal years, the average of such net general fund revenues and the figure which is three and one-half times such average.

The items required above to be set forth in the statement may be disclosed in such manner or arrangement as the director of finance may deem advisable, and need not be separately stated if the captions, headings or groupings disclose the information required to be set forth.

The director of finance shall also prepare and attach to the statement such supporting schedules as may be required to set forth in detail the bonds included in the itemizations required by subdivisions (1) and (2) above of the first paragraph of this section. The supporting schedules shall also set forth a finding and determination of the net general fund receipts for the preceding fiscal year by setting forth the following for the preceding fiscal year:

- (1) The total of the moneys paid into the general fund in such fiscal year;
- (2) The total of the moneys paid into the general fund in such fiscal year received as grants from the federal government;
- (3) The total of the moneys paid into the general fund in such fiscal year from revenues, or user taxes, or combination thereof, derived from a public undertaking, improvement or system, to the extent such payments into the general fund were made in reimbursement of the payment during such fiscal year from the general fund of the principal and interest of reimbursable general obligation bonds issued for such undertaking, improvement or system which are to be excluded from the total indebtedness of the State;
- (4) The total of the moneys paid into the general fund in such fiscal year from the revenue of a political subdivision, to the extent such payments into the general fund were made in reimbursement of the payment during such fiscal year from the general fund of the principal and interest of reimbursable general obligation bonds issued for the political subdivision which are to be excluded from the total indebtedness of the State;
- (5) The result obtained by subtracting from the total required to be set forth in the statement by subdivision (1) above the totals required to be set forth in the statement by subdivisions (2), (3) and (4) of this paragraph, which result shall constitute the net general fund revenues of the State for the preceding fiscal year.

If payments from the general fund were made in the preceding fiscal year for interest or principal of reimbursable general obligation bonds issued for an undertaking, improvement or system, the supporting schedules shall also set forth in brief and summary form the following with respect to each such undertaking, improvement or system:

- (1) The total of the revenues or user taxes, or both, as follows:
  - (A) The amount of surplus revenues or surplus user taxes, or both, derived in prior fiscal years from or with respect to the undertaking, improvement or system which are carried forward in the fiscal year, to the extent such surplus revenues or surplus user taxes, or both, are available in the fiscal year for the payment of costs for operation, maintenance and repair of the undertaking, improvement or system, the payment of interest due principal on revenue bonds issued for the undertaking, im-

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provement or system and payment into the general fund in reimbursement of the payment from the general fund of the principal and interest of reimbursable general obligation bonds issued for such undertaking, improvement or system;

- (B) The amount of the revenue or user taxes, or both, derived in the fiscal year from or with respect to the undertaking, improvement or system; and
- (C) The total of (A) and (B) of this subdivision;
- (2) The total of the costs of operation, maintenance and repair of the undertaking, improvement or system during the fiscal year;
- (3) The total of payments made during the fiscal year of interest and principal on revenue bonds issued for the undertaking, improvement or system;
- (4) The total of the payments made during the fiscal year from the general fund for interest and principal on reimbursable general obligation bonds issued for such undertaking, improvement or system;
- (5) The amount paid into the general fund during the fiscal year from the total revenues or user taxes, or both, set forth in the schedule pursuant to clause (C) of subdivision (1) of the undertaking, improvement or system, after there has been deducted from such total the costs for operation, maintenance and repair of the undertaking, improvement or system for such fiscal year and the required payments of the principal and interest of all revenue bonds issued for the undertaking, improvement or system;
- (6) The percentage obtained by dividing the figure required to be set forth in the schedule by subdivision (4) above into the figure required to be set forth by subdivision (5) of this paragraph above, which percentage shall constitute the percentage of the reimbursable general obligation bonds issued for the undertaking which may be excluded under clause (e) of section 3 of article VI of the Constitution when determining the total indebtedness of the State for the purpose of that section.

The supporting schedule shall also set forth or make reference to relevant statutory, bond ordinance or bond certificate provisions, and any other relevant financial information, necessary to explain or justify the findings and determinations inherent in the statement of indebtedness. The director of finance shall indicate in the supporting schedules whether the financial findings and figures are based upon the records of his office or upon audited statements and reports, and if based upon the latter, shall identify in the schedules the audited reports and statements."

**SECTION 2.** 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 material or the underscoring.\*

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

(Approved May 31, 1974.)

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\*Edited accordingly.

## ACT 101

H.B. NO. 2186-74

A Bill for an Act Relating to Special Facility Revenue Bonds Issued by the Department of Transportation.

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

SECTION 1. Section 261-55, Hawaii Revised Statutes, is amended to read:

**"Sec. 261-55 Special facility revenue bonds.** All special facility revenue bonds authorized to be issued shall be issued pursuant to the provisions of sections 39-51 to 39-70, except as follows:

- (1) No such revenue bonds shall be issued unless at the time of issuance the department shall have entered into a special facility lease with respect to the special facility for which such revenue bonds are to be issued.
- (2) Such revenue bonds shall be issued in the name of the department, and not in the name of the State.
- (3) No further authorization of the legislature shall be required for the issuance of the special facility revenue bonds, but the approval of the governor shall be required for such issuance.
- (4) Such revenue bonds shall be payable solely from and secured solely by the revenues derived by the department from the special facility for which they are issued.
- (5) The final maturity date of such revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease.
- (6) If deemed necessary or advisable by the department, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the department with the approval of the State director of finance may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with such trustee. The trustee may be authorized by the department to collect, hold and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply such revenues to the payment of the principal and interest on such revenue bonds. In the event that any such trustee shall be appointed, any trust indenture or agreement entered into by the department with the trustee may contain the covenants and provisions authorized by sections 39-51 to 39-70 to be inserted in a resolution adopted or certificate issued, as though the words 'resolution' or 'certificate' as used in those sections read 'trust indenture or agreement'. Such covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture or trust agreement adopted, issued or entered into by the department pursuant to this

## ACT 101

part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The department may pledge and assign to the trustee the special facility lease and the rights of the department including the revenues thereunder.

- (7) If the department with the approval of the State director of finance shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-65 the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange and redemption, of the revenue bonds, or may elect to limit the functions he shall perform as such fiscal agent. The department with the approval of the director of finance may appoint the trustee to serve as such fiscal agent, 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 revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with the provisions of sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the department with the approval of the director of finance to appoint the trustee, or granted in sections 36-3 and 39-12 and the third sentence of section 39-65 to the director of finance to appoint the trustee or others, as fiscal agents, paying agents and registrars for the revenue bonds or to authorize and empower such fiscal agents, paying agents and registrars to perform the functions referred to in said paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions he shall perform as such fiscal agent, as the director of finance may deem necessary, advisable, or expedient.
- (8) The department may sell such revenue bonds either at public or private sale.
- (9) If no trustee shall be appointed to collect, hold and administer the revenues derived from the special facility for which such revenue bonds are issued, such revenues shall be held in a separate account in the treasury of the State, separate and apart from the airport revenue fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture or trust agreement authorizing or securing such revenue bonds.
- (10) If the resolution, certificate, trust indenture or agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of such revenue bonds, signatures of the officers of the State upon such bonds required by section 39-64 may be facsimiles of their signatures.

- (11) Proceeds of such revenue bonds may be used and applied by the department to reimburse the other person to the special facility lease for all preliminary costs and expenses, including architectural and legal costs.
- (12) If the special facility lease shall require the other person to operate, maintain and repair the special facility which is the subject of such lease, at his expense, such requirement shall constitute compliance by the department with section 39-59(2) and none of the revenues derived by the department from such special facility shall be required to be applied to the purposes of section 39-60(2). Sections 39-60(4), 39-60(5) and 39-60(6) shall not be applicable to the revenues derived from a special facility lease."

**SECTION 2.** 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 material or the underscoring.\*

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

(Approved May 31, 1974.)

**ACT 102**

H.B. NO. 2206-74

A Bill for an Act Relating to Motor Vehicle Industry Filing Fees.

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

**SECTION 1.** Section 437-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) Filing fees. All applicants for the issuance of a new license shall pay a \$25 filing fee concurrently with each application, except the filing fee for a new salesman's or auctioneer's license shall be \$10."

**SECTION 2.** 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

**ACT 103**

H.B. NO. 2228-74

A Bill for an Act Relating to the Boating Law.

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

**SECTION 1.** Section 267-3, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

## ACT 103

**"Sec. 267-3 Definitions.** In this chapter, if not inconsistent with the context:

- (1) 'Boat dealer' means a person engaged wholly or partly in the business of selling or offering for sale, buying or taking in vessels for the purpose of resale, or exchanging vessels, for gain or compensation.
- (2) 'Boat livery' means the business of holding out vessels for rent, lease, or charter.
- (3) 'Boat manufacturer' means a person engaged in
  - (A) the manufacture, construction, or assembly of boats or associated equipment; or
  - (B) the manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly; or
  - (C) the importation into the United States for sale of boats, associated equipment, or components thereof.
- (4) 'Boating accident' means any occurrence involving a vessel or its equipment that results in:
  - (A) the death of a person;
  - (B) the loss of consciousness by any person, the receipt of medical treatment by any person, or the incapacity of any person for more than twenty-four hours;
  - (C) damage to the vessel and other property totalling more than \$100; or
  - (D) the disappearance of a person from the vessel under circumstances that indicate death or injury.
- (5) 'Certificate' means certificate of number.
- (6) 'Coast guard' means the Coast Guard of the United States, or its successor agency.
- (7) 'Department' means the department of transportation.
- (8) 'Director' means the director of transportation.
- (9) 'Federal laws and requirements' means all statutes, rules, and regulations, and other laws of the United States, which may be applicable to any and all subject matters of this chapter, and of the rules and regulations adopted and promulgated pursuant to this chapter.
- (10) 'Length' means the measurement of a vessel from end to end over the deck.
- (11) 'Operate' means to navigate or otherwise use a vessel on or in the waters of the State.
- (12) 'Operator' means a person who operates or who has charge of the navigation or use of vessel.
- (13) 'Person' means an individual, partnership, firm, corporation, association, or other legal entity.
- (14) 'State' means the State of Hawaii.
- (15) 'Undocumented vessel' means any vessel which does not have and is not required to have a valid marine document as a vessel of the United States.
- (16) 'Vessel' means all description of watercraft, used or capable of

being used as a means of transportation on or in the water, except a seaplane.

(17) 'Waters of the State' means any waters within the jurisdiction of the State, the marginal seas adjacent to the State, and the high seas when navigated as a part of a journey or ride to or from the shores of the State."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

**ACT 104**

H.B. NO. 2245-74

A Bill for an Act Relating to the Protection of Insurance Information.

*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  
INSURANCE INFORMATION PROTECTION ACT**

**Sec. -1 Disclosure of information; when allowed.** No corporation, co-partnership, association, individual, or group of individuals, which has made a loan in connection with which insurance is required to be carried by the borrower, shall disclose any information contained in or relating to the required insurance policy to third parties, unless the disclosure is:

- (1) Consented to by the borrower in writing in a separate document after the loan has been granted;
- (2) Expressly authorized by state or federal law;
- (3) An ordinary and necessary part of the process of effectuating and servicing the loan agreement;
- (4) Pursuant to court order;
- (5) Made to the borrower's insurance company, agent, or solicitor; or
- (6) Made necessary by the borrower's failure to maintain or renew insurance pursuant to the terms of a loan or similar agreement.

**Sec. -2 Receipt of information; use; when allowed.** No person shall receive or use for any purpose information contained in or relating to a required insurance policy from any corporation, copartnership, association, individual, or group of individuals, which has made a loan in connection with which insurance is required to be carried by the borrower, unless such receipt and use is:

\*Edited accordingly.

## **ACT 105**

- (1) Consented to by the borrower in writing in a separate document after the loan has been granted;
- (2) Expressly authorized by state or federal law;
- (3) An ordinary and necessary part of the process of effectuating and servicing the loan agreement;
- (4) Pursuant to court order; or
- (5) By the borrower, the borrower's insurance company, agent, or solicitor, in connection with the policy.

**Sec. -3 Freedom of choice of insurance companies.** No corporation, copartnership, association, individual, or group of individuals, which has made a loan in connection with which insurance is required to be carried by the borrower, shall recommend the placing of insurance with a specified insurer or through a specified insurance agent or broker once an insurance policy has been supplied by the borrower and accepted by the corporation, copartnership, association, individual, or group of individuals which has made the loan.

**Sec. -4 Written disclosure; request for; result.** Contact of the borrower by the corporation, copartnership, association, individual, or group of individuals, which has made the loan, to obtain his written consent to disclosure does not constitute a violation of this chapter.

**Sec. -5 Violation; penalties.** Violation of any provision of this chapter shall constitute a bar to the recovery of any part of the interest in any proceeding at law. Violation of any provision of this chapter shall also be a misdemeanor. The commissioner of insurance, after a hearing under chapter 91, may revoke or suspend the license of any person licensed pursuant to chapter 431 who is guilty of a violation of any provision of this chapter.

**Sec. -6 Violation; injunction.** The attorney general, the corporation counsel or county attorney of any county may bring suit in any court of competent jurisdiction to enjoin any violation or threatened violation of this chapter on his own complaint or on the complaint of any person. The borrower or the borrower's insurance broker, agent, or solicitor may bring a private action to have the acts enjoined. The borrower's insurance agent or solicitor may sue to recover any commission lost as a result of another person's unlawful use of policy information. The court may award reasonable attorney's fees in any action brought by a private party."

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

(Approved May 31, 1974.)

**ACT 105**

H.B. NO. 2302-74

A Bill for an Act Relating to Bicycles and Bikeways.

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

**SECTION 1. Findings and purpose.** The legislature finds that the use of bicycles as a pleasurable means of travel and recreation embodying

physical, environmental, and social benefits is already recognized by most people in the State and will be further encouraged given the opportunity for safe, convenient, and pleasant bicycle travel throughout Hawaii. The legislature further finds that dependence on the private automobile as the dominant mode of transportation must be reduced, particularly in the light of the energy crisis, and the development of a fully integrated system of pedestrian, bicycle, local transit, trailways, and automobile facilities should help to reduce this dependency. It is, therefore, the purpose of this Act to establish a fund to be used in each county for the design, construction, and maintenance of bikeways and related facilities.

SECTION 2. Chapter 249, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

**“Sec. 249- Bikeway fund; established.** All taxes collected under sections 249-14 and 249- shall be deposited in a fund to be known as the “bikeway fund” and shall be expended in the county in which the taxes are collected for the following purposes:

- (1) For acquisition, design, construction, improvement, repair, and maintenance of bikeways, including the installation and repair of storm drains and bridges;
- (2) For installation, maintenance, and repair of bikeway lights and power, including replacement of old bikeway lights;
- (3) For purposes and functions connected with traffic control and preservation of safety upon bikeways; and
- (4) For payment of interest on and redemption of bonds issued to finance bikeway construction and improvements.

**Sec. 249- New bicycles.** All new bicycles, otherwise taxable under section 249-14, in stock for purposes of sale shall be exempt from the tax herein provided for; provided that the time of first sale, the dealer selling the new bicycle shall:

- (1) Require the buyer to complete license application forms furnished by the county treasurer or director of finance;
- (2) Issue a copy of the completed forms to the buyer; and
- (3) Transmit the completed forms to the county treasurer or director of finance with the required tax fees which he has collected from the buyer.

Upon receipt of the tax, fees, and the completed license application forms, the county treasurer or director of finance shall mail a license plate and certificate of registration to the registered owner. Until the license plate is received from the county, the bicycle owner shall keep a copy of the completed application form upon his person when riding his bicycle on a public street.

**Sec. 249- Violations; penalty.** Any seller who violates the provisions of section 249- may be fined not exceeding \$500.”

SECTION 3. Section 249-14, Hawaii Revised Statutes, is amended to read as follows:

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**"Sec. 249-14 Bicycle tax.** (a) All bicycles used for the conveyance of persons shall be subject to an annual tax of \$3 each to be paid by the owners thereof to the county director of finance. This tax shall become due and payable on January 1 and shall be delinquent on March 1 of each year; provided that any bicycle initially acquired after November 30 of a calendar year, previously not registered, shall be exempt from taxation until January 1 of the next calendar year, provided that the tax for the next calendar year shall be paid before January 1. Upon receipt of the tax, the director of finance shall number and register each bicycle, for which the tax is paid, in the owner's name and furnish the owner with a metallic tag or decal for each bicycle with number and year marked thereon, charging therefor the sum of 10 cents, which tag or decal shall be attached to the bicycle. The decal shall be affixed to the upright post attached to the sprocket facing in the forward direction. Upon initial registration by an owner or transferee, the director of finance shall require proof of ownership and require the owner to furnish verification of the serial number and description contained in the proof of ownership and application for registration. The metallic tags or decals shall be in such form as the director of finance of the county shall from time to time prescribe. It shall be the duty of the council of each county to purchase a sufficient number of such tags or decals.

(b) All taxes collected under this section shall be deposited into the bikeway fund and shall be expended in the county in which the taxes are collected as provided in section 249- ."

SECTION 4. Section 249-18, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 249-18 Highway fund.** All taxes collected under this chapter, except those collected pursuant to sections 249-14 and 249- , shall be deposited in a fund to be known as the "highway fund" and shall be expended in the county in which the taxes are collected for the following purposes:

- (1) For acquisition, designing, construction, improvement, repair, and maintenance of public roads and highways, including without restriction of the foregoing purposes, costs of new land therefor, of permanent storm drains or new bridges, as well as repairs or additions to storm drains or bridges;
- (2) For installation, maintenance, and repair of street lights and power, and other charges for street lighting purposes, including replacement of old street lights, on county-maintained public roads and highways;
- (3) For purposes and functions connected with traffic control and preservation of safety upon the public highways and streets;
- (4) For payment of interest on and redemption of bonds issued to finance highway and street construction and improvements;
- (5) In the case of the city and county of Honolulu, for the appropriation for the police department up to the sum of \$500,000. No expenditures shall be made out of this fund which will jeopardize federal aid for highway construction;
- (6) For purposes and functions connected with mass transit; and
- (7) For the design and construction of bikeways."

**ACT 107**

SECTION 5. There is hereby appropriated the sum of \$50,000 in general obligation bonds for the development of a statewide master plan for bikeways, which shall be completed by June 20, 1975.

SECTION 6. The director of finance is authorized to issue general obligation bonds of the State in the amount of \$50,000 to be used for the purposes of this Act.

SECTION 7. The sum appropriated shall be expended by the department of transportation for the purpose of this Act.

SECTION 8. 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 material, or the underscoring.\*

SECTION 9. This Act shall take effect on January 1, 1975; except that Section 5 shall take effect upon its approval.

(Approved May 31, 1974.)

**ACT 106**

H.B. NO. 2371-74

A Bill for an Act Relating to the Operation of a Vehicle Without a Certificate of Inspection.

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

SECTION 1. Section 286-25, Hawaii Revised Statutes, is amended to read:

**"Sec. 286-25 Operation of a vehicle without a certificate of inspection.** Whoever operates, permits the operation of, causes to be operated, or parks any vehicle on a public highway without a current official certificate of inspection, issued under section 286-26, shall be fined not more than \$100 or imprisoned not more than thirty days or both."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

**ACT 107**

H.B. NO. 2541-74

A Bill for an Act Relating to General Obligation Bonds of the Counties.

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

\*Edited accordingly.

## ACT 108

SECTION 1. The first sentence of Section 47-2.1, Hawaii Revised Statutes, is hereby amended to read as follows:

“General obligation bonds may be issued under this part for an undertaking as defined in section 49-1 or for any other undertaking for which such bonds are authorized to be issued by other provisions of general law. Such bonds may be combined into, issued and sold with other general obligation bonds of the county as a single issue of bonds.”

SECTION 2. Section 47-3, Hawaii Revised Statutes, is hereby amended to read as follows:

**“Sec. 47-3 Purposes of issuance.** Such bonds shall be issued only for public improvements of the county, including without limitation, special improvements, the cost of which is assessed or assessable in whole or in part against properties benefited or improved by such improvements; provided that the issuance of such bonds for such special improvements shall be limited to special improvements initiated by the county. Such bonds may also be issued for such other purposes as may from time to time be authorized by other provisions of general law.”

SECTION 3. 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 material or the underscoring.\*

SECTION 4. This Act shall take effect upon January 1, 1975.

(Approved May 31, 1974.)

## ACT 108

H.B. NO. 2801-74

A Bill for an Act Relating to Pensioners Who Return to Employment.

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

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 88- Return to service of a retitant.** Any retitant who returns to employment requiring his membership shall be re-enrolled as an active member of the system and his retirement allowance shall thereupon be suspended. At such time as he again retires, his retirement allowance shall consist of:

(1) If he has less than three years of credited service during his period of reemployment, the allowance to which he was entitled under the mode of retirement he selected when he previously retired and which was suspended; plus, for his period of service during his reemployment, the allowance to which he is entitled for such service computed for his age, average final compensation, and other factors in accord-

\*Edited accordingly.

ance with the benefit formula in existence at the time of his final retirement.

- (2) If he has three or more years of credited service during his period of reemployment, the allowance computed as if he were retiring for the first time provided that in no event shall such allowance be less than the amount determined in accordance with subsection (1) hereof.

"The Board of Trustees shall adopt such rules as may be required to administer the purposes of this section."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 31, 1974.)

**ACT 109**

H.B. NO. 2840-74

A Bill for an Act Relating to Imprinting Cusip Identification Numbers on Bonds Issued by the State, the Counties and the Board of Regents of the University of Hawaii.

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

SECTION 1. Part I of Chapter 39, Hawaii Revised Statutes, is hereby amended by adding a new section to be designated and to read as follows:

**"Sec. 39- CUSIP Numbers.** The director of finance in his discretion may provide that CUSIP identification numbers shall be imprinted on bonds issued under this part. In the event such numbers are imprinted on any such bonds (i) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted and (ii) no liability shall attach to the State 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 State, any such officer or any such agent, or by reason of any inaccuracy, error or omission with respect thereto or in such use. The director of finance in his discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association."

SECTION 2. Part III of Chapter 39, Hawaii Revised Statutes, is hereby amended by adding a new section to be designated and to read as follows:

**"Sec. 39- CUSIP Numbers.** The department issuing revenue bonds pursuant to this part in its discretion may provide that CUSIP identification numbers shall be imprinted on such revenue bonds. In the event such num-

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\*Edited accordingly.

## **ACT 109**

bers are imprinted on any such revenue bonds (i) no such number shall constitute a part of the contract evidenced by the particular revenue bond upon which it is imprinted and (ii) no liability shall attach to the State, the department or any officer or agent of either thereof, including any use thereof made by the State, 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 in its discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association."

**SECTION 3.** Part V of Chapter 46, Hawaii Revised Statutes, is hereby amended by adding a new section to be designated and to read as follows:

**"Sec. 46- CUSIP numbers for district improvement bonds or improvement district bonds of counties.** Unless the governing body shall otherwise direct, the director of finance of any county issuing district improvement bonds or improvement district bonds of such county pursuant to either State statutes or charter or ordinances adopted under either thereof in his discretion may provide that CUSIP identification numbers shall be imprinted on such bonds. In the event such numbers are imprinted on any such bonds (i) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted and (ii) no liability shall attach to the county, such district or any officer or agent of either 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 county, such district, any such officer or any such agent, or by reason of inaccuracy, error or omission with respect thereto or in such use. Unless the governing body shall otherwise direct, the director of finance in his discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association."

**SECTION 4.** Part I of Chapter 47, Hawaii Revised Statutes, is hereby amended by adding a new section to be designated and to read as follows:

**"Sec. 47- CUSIP Numbers.** Unless the governing body shall otherwise direct, the director of finance of the county in his discretion may provide that CUSIP identification numbers shall be imprinted on bonds issued under the authority of this chapter. In the event such numbers are imprinted on any such bonds (i) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted and (ii) no liability shall attach to the county 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 county, any such officer or any such agent, or by reason of any

inaccuracy, error or omission with respect thereto or in such use. Unless the governing body shall otherwise direct, the director of finance in his discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association."

SECTION 5. Chapter 49, Hawaii Revised Statutes, is hereby amended by adding a new section to be designated and to read as follows:

**"Sec. 49- CUSIP Numbers.** The governing body of a municipality issuing bonds pursuant to this chapter in its discretion may provide that CUSIP identification numbers shall be imprinted on such bonds. In the event such numbers are imprinted on any such bonds (i) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted and (ii) no liability shall attach to the municipality 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 municipality, any such officer or any such agent, or by reason of any inaccuracy, error or omission with respect thereto or in such use. The governing body in its discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association."

SECTION 6. Chapter 306, Hawaii Revised Statutes, is hereby amended by adding a new section to be designated, numbered and to read as follows:

**"Sec. 306-4.1 CUSIP Numbers.** The board of regents in its discretion may provide that CUSIP identification numbers shall be imprinted on revenue bonds issued under this chapter. In the event such numbers are imprinted on any such bonds (i) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted and (ii) no liability shall attach to the board of regents or any officer or agent thereof or the State or any officer 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 board of regents, the State, any such officer or any such agent, or by reason of any inaccuracy, error or omission with respect thereto or in such use. The board of regents in its discretion may require that all cost of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this section, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association."

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SECTION 7. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved May 31, 1974.)

## **ACT 110**

H.B. NO. 2872-74

A Bill for an Act Relating to Credit Card Offenses.

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

SECTION 1. Section 751-4, Hawaii Revised Statutes, is amended to read as follows:

**"Section 751-4 Fraudulent use of credit cards, etc., penalties.** A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, (1) uses for the purpose of obtaining money, goods, services, or anything else of value a credit card obtained or retained in violation of section 751-3 or a credit card which he knows is forged, expired, or revoked; or (2) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, violates this section and is subject to the penalties set forth in subsection 751-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 751-10(b), if such value exceeds \$100 in any six-month period.

Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail."

SECTION 2. Section 751-5, Hawaii Revised Statutes, is amended to read as follows:

**"Section 751-5 Fraud by person authorized to provide goods or services; penalties.** (a) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card

\*Edited accordingly.

obtained or retained in violation of section 751-3 or a credit card which he knows is forged, expired, or revoked violates this subsection and is subject to the penalties set forth in subsection 751-10(a), if the value of all money, goods, services, and other things of value furnished in violation of this subsection does not exceed \$100 in any six month period; and is subject to the penalties set forth in subsection 751-10(b), if such value exceeds \$100 in any six-month period.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished violates this subsection and is subject to the penalties set forth in subsection 751-10(a), if the difference between the value of all money, goods, services, and anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 751-10(b), if such difference exceeds \$100 in any six-month period."

SECTION 3. Section 751-7, Hawaii Revised Statutes, is amended to read as follows:

**"Section 751-7 Receipt of money, goods, services, or anything else of value obtained in violation of section 751-4; penalties.** A person who receives money, goods, services, or anything else of value obtained in violation of section 751-4, knowing or believing that it was so obtained violates this section and is subject to the penalties set forth in subsection 751-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$100 in any six-month period; and is subject to the penalties set forth in subsection 751-10(b), if the value exceeds \$100 in any six-month period. If a person possesses three or more tickets for airline, railroad, steamship or other transportation services, which tickets were obtained from the issuer or agent thereof by the use of a stolen or forged credit card, or otherwise obtained in violation of section 751-4, it is *prima facie* evidence that he knew such tickets had been so obtained."

SECTION 4. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

\*Edited accordingly.

## ACT 111

ACT 111

H.B. NO. 2979-74

A Bill for an Act Relating to Immediate Notice of Accident.

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

SECTION 1. Section 291C-16a, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 291C-16a Immediate notice of accident.** (a) The driver of a vehicle involved in an accident resulting in injury or death of any person or total damage to all property to an apparent extent of \$300 or more shall immediately by the quickest means of communication give notice of the accident to the nearest police office."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

ACT 112

H.B. NO. 2589-74

A Bill for an Act Relating to Contractors.

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

SECTION 1. Chapter 444, Hawaii Revised Statutes, is amended as follows:

1. Three new sections are added to be appropriately designated and to read:

**"Sec. 444- Issuance of building permits.** Each county or other local subdivision of the State which requires the issuance of a permit as a condition precedent to the construction, alteration, improvement, demolition, or repair of any building or structure shall also require that each applicant for such a permit file as a condition to the issuance of a permit a statement that the applicant is licensed under this chapter, giving the number of the license and stating that it is in full force and effect, or, if the applicant is exempt from this chapter, the basis for the claimed exemption.

**Sec. 444- Advertising.** It is a misdemeanor for any person, including a person who is exempt by section 444-2 from this chapter, to advertise as a contractor unless such person holds a valid license under this chapter in the classification so advertised. "Advertise" as used in this section includes, but is not limited to, the issuance of any card, sign, or device to any person, the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine, or in any directory

\*Edited accordingly.

under a listing of contractor, or broadcasting by airwave transmission, with or without any limiting qualifications.

**Sec. 444- Aiding or abetting.** Aiding or abetting an unlicensed person to evade this chapter or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner or associate, or otherwise, of an unlicensed person, with the intent to evade this chapter, shall be a misdemeanor."

2. Section 444-1 is amended to read:

**"Sec. 444-1 Definitions.** As used in this chapter:

- (1) "Board" means the contractors license board;
- (2) "Contractor" means any person who by himself or through others offers to undertake, or holds himself out as being able to undertake, or does undertake to alter, add to, subtract from, improve, enhance, or beautify any realty or construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith;
- (3) "Contractor" includes a subcontractor and a specialty contractor;
- (4) "Person" means an individual, partnership, joint venture, corporation, or any combination thereof. "Corporation" includes an association, business trust or any organized trust or any organized group of persons;
- (5) "RME" means responsible managing employee;
- (6) "Sale" means any arrangement between two or more persons as a result of which there is, or is to be, a transfer of property for a consideration."

3. Section 444-2 is amended to read:

**"Sec. 444-2 Exemptions.** This chapter shall not apply to:

- (1) An officer or employee of the United States, the State, or any political subdivision if the project or operation is performed by employees thereof;
- (2) Any person acting as a receiver, trustee in bankruptcy, administrator or executor, or any other person acting under any order or authorization of any court;
- (3) A person who sells or installs any finished products, materials, or articles or merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, or to the construction, alteration, improvement, or repair of personal property;
- (4) Any project or operation for which the aggregate contract price for labor, materials, and all other items is less than \$100. This exemption shall not apply in any case wherein the undertaking is only a part of a larger or major project or operation, whether undertaken by the same or a different contractor or in which a division of the project or operation is made in contracts of amounts less than \$100 for the purpose of evading this chapter or otherwise;

## ACT 112

- (5) A registered architect or professional engineer acting solely in his professional capacity;
- (6) Any person who engages in the activities herein regulated as an employee with wages as his sole compensation;
- (7) Any person who undertakes by himself or through his employees any operation for himself or his parents or children which is not constructed or improved solely for immediate sale at a profit. The requirements of this paragraph are met if the owner, parents or children occupy any portion of the building, or if the sale of the property, unless otherwise permitted by law, is initiated after the date of completion of the improvements as defined in section 507-43; and
- (8) Owners or lessees of property who build or improve residential, farm, industrial or commercial buildings or structures on such property for their own use and do not offer them for sale or lease. In all actions brought under this paragraph, proof of the sale or lease, or offering for sale or lease, of such structure within one year after completion is "prima facie" evidence that the construction or improvement of such structure was undertaken for the purpose of sale or lease; provided, however, that this shall not apply to residential properties sold or leased to employees of the owner or lessee;
- (9) Any copartnership or joint venture if all members thereof hold licenses issued under this chapter."

4. Section 444-5 is amended to read as follows:

**"Sec. 444-5 Executive secretary; other assistants.** (a) Subject to chapters 76 and 77 the department of regulatory agencies may employ and remove such administrative and clerical assistants as the contractors license board may require and prescribe their powers and duties;

- (b) (1) The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77. The executive secretary shall be employed with due regard to his fitness, thorough administrative ability and knowledge of and experience in the business of contracting. He shall devote his entire time to the duties of his office and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall he have any pecuniary interest, direct or indirect, in any contracting enterprise or enterprises conducted or carried on within the State;
- (2) The executive secretary shall, under the supervision of the board, administer this chapter and the rules and regulations and orders established thereunder and perform such other duties as the board may require, he shall attend but not vote at all meetings of the board; he shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to contracting;
- (3) The board may, by written order filed in its office, delegate to the executive secretary such of its powers or duties as it deems reasonable and proper for the effective administration of this chapter,

except the power to make rules or regulations. The delegated powers and duties may be exercised by the executive secretary in the name of the board.

(c) The department may appoint an investigator who shall be exempt from the provisions of chapter 76 and who shall act as investigator for the contractors license board."

**SECTION 2.** 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 material, or the underscoring.\*

**SECTION 3.** This Act shall take effect on July 1, 1974.

(Approved May 31, 1974.)

**ACT 113**

H.B. NO. 2682-74

A Bill for an Act Relating to Mechanic's and Materialman's Lien.

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

**SECTION 1.** The purpose of this bill is to limit the lien right of a materialman for the furnishing of materials for an improvement. These cases generally involve claims between two innocent persons (owners vs suppliers) because of their dealings with a third person (contractor) who acted fraudulently or became insolvent. Under the existing system the law protects the supplier and penalizes the owner. The law, instead, should protect the owner as it does a bona fide purchaser or a holder in due course in sales and security cases. Generally speaking, the supplier should seek his remedy from the wrongdoer. The supplier is better able to fend for himself. With the expertise available to a supplier, he can better ascertain the character, ability and credit of the contractor.

**SECTION 2.** Chapter 507, Hawaii Revised Statutes, is amended by adding a new section thereto as follows:

**"Section 507-49† Exceptions.** (a) Anything contained in this part to the contrary notwithstanding, in connection with any repairs or improvements made or performed on property which before the repairs or improvements was used primarily for dwelling purposes, no lien shall exist either for the furnishing of materials to a general contractor as defined in this chapter or his subcontractor either of whom was not licensed pursuant to chapter 444 or if unreasonable advancement of credit was given by the furnisher of materials to the general contractor or subcontractor whether such person is licensed, unlicensed or exempted under chapter 444.

The issue of reasonable advancement of credit shall be decided by the circuit judge at the return day hearing provided for in Section 507-43(c); pro-

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\*Edited accordingly.

†Enacted as §507-48; renumbered by revisor as §507-49, former number currently in use.

## ACT 113

vided, however, that if a party affected by the lien does not appear at said return day hearing, he may raise the issue of unreasonable advancement of credit at any time prior to the entry of a final or interlocutory decree of foreclosure in the proceeding brought to enforce the lien under Section 507-47. For the purposes of this section, if the furnisher of materials has secured a credit application form from the general contractor or the subcontractor to whom the materials were furnished or has reasonably inquired into the credit status of said general contractor or subcontractor, the advancement of credit by the furnisher of materials shall be *prima facie* reasonable.

The credit application referred to herein shall be current and updated every three months and shall include at least the following information:

A. For all persons:

1. Name
2. Address
3. Type of business (Example—plumbing subcontractor)
4. Date business started
5. Contractor's License Number
6. Bonding companies generally used
7. Banks used
8. List of current creditors
9. Balance sheet
10. Total of all outstanding construction contracts \$\_\_\_\_\_
11. Incompleted portion of all contracts \$\_\_\_\_\_

B. In addition, for corporate accounts:

1. Names of officers
2. Authorized capital
3. Paid in capital

C. In addition, for noncorporate accounts:

1. Names of partners, co-venturers, etc.

(b) Anything contained in this chapter to the contrary notwithstanding, no general contractor as defined in this chapter or his subcontractor or the subcontractor's subcontractor shall have lien rights unless such contractor was licensed pursuant to chapter 444 when the improvements to the real property were made or performed, and no subcontractor or sub-subcontractor so licensed shall have lien rights if his work was subcontracted to him by a general contractor as defined in this chapter or his subcontractor who was not licensed pursuant to chapter 444."

SECTION 3. Section 507-43, Hawaii Revised Statutes, is amended to read:

**"507-43 Filing notice, contents.** (a) Requirements. Any person claiming a lien shall apply therefor in a special proceeding to the circuit court of the circuit where the property is situated. Such application for a lien shall be by a written notice of lien setting forth the alleged facts by virtue of which the person claims a lien. A copy of the notice shall be served in the manner prescribed by law for service of summons upon the owner of the property and any person with an interest therein and upon the party or parties who contracted for the improvements if other than the owner of the property or any person with an

interest therein. If any person entitled to notice cannot be served as herein provided, notice may be given the person by posting the same on the improvement. The notice shall set forth the amount of the claim, the labor or material furnished, a description of the property sufficient to identify the same, and any other matter necessary to a clear understanding of the claim. If the claim has been assigned, the name of the assignor shall be stated. The notice shall specify the names of the parties who contracted for the improvement, the name of the general contractor and the names of the owners of the property and any person with an interest therein. The notice may (but need not) specify the names of the mortgagees or other encumbrancers of the property, if any, and the name of the surety of the general contractor, if any.

The notice shall be returnable not less than three nor more than ten days after service. On the return day, a hearing shall be held by the court to determine whether probable cause exists to permit the lien to attach to the property. The lien shall not attach to the property until the court finds probable cause exists and so orders. No such order shall be entered before notice has been served on the party contracting for the improvement, the general contractor and the owner of the property, and they were given an opportunity to appear at the hearing.

(b) Time for filing; action to vacate. The notice shall be filed not later than forty-five days after the date of completion of the improvement against which it is filed. Where title to the property involved, or any portion thereof, is registered in the land court it shall be incumbent upon the lienor prior to the lapse of the forty-five days to file a certified copy of the notice in the office of the assistant registrar of the land court in order to preserve his rights against subsequent encumbrancers and purchasers of the property. Any person affected by a notice of lien deemed by him to be improper may, prior to the cancellation thereof or the filing of proceedings to enforce the same, file a suit to vacate the notice, and in any such suit the court may award an attorney's fees to the prevailing party.

(c) Joint owner. If the fee title to the land involved is held in joint or common ownership or as an estate by the entirety, service upon one of the owners of a notice of lien in accordance with this section shall be deemed service upon all of the owners. Likewise, if the parties who contracted for the improvement, if other than the owner of fee title to the property involved, hold their interest in the premises in joint or common ownership, or as an estate by the entirety, service upon one of the parties of a notice of lien in accordance with this section shall be deemed service upon all of the parties.

(d) Owner acting through attorney-in-fact. In cases where materials have been furnished or labor was performed at the request, or upon the order, of a person acting under a duly executed and acknowledged power of attorney from the owner and (1) the power of attorney has not been revoked, or (2) the power of attorney has been revoked subsequent to the furnishing of materials and labor upon request or order and the owner cannot be found within the State, service of a notice of lien upon the person acting under the power of attorney shall be deemed service of the notice upon the owner.

(e) Duration of lien. The lien shall expire three months after the date of

## ACT 114

completion of the improvement unless proceedings are commenced within that time to collect the amount due thereon by enforcing the same.

(f) Date of completion, notice of. The term "date of completion" as used in this section means the time when the owner or the general contractor for the improvement completes the publication of a notice that the improvement has been completed or has been abandoned and an affidavit of the publication, together with a copy of the notice has been filed in the office of the clerk of the circuit court where the property involved is situated; provided, that notice of completion shall not be effective for any purpose unless prior to the notice there has been substantial completion of the improvement or the improvement has been actually abandoned; and provided further, that the notice shall not be published by the contractor until after the contractor has first made written demand upon the owner to publish the notice and the owner has failed to publish the notice within five days from the date of the demand. The publication of the notice by the contractor or the owner shall not be construed as an admission by either that the improvement has been satisfactorily completed. The notice required herein shall be published twice, seven days apart, in a newspaper of general circulation, printed and published in the county in which the property involved is situated, and the publishing newspaper shall promptly file the affidavit of publication above mentioned in the office of the clerk.

(g) Failure to file or publish notice. If a valid notice of completion is not published and filed within one year after the actual completion or abandonment of the improvement the "date of completion" shall be deemed to be one year after actual completion or abandonment."

SECTION 4. 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 material, or the underscoring.\*

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

(Approved May 31, 1974.)

## ACT 114

S.B. NO. 1789-74

A Bill for an Act Relating to District Court Judges.

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

SECTION 1. Section 604-1, Hawaii Revised Statutes, is amended to read as follows:

**"§604-1 Judicial circuits; district judges; sessions.** There shall be established in each of the judicial circuits of the State of Hawaii a district court with the powers and under the conditions herein set forth, which shall be styled as follows:

(1) For the First Judicial Circuit: The District Court of the First Circuit.

\*Edited accordingly.

- (2) For the Second Judicial Circuit: The District Court of the Second Circuit.
- (3) For the Third Judicial Circuit: The District Court of the Third Circuit.
- (4) For the Fifth Judicial Circuit: The District Court of the Fifth Circuit.

There shall be appointed one or more district judges for each judicial circuit. The district court of the first circuit shall consist of eleven judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh judge, respectively. The district court of the second circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the third circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the fifth circuit shall consist of one judge. The chief justice may designate a judge in each circuit as the administrative judge for the circuit.

The chief justice may appoint per diem district judges as may be necessary. Such judges shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a district court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days.

The district courts shall hold sessions at such places in their respective circuits and as often as the respective district judges deem essential to the promotion of justice."

**SECTION 2.** 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 material or the underscoring.\*

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

(Approved May 31, 1974.)

## ACT 115

S.B. NO. 1266

A Bill for an Act Relating to Classification and Compensation.

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

**SECTION 1.** Section 326-21, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 326-21 Labor of patients by consent.** The department of health, with the consent of patients, may require the performance of a reasonable amount of labor or service as may be approved by the attending physician. For service rendered, the compensation of a patient shall be set by the department as a percentage of the minimum wage as established by section

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\*Edited accordingly.

## **ACT 115**

387-2. The department shall establish a patient pay plan for six grades of work. The pay for grade I employees shall be equal to fifty-three per cent of the minimum wage as established by section 387-2. The pay for grade VI employees shall be seventy and one-half per cent of the minimum wage as established by section 387-2. There shall be a spread of three and one-half per cent between each of the grades from one to six. The department of health shall set the pay for any other patient employee not covered under the foregoing six grade pay plan.

Each patient employee of the department shall be entitled to and granted a vacation with pay each calendar year, calculated at the following rate:

For patients working six hours a day, one and one-half days for each month of service;

For patients working five hours a day, one and one-quarter days for each month of service;

For patients working four hours a day, one day for each month of service.

A month of service is defined as eighty or more hours of work which may be accumulated over any period of time to total eighty hours. No more than twelve months of service may be earned and credited in any calendar year, even if the total number of hours worked should exceed nine hundred sixty hours."

SECTION 2. Section 326-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 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 leprosy, 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 leprosy, 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 3. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

**ACT 116**

S.B. NO. 1450-74

A Bill for an Act Relating to the Staff of Hawaii Public Employment Relations Board.

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

SECTION 1. All clerical and stenographic employees of the Hawaii public employment relations board appointed pursuant to section 89-5(a) up to the effective date of this Act shall become civil service employees without loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges and without the necessity of examination.

SECTION 2. The fifth paragraph of section 89-5(a) is amended to read as follows:

"The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and employees other than clerical and stenographic employees shall be exempt from chapters 76 and 77. Clerical and stenographic employees shall be appointed in accordance with chapter 76 and 77.

SECTION 3. 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 material or the underscoring.\*

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

(Approved June 3, 1974.)

**ACT 117**

H.B. NO. 41

A Bill for an Act Relating to Consumer Complaints.

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

SECTION 1. The purpose of this Act is to provide relief upon consumer complaints against those licensed or regulated by State and county boards.

SECTION 2. Part II of Chapter 92, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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\*Edited accordingly.

## ACT 118

**"Sec. 92- Consumer complaints; procedures and remedies.** (a) All boards established to license or regulate any profession, occupation, industry, or service, shall receive complaints from consumers and other persons claiming to be aggrieved by business practices related to their respective jurisdictions.

(b) Upon receipt of a written complaint which establishes an alleged violation of any provision of law or rule that is within its jurisdiction, the board shall notify the licensee or person regulated of the charge against him and conduct a hearing in conformity with chapter 91 if the matter cannot be settled informally after investigation. If the board finds that the charge constitutes a violation, but it is determined that the seriousness thereof does not warrant a suspension or revocation of the license or permit, the board may order appropriate relief from the licensee for the complainant, including but not limited to, refunding of money paid as fees for services, correcting the work done in providing services to the satisfaction of the complainant, or any other appropriate means to secure relief for the complainant as determined by the board.

(c) For refusal on the part of the licensee or person regulated to provide the relief which it has ordered as appropriate to the complainant, the board may apply judicially for injunctive relief, provided that the remedy at law is otherwise inadequate, and such refusal shall also constitute grounds for the suspension or revocation of the license or permit, subject to rules established by the board. Where appropriate, the board shall refer for prosecution to the proper authority any practice constituting a violation which is subject to criminal penalty.

(e) If the subject matter of the complaint does not come within its jurisdiction, or if it is found that the charge does not constitute a violation, the board shall notify and inform the complainant in writing with regard to the reasons for its inability to act upon the complaint.

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

(Approved June 3, 1974.)

## ACT 118

H.B. NO. 89

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

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

SECTION 1. Chapter 88, Hawaii Revised Statutes, is amended in the following respects:

1. By amending section 88-1 to read as follows:

**"Sec. 88-1 Restrictions.** The provisions of this section shall be applicable to every pension and to every recipient or beneficiary thereof, granted or provided for by any special act of the Legislature (other than benefits, or the recipients thereof, payable to beneficiaries or retirants of the employees' retirement system under Part II) whether the pension be payable by the

State or by any county, or by any board, commission, bureau, department, or other agency thereof:

- (1) No recipient or beneficiary shall be permitted to draw any pension, or any portion thereof, in excess of \$50 per month, while he is holding any salaried position or office in, under or by authority of the United States, the State, or any political subdivision thereof. This paragraph shall not apply to any recipient or beneficiary who is elected to the Legislature or to the council of any county.
- (2) If the recipient or beneficiary is a surviving spouse, the pension so granted shall cease when the surviving spouse remarries.
- (3) Any pension payable to any minor shall cease when the minor reaches the age of eighteen years.
- (4) If any recipient or beneficiary of a pension, having a spouse at the time the pension was first granted to the recipient or beneficiary dies, then the spouse, as long as the spouse remains unmarried, shall be paid sixty per cent of the amount of the pension payable to the beneficiary."

2. By amending section 88-85 to read as follows:

**"Sec. 88-85 Accidental death benefit.** Upon the receipt of proper proofs of a member's death by the board of trustees, there shall be paid to the member's designated beneficiary or to his estate the amount of his accumulated contributions and if, upon the receipt of evidence or proofs that the death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, the board shall decide that the death was the result of an accident in the performance of duty and not caused by negligence on the part of the member, there shall be paid in lieu of the ordinary death benefits provided by the contributions of the State or county, a pension of one-half of the average final compensation of the member:

- (1) to the surviving spouse of the member to continue until the surviving spouse remarries; or
- (2) if there be no surviving spouse, or if the surviving spouse dies or remarries before any child of the deceased member shall have attained the age of eighteen years, then to his child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension of one-half his final compensation until every child dies, or attains such age; or
- (3) if there is no surviving spouse or child under the age of eighteen years surviving the deceased member, then to his dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board, or if there is no such nomination, then to his dependent father or to his dependent mother as the board, in its discretion, shall direct to continue for life."

3. By amending section 88-189 to read as follows:

**"Sec. 88-189 Widow's and Widower's pensions.** The widow and widower of any deceased man or woman, who have been previously granted or are

## **ACT 119**

found subsequent to his or her death to have been entitled to a pension under this part, or to have had ten or more years of service although he or she had not reached the age of sixty years, shall be eligible for a pension equal to the same amount, including all the bonuses provided in section 88-11, and all other benefits, that the said deceased was receiving or entitled to receive at the time of his or her death, and all future benefits deriving thereto, so long as the widow or widower remains unmarried."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

## **ACT 119**

H.B. NO. 563

A Bill for an Act Relating to House Parents at the Hawaii School for the Deaf and the Blind.

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

SECTION 1. Chapter 297, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 297- House Parents; Hawaii School for the Deaf and the Blind.** All House Parents at the Hawaii School for the Deaf and the Blind employed in the department of education shall be employed under chapter 76 and shall have their compensation fixed in accordance with chapter 77, and the monthly rates of basic compensation so determined shall be payable for employment over a twelve-month period. All House Parents shall be employed for twelve months on a full-time basis."

SECTION 2. All House Parents at the Hawaii School for the Deaf and the Blind, employed by the department of education on the effective date of this Act, shall be converted to a twelve-month work period without loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege.

SECTION 3. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

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\*Edited accordingly.

## ACT 120

H.B. NO. 719

A Bill for an Act Relating to Unfair Business Practices.

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

SECTION 1. Chapter 487, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"487- Penalties for unlicensed acts.** (a) Any person who furnishes commodities or services for which a license is required from the department of regulatory agencies or any board or commission thereunder without having such license is engaged in an unlawful act or practice and shall be subject to the penalty provided in (b).

(b) Any person who engages in an unlawful act or practice as provided in (a) shall be fined by a sum not less than \$500 nor more than \$2,500 for each unlawful act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection.

(c) Any contract for the furnishing of commodities by an unlicensed person shall be void and shall prevent such person from recovering the contract price or the reasonable value thereof."

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

(Approved June 3, 1974.)

## ACT 121

H.B. NO. 865

A Bill for an Act Relating to Computation of Service.

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

SECTION 1. Section 88-191, Hawaii Revised Statutes is amended to read as follows:

**"Section 88-191. Computation of service.** Whenever the term of ten years is mentioned in this part, each year of the ten years shall be computed by adding together the months of service (including portions of any month, where the full month has not been served, as a full month), and dividing the months by twelve.

"Service' means service in any county and where the proposed pensioner has service in any other county than the one by which it is proposed that he be pensioned, his service in the other county shall be added to his service in the pensioning county in order to determine his eligibility for or the amount of pension, provided his service in the police department under the sheriff, prior to the creation of the government of the city and county of Honolulu in 1905, shall be included."

SECTION 2. 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 material, and the underscoring.\*

\*Edited accordingly.

## ACT 122

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

(Approved June 3, 1974.)

## ACT 122

H.B. NO. 1291

A Bill for an Act Relating to Certain Positions in the Department of Planning and Economic Development.

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

SECTION 1. This Act shall relate only to those exempt employees employed by the State in the Department of Planning and Economic Development under provisions of Act 198, SLH 1967.

SECTION 2. Permanent employees currently not in civil service who are employed as assistant administrator, communications specialist, international trade specialist, stenographer III, stenographer II, and typist II by the State to operate and maintain the Hawaii International Services Agency program in the Department of Planning and Economic Development shall be converted to permanent civil service status within the meaning of chapters 76 and 77 without the necessity of examination and shall be accorded all the rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded employees with civil service status. Employees so converted shall not suffer a reduction in their pay rate.

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

(Approved June 3, 1974.)

## ACT 123

H.B. NO. 1447

A Bill for an Act Relating to Urban Renewal Law.

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

SECTION 1. The introductory defining clause of Section 53-1, Hawaii Revised Statutes, is hereby amended to read as follows:

**“§53-1. Definitions.** The following terms wherever used or referred to in part I, part II and, unless specifically indicated otherwise therein, part III of this chapter have the following respective meanings, unless a different meaning clearly appears from the context:”.

SECTION 2. Chapter 53 of the Hawaii Revised Statutes is hereby amended by adding a new part to be appropriately numbered and to read as follows:

### **“PART . EXERCISE OF URBAN RENEWAL POWERS BY A COUNTY DIRECTLY.”**

**“Sec. -1. County May Exercise Urban Renewal Powers Directly.** As an alternative to either the creation under section 53-2 of an agency in a

county or the continued existence of an agency theretofore created in the county under said section, a county, rather than through such agency, may directly exercise as provided in this part the powers conferred upon an agency by parts I and II of this chapter. In the event that an agency does not then exist in the county, the determination by a county to exercise such powers directly rather than through such an agency shall be made by ordinance of the board. In the event that an agency does then exist in the county, the charter of the county shall provide for the abolition of the agency and for the transfer of the powers, duties and functions of the agency to an officer or department of the county, and the agency shall stand abolished as provided in the charter. Upon such determination or abolition, as the case may be, the county shall then possess all powers granted to a county by this part.

**"Sec. -2. Abolition of Existing Agency.** In the event of the abolition of an agency in the county, the county upon such abolition shall succeed to all the powers, rights, duties, functions, funds, properties and obligations of the agency. However, as to any obligations of the agency existing at the time of the abolition, the county shall not incur any greater liability than that of the agency at the time of such abolition. The county shall not be liable for such obligations out of any funds or properties of the county other than those funds and properties which would have been required to be applied to the satisfaction of such obligations had such abolition not occurred.

If any of the obligations of the agency constitute bonds or other indebtedness of the agency, the county shall carry out and perform all promises, covenants, contracts and agreements of the agency contained in such bonds or other indebtedness or in the resolution, trust agreement, mortgage or other proceeding or instrument providing for the issuance, payment and security of such bonds or other indebtedness, and shall maintain such funds and accounts as are required for such purpose or as are required by such bonds, other indebtedness, resolution, trust agreement, mortgage, proceeding or instrument. The provisions of the last paragraph or section -5 of this part shall be applicable to such bonds or other indebtedness.

**"Sec. -3. Powers of county.** Any county which pursuant to section -1 of this part shall directly rather than through an agency exercise the powers conferred upon an agency by parts I and II of this chapter shall have all powers granted to an agency under such parts, and the provisions of such parts shall be applicable to the county in the exercise of such powers as though the county constituted an agency thereunder. However, the preceding provisions of this paragraph shall be subject to the following:

"(a) The county shall exercise such powers in its own name and shall not be required to use the words 'redevelopment agency' in such exercise.

"(b) The provisions of section 53-2, being inappropriate where the county directly carries out the purposes of this chapter, shall not be applicable.

"(c) The provisions of section 53-3 shall apply to the members of the board and to the elected and appointed officials and the employees of the county administering or performing the functions of the county under this part or responsible for such administration or performance.

“(d) The provisions of section 53-4 shall not be applicable to the county. In lieu thereof removal of members of the board and of the elected and appointed officials and the employees of the county administering or performing any of the functions of the county under this part shall be as provided in the charter of the county or in other laws.

“(e) The provisions of paragraph (3) of section 53-5 shall not apply to the county. In lieu thereof the county shall appoint such personnel as provided by or in accordance with the charter of the county or other laws.

“(f) The words ‘redevelopment agency’ and ‘agency’ where used in the first and second paragraphs and the first sentence of the third paragraph of section 53-6 shall mean the officer or department of the county to which or whom is assigned the performance of the duties and functions of the county under this part, and amendments made pursuant to said section by the board to a redevelopment plan shall not be required to be approved by such officer or department.

“(g) The provisions of the third, fifth and seventh paragraphs of section 53-8, being inappropriate to the carrying out by the county directly of the purposes of this chapter, shall not be applicable.

“(h) The county shall possess all powers granted by section 53-11 to an instrumentality of the government with the same force and effect as though the county were not directly performing the functions of an agency under this chapter.

“(i) The bonds referred to in paragraph (5) of section 53-11 shall include bonds issued by the county to carry out the purposes of this chapter.

“(j) Any lease proposed to be entered into under the provisions of section 53-12 which has been authorized by the board need not thereafter be submitted to the board for its approval or disapproval.

“(k) The provisions of section 53-14 shall be inapplicable. The county may provide for payments to the county in lieu of taxes or for the supplying by the county of governmental services.

“(l) Borrowings by the county pursuant to section 53-15 and the issuance by the county of bonds pursuant to section 53-16 shall be subject to the provisions of the next section of this part.

“(m) The provisions of section 53-18 shall not be applicable. In lieu thereof any funds of the county arising out of the exercise of its functions under this part shall be invested in accordance with the provisions of law applicable to the investment of other moneys of the county.

“(n) The provisions of section 53-19 shall not be applicable. In lieu thereof the county shall include in its annual financial report a report of its receipts, expenditures and activities under this chapter for the year to which such annual report pertains, and shall include in its annual budget or budgets its proposed program under this chapter and the estimated cost thereof for the year to which such budget or budgets pertain.

“(o) The approval by the board of any plan or project authorized in section 53-20 shall not require any concurrency, including by the officer or department administering or performing the functions of the county under this part.

"(p) The provisions of paragraph (b) of section 53-22 shall be inapplicable; provided that nothing in this subparagraph shall be deemed to prohibit the county from advancing for the purposes of this part moneys other than redevelopment moneys or funds, or from reimbursing itself from redevelopment moneys or funds so advanced, or from issuing its bonds as provided in this part.

"(q) The words 'the agency, the county' where used in the second sentence of section 53-53 shall mean and refer to the county.

"(r) The second sentence of section 53-54 shall be construed as meaning that the county may delegate to any other public body any of the powers or functions of the county with respect to the planning or undertaking of an urban renewal project in the area in which such public body is authorized to act, and such other public body may carry out or perform such powers or functions for the county.

**"Sec. -4. Incurring of Indebtedness by the County.** For the purpose of carrying out its powers, duties and functions under this part, including for the payment of principal and interest upon any advances for moneys and plans for redevelopment projects, the county may:

"(a) borrow and apply for and accept advances and loans; provided that unless the obligation of the county to repay such advances or satisfy such loans is limited to the revenues derived by the county from an undertaking as defined in section -5 of this part, the incurring by the county of any such indebtedness shall be carried out under and pursuant to the provisions of chapter 47 hereof;

"(b) issue its bonds under and pursuant to the provisions of chapter 47 hereof, including, without limiting the foregoing, for the refunding of bonds issued by an agency of the county abolished as provided in section -1 of this part and the refunding of bonds issued by the county under the next following subparagraph; and

"(c) issue its bonds under and pursuant to the provisions of section 53-16, all of the provisions of which shall be applicable to such bonds and to the county in the issuance thereof except as follows:

"(i) such bonds shall be issued only for the purpose of carrying out the powers, duties and functions of the county under this part, including, without limiting the foregoing, the refunding of bonds issued by the county under this subparagraph (c) or the preceding subparagraphs (a) and (b) of this section or the refunding of bonds issued by an agency of the county abolished as provided in section -1 of this part;

"(ii) the principal of and interest on such bonds shall be payable and secured solely as provided in subparagraphs (1) and (2) of paragraph (a) of section 53-16, and in no event shall be payable from the general fund of the county or from taxes or from any other funds or properties of the county other than those referred to in said paragraphs (1) and (2), nor shall such bonds be secured by the full faith and credit of the county or the general fund or the taxing power of the county;

## ACT 123

- “(iii) neither the board nor any officer or employee of the county nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof;
- “(iv) the bonds shall be limited obligations of the county payable and secured solely as provided in item (ii) above of this subparagraph and shall so state on their face;
- “(v) the words ‘members’ or ‘officers’ where used in paragraph (e) of section 53-16 shall mean members of the board and officers of the county; and
- “(vi) the words ‘rents’, ‘fees’ and ‘revenues’ where used in paragraph (g) of section 53-16 shall mean and include only those rents, fees and revenues derived by the county from its activities under this part; the words ‘real and personal property’ and ‘property’ where used in said paragraph shall mean only the real and personal property held by the county for the purposes of this chapter and shall not include real and personal property held for other public uses and purposes, such as streets, parks, public buildings, publicly-owned utilities and the like; and the word ‘bonds’ where used in said paragraph shall mean bonds of the county issued under said section as incorporated into this part and the bonds of any agency of the county abolished as provided in section -1 of this part.

**“Sec. -5. Projects to constitute ‘undertakings’; revenues to include certain federal moneys; imposition of rates and charges.** In the event of the exercise by a county of the powers granted in this part, each redevelopment project of the county, two or more redevelopment projects of the county if administered as a single project, or all of the redevelopment projects of the county if administered as an entity, shall constitute an undertaking of the county. For all purposes of this part and of chapters 47 and 47C, the term ‘revenues’ shall mean the moneys derived from the rates and charges imposed for the use and services of the undertaking or otherwise derived by the county from its ownership or operation of the undertaking, exclusive of taxes and payments made to the county for services separate and apart from this chapter but inclusive of amounts paid by the federal government for payment, or reimbursement of payment by the county, of costs of operation, maintenance and repair of an undertaking, for payment, or reimbursement of payment by the county, of principal of or interest on bonds issued for an undertaking, or for any other purpose connected with an undertaking.

“Whenever and for so long as there shall be outstanding bonds issued by the county under section 53-16 as incorporated in this part or issued under said section by an agency of the county abolished as provided in this part, the county shall impose rates and charges for the use and services of the undertaking, from the revenues derived from which such bonds are payable or for which such bonds were issued, sufficient to pay the costs of operation, maintenance and repair of the undertaking and to pay the principal of and interest on such bonds. The county shall deposit such revenues in a special fund and apply the same to such payments in the amount necessary therefor.”

SECTION 3. The provisions of any charter of a county heretofore approved by the voters of such county which provide for the transfer to an officer or department of such county of the powers, duties and functions of the redevelopment agency of the county and the abolition of such agency are hereby ratified, validated, confirmed and approved. Upon such transfer and the abolition of such redevelopment agency, the county shall have all the powers, functions and duties granted to counties by the provisions added to the Hawaii Revised Statutes by this Act and such provisions shall be applicable to such county.

SECTION 4. The Revisor of Statutes shall appropriately number or renumber the sections added to the Hawaii Revised Statutes by this part. In doing so the Revisor of Statutes shall appropriately renumber the cross-references to such sections contained in such sections as set forth in this Act.

SECTION 5. If any of the provisions of the sections added to the Hawaii Revised Statutes by this Act, or the applicability thereof to any person or in any circumstance, is held invalid, the invalidity does not affect other provisions or other applications which can be given effect without the invalid provision or application, and to this end the provisions of such sections are severable.

SECTION 6. This Act and the sections added to the Hawaii Revised Statutes by this Act shall be liberally construed to effect the purposes of this Act and such sections.

SECTION 7. New material is underscored. In printing this Act, the Revisor of Statutes need not include the underscoring.\*

SECTION 8. This Act shall take effect on January 1, 1975.

(Approved June 3, 1974.)

ACT 124

H.B. NO. 867

A Bill for an Act Relating to Leaves of Absence.

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

SECTION 1. Section 79-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 79-12 Rules and regulations.** The head of a department shall be required to provide all officers and employees under his supervision with an annual statement showing their accumulated annual leave and sick leave. The director of personnel services of the State and the respective directors of personnel services for each of the political subdivisions of the State shall promulgate rules and regulations relating to leaves of absences provided by

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\*Edited accordingly.

## **ACT 125**

this chapter, subject to the approval of the governor, in the case of the State, and the respective mayors and legislative bodies, in the case of the counties."

**SECTION 2.** 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

## **ACT 125**

H.B. NO. 1498

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

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

**SECTION 1.** Section 77-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 77-9 Initial appointments.** All initial appointments shall be made at the first step of the appropriate salary range. In the event that the recruitment of an employee is not possible at the first step, the director may, after appropriate notice and advertising, recruit at the lowest step within the appropriate salary range at which an employee can be recruited.

Where deemed essential in the public interest, the director may, with the prior approval of the chief executive, declare a class in which a shortage occurs to be in a shortage category, and establish the lowest step within the salary range which is fair and reasonable and at which employees can be recruited from the labor market as the minimum salary level for that class.

The director shall review each shortage category class at least once each year to determine whether the manpower shortage exists to the same degree as previously determined and shall adjust the entry level accordingly. If he determines that a shortage no longer exists, the director shall reestablish the first step of the appropriate salary range as the entry level for the class. The director shall report all state shortage category determinations and the justifications therefor to the legislature not later than ten days prior to the opening of each regular session and, in the case of the counties, similar reports shall be made to the council not later than July 15 each year.

No incumbent in a shortage category class shall be compensated at a rate less than his entry level; provided, that an employee who moves from one political jurisdiction to another within the State shall have his pay rate adjusted to the pay rate in effect in the political jurisdiction to which he moves."

**SECTION 2.** 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 material or the underscoring.\*

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\*Edited accordingly.

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

(Approved June 3, 1974.)

ACT 126

H.B. NO. 2049-74

A Bill for an Act Relating to Manpower Development and Training.

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

SECTION 1. Section 394-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 394-3 Contracts; public and private sectors.** (a) The department of labor and industrial relations may enter into contracts for manpower development and training with the department of education, the University of Hawaii System or other public agencies.

(b) The department of labor and industrial relations also may enter into contracts with private industry for manpower training and job placement of unemployed persons within such private organizations. The private employer shall be responsible for compensating such persons the minimum wage and the State may assume the differences in wages, if any, by determining the prevailing wage of persons employed in similar positions in private industry during the contract period for such manpower training.

(c) The department of labor and industrial relations shall formulate standards and adopt rules to carry out the purposes of this section."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

ACT 127

H.B. NO. 1562

A Bill for an Act Relating to the Office of Consumer Protection.

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

SECTION 1. Chapter 487, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 487-5 General functions, powers and duties of the office.** The director of the office of consumer protection is hereby designated the consumer counsel for the State and shall represent and protect the State, the respective counties, and the general public as consumers. The office of consumer protection shall have the following functions, powers and duties:

\*Edited accordingly.

## **ACT 127**

- (1) Coordinate the consumer protection activities of all departments, divisions and branches of state government, and of branches of the county government concerned with consumer protection;
- (2) Assist, advise and cooperate with federal, state and local agencies and officials to protect and promote the interests of the consumer public;
- (3) Conduct investigations, research, studies and analysis of matters and take appropriate action affecting the interests of consumers;
- (4) Study the operation of laws affecting consumers and recommend to the governor and the Legislature, new laws and amendments of laws in the consumers' interest;
- (5) Investigate reported or suspected violations of laws enacted, and rules and regulations promulgated for the purpose of consumer protection and shall enforce such laws, rules and regulations;
- (6) Organize and hold conferences on problems affecting consumers; and undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services;
- (7) Provide a central clearing house of information by collecting and compiling all consumer complaints and inquiries;
- (8) Organize, promote and conduct consumer education programs within the State;
- (9) Appear before governmental commissions, departments and agencies to represent and be heard on behalf of consumers' interest;
- (10) Contract with other county, state or federal governmental agencies, with nonprofit social services societies, or with private nonprofit trade, professional, or business organizations which were in existence for more than five years prior to the passage of this Act, for the performance of any of the functions of the office not involving the enforcement of rules and regulations for the purpose of consumer protection under this section, or the extension of any power or authority under section 487-11, within the budget limitations for any period not exceeding a budget year, provided, however, that the purposes and policies of this chapter are in no way diluted, abridged, misdirected, or destroyed;
- (11) Perform such other acts as may be incidental to the exercise of the functions, powers and duties set forth in this section.

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

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\*Edited accordingly.

ACT 128

H.B. NO. 2146-74

A Bill for an Act Relating to Disclosure by Return Preparers.

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

SECTION 1. Section 231-15.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 231-15.5 Disclosure by return preparers.** Any person who is engaged in the business of preparing, or providing services in connection with the preparation of tax returns or any person who for compensation prepares any such return for any other person and who, without the written consent or request of such other person, discloses any information furnished to him for, or in connection with, the preparation of any such return or uses any such information for any purpose other than to prepare, or assist in preparing any such return, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Except as otherwise provided, this section shall not apply to a disclosure of information if such disclosure is made pursuant to section 231-3 or pursuant to an order of a court."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 3. This Act shall take effect upon approval.

(Approved June 3, 1974.)

ACT 129

H.B. NO. 2178-74

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

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

SECTION 1. Section 78-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 78-13 Salary periods.** Unless otherwise provided by law, all officers and employees shall be paid at least semi-monthly except that substitute teachers, part-time hourly rated teachers of adult and evening classes, and other part-time, intermittent, or casual employees may be paid once a month."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 3, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to the Hawaii Business Development Corporation.

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

SECTION 1. Section 420-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 420-1 Definitions.** As used in this chapter, the following words and phrases, unless differently defined or described, shall have the meanings and references as follows:

- (1) 'Corporation': A business development corporation created under this chapter.
- (2) 'Financial institution': Any banking corporation or trust company, building and loan association, insurance company, or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds.
- (3) 'Member': Any person, corporation, company, association, partnership, foundation, or other institution, including any financial institution, which or who undertakes to lend money to a corporation created under this chapter, upon its call, and in accordance with this chapter, but not including the Small Business Administration and any other federal agency.
- (4) 'Board of directors': The board of directors of the corporation created under this chapter.
- (5) 'Loan limit': For any member, the maximum amount permitted to be outstanding at one time on loans made by the members to the corporation, as determined under this chapter.
- (6) 'Pacific Islands': The State of Hawaii, American Samoa, Guam, and the Trust Territories of the Pacific, either collectively or individually."

SECTION 2. Section 420-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 420-2 Creation of corporation; purposes.** Any number of persons not less than five, a majority of whom shall be residents of the State, who may desire to create a business development corporation under this chapter, for the purpose of promoting, developing, and advancing the prosperity and economic welfare of the Pacific Islands and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated in the following manner; such persons shall, by articles of incorporation filed with the director of regulatory agencies, under their hands and seals, set forth:

- (1) The name of the corporation, which shall include the words 'Business Development Corporation'.
- (2) The location of the principal office of the corporation, but the corporation may have offices in such other places within the State as may be fixed by the board of directors.

- (3) The purpose for which the corporation is founded, which shall include the following:

The purposes of the corporation shall be to promote, stimulate, develop, and advance the business prosperity and economic welfare of the Pacific Islands and their citizens; to encourage and assist through loans, investments, or other business transactions, in the location of new business and industry in the Pacific Islands and to rehabilitate and assist existing business and industry; and so to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of the Pacific Islands, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of the Pacific Islands; similarly, to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural, and recreational developments in the Pacific Islands; and to provide financing for the promotion, development, and conduct of all kinds of business activity in the Pacific Islands.

In furtherance of these purposes and in addition to the powers conferred on business corporations by chapter 416, the corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

- (1) To elect, appoint, and employ officers, agents and employees; to make contracts and incur liabilities for any of the purposes of the corporation; provided that the corporation shall not incur any secondary liability by way of guaranty or endorsement of the obligations of any person, firm, corporation, joint-stock company, association, or trust, or in any other manner.
- (2) To borrow money from the members and others, including the Small Business Administration and other federal agencies, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes, or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust, or other lien on its property, franchises, rights and privileges of every kind and nature of any part thereof or interest therein, without securing stockholder or member approval.
- (3) To make loans to any person, firm, corporation, joint-stock company, association, or trust, and to establish and regulate the terms and conditions with respect to the loans and the charges for interest and service connected therewith; provided, that the corporation shall not approve any application for a loan unless and until the person applying for the loan shows that he has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.
- (4) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease, or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not

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restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

- (5) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations, or trusts, and to assume, undertake, or pay the obligations, debts, and liabilities of any such person, firm, corporation, joint-stock company, association, or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of the real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct, or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments.
- (6) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the stock, shares, bonds, debentures, notes, or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association, or trust, and while the owner or holder thereof to exercise all of the rights, powers, and privileges of ownership, including the right to vote thereon.
- (7) To mortgage, pledge, or otherwise encumber any property, right, or thing of value, acquired pursuant to the powers contained in paragraphs (4), (5), or (6), as security for the payment of any part of the purchase price thereof.
- (8) To cooperate with and avail itself of the facilities of the department of planning and economic development and any similar governmental agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the Pacific Islands in the promotion, assistance, and development of the business prosperity and economic welfare of the communities or of the Pacific Islands or of any part thereof.
- (9) To avail itself of any loan or other assistance from nonmembers, including the Small Business Administration or any other federal agencies.
- (10) To do all acts and things necessary or convenient to carry out the powers expressly granted in this chapter."

SECTION 3. Section 420-6, Hawaii Revised Statutes, is amended to read:

**"Sec. 420-6 Financial institutions; memberships; etc.** Notwithstanding any rule at common law or any provision of any general or special law or any provision in their respective charters, agreements of association, articles of organizations, or trust indentures:

- (I) All domestic corporations organized for the purpose of carrying on business within the Pacific Islands, including without implied limitation any public utility companies and insurance and casualty com-

panies and foreign corporations licensed to do business in the Pacific Islands, and all trusts, may acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of any bonds, securities, or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of the stock exercise all the rights, powers, and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the Pacific Islands;

- (2) All financial institutions may become members of the corporation and make loans to the corporation as provided herein;
- (3) A financial institution which does not become a member of the corporation shall not be permitted to acquire any share of the capital stock of the corporation; and
- (4) Except as to financial institutions which are to continue to be subject to the limitations contained in (3) herein, each member of the corporation may acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of, any bonds, securities, or other evidences of indebtedness created by, or the shares of the capital stock of the corporation, and while owners of the stock exercise all the rights, powers, and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the Pacific Islands; provided, that the amount of the capital stock of the corporation which may be acquired by any member pursuant to the authority granted herein shall not exceed fifty per cent of the loan limit of the member. The amount of capital stock of the corporation which any member is authorized to acquire pursuant to the authority granted herein is in addition to the amount of capital stock in corporations which such member may otherwise be authorized to acquire."

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 material or the underscoring.\*

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

(Approved June 3, 1974.)

ACT 131

H.B. NO. 2204-74

A Bill for an Act Relating to the Sale of Securities.

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

SECTION 1. Section 485-10, Hawaii Revised Statutes, is amended by amending subsection (g) to read:

\*Edited accordingly.

## **ACT 131**

"(g) With respect to options on commodity futures contracts the following shall be observed:

- (1) An application for registration of options on commodities futures contracts shall contain the same information specified in paragraph (b) of this section, except in the case of subparagraph (b) (3).
- (2) The prospectus shall contain the following information in lieu of the information required in subparagraph (b) (3) of this section:
  - (A) Name and address of issuer and issuer's principal office in the state, if any.
  - (B) Total dollar value of contracts to be offered, specifying the commodities involved.
  - (C) How the offering price is calculated.
  - (D) A brief description of the method by which the contracts are to be offered, and if the offering is to be made through underwriters, the name and address of each underwriter and the amount of the participation of each underwriter with a statement of any material relationship between the issuer and underwriter.
  - (E) The policy which the issuer plans to follow to assure that it will have sufficient funds to pay its investors upon the exercise of option contracts.
  - (F) Summary of the terms and conditions of the customers agreement.
  - (G) Information requested by the following provisions in paragraph (b) (3) shall be stated:
    - (I), (J), (K), (L), (N), and (O).
    - (H) Such information that may be required by rules and regulations.
- (3) No option contracts shall be offered or sold in the state under this section, unless the issuer has a paid-in capital of at least \$100,000, and unless its net cash value is 1.25 times its open option cash position.
- (4) As used in this section, the following meanings shall apply:
  - (A) 'Option on a commodity futures contract' means right to buy or sell a commodity futures contract at a fixed price during a pre-determined period of time;
  - (B) 'Net issuers cash value' means all cash in customers accounts, less customers accounts payable, plus net value of issuers hedging account.
  - (C) 'Hedging account' means account which issuer maintains to buy or sell commodity futures as a protection against loss due to price fluctuation.
  - (D) 'Open option cash position' means the value of all outstanding open options.
- (5) The net issuers cash value and the open option cash position shall be compiled at the end of each business day. In the event the issuer's cash value goes below one hundred twenty-five per cent of its open option cash position, the issuer shall be prohibited to sell new options and will be limited to liquidating its existing options and it

shall immediately notify the director of regulatory agencies.

- (6) Options on commodity futures contracts registered with the Securities and Exchange Commission under the Securities Act of 1933, shall be exempt from registration under this section."

SECTION 2. 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 material or the underscoring.\*

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

(Approved June 3, 1974.)

ACT 132

H.B. NO. 2312-74

A Bill for an Act Relating to Real Property Taxation.

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

SECTION 1. Section 246-21, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 246-21 Nontaxable property.** For purposes of accountability, the director of taxation shall assess at the nominal sum of \$7 each parcel of real property in each district which is completely exempt from taxation."

SECTION 2. Section 246-47, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 246-47 Tax rolls; tax bills.** The tax collector shall prepare tax rolls for his district from the district assessment lists provided for by section 246-44, showing thereon, in each case, names and addresses of the assessed and amount of taxes which shall be not less than \$7 as provided for in section 248-2(h).

Each tax collector shall mail, postage prepaid, or deliver, each year on or before the billing dates as provided for by section 246-48, to all known persons assessed for real property taxes in his district for such year, respectively, tax bills demanding payment of taxes due from each of them respectively, but no person shall be excused from the payment of any tax or delinquent penalties thereon by reason of failure on his part to receive, or failure on the part of the tax collector so to mail or deliver such bill. The bill, if mailed, shall be addressed to the person concerned at his last known address or place of residence. Whenever any bill covers taxes for any real property owned, jointly or as tenants in common or otherwise, by more than one person, the bill shall be sent to each known co-owner but shall demand the full amount of the taxes due upon such real property."

SECTION 3. Section 248-2, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

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\*Edited accordingly.

## ACT 133

“(h) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under chapter 246 a minimum real property tax of \$7 a year.”

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 material, or the underscoring.\*

SECTION 5. This Act shall take effect on July 1, 1974.

(Approved June 3, 1974.)

## ACT 133

H.B. NO. 2330-74

A Bill for an Act Relating to Statewide Traffic Code.

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

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

**“Sec. 291C-1 Definitions.** As used in this chapter:

- (1) ‘Alley’ means a street or highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.
- (2) ‘Arterial street’ means any United States or state numbered route, controlled access highway, or other major radial or circumferential street or highway designated by counties within their respective jurisdictions as part of a major arterial system of streets or highways.
- (3) ‘Authorized emergency vehicle’ includes such fire department vehicles, police vehicles, and ambulances as are publicly owned and such other publicly or privately owned vehicles as are designated by the city or county council.
- (4) ‘Bicycle’ means every device propelled by human power upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.
- (5) ‘Bus’ means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons; and every motor vehicle, other than a school bus or a taxicab, designed and used for the transportation of persons for compensation.
- (6) ‘Business district’ means the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, and public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

\*Edited accordingly.

- (7) 'Controlled-access highway' means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
- (8) 'Crosswalk' means (A) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or (B) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.
- (9) 'Driver' means every person who drives or is in actual physical control of a vehicle.
- (10) 'Highway' means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (11) 'House trailer' means (A) A trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place (either permanently or temporarily) and is equipped for use as a conveyance on streets and highways; or (B) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (A), but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for distribution by a private carrier.
- (12) 'Intersection' means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a street or highway shall not constitute an intersection.
- (13) 'Laned roadway' means roadway which is divided into two or more clearly marked lanes for vehicular traffic.
- (14) 'Motor vehicle' means every vehicle which is self-propelled and every vehicle which is propelled by electric power but not operated upon rails.
- (15) 'Motorcycle' means every motor vehicle having a seat or saddle for

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- the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor.
- (16) 'Motor-driven cycle' means every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, and every bicycle with motor attached.
- (17) 'Official traffic-control devices' means all signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.
- (18) 'Owner' means a person, other than a lien-holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.
- (19) 'Park' or 'parking' means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
- (20) 'Pedestrian' means any person afoot, in an invalid chair, or in a vehicle propelled by a person afoot.
- (21) 'Police officer' means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
- (22) 'Private road or driveway' means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.
- (23) 'Railroad' means a carrier of persons or property upon cars operated upon stationary rails.
- (24) 'Railroad sign or signal' means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.
- (25) 'Railroad train' means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.
- (26) 'Residence district' means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.
- (27) 'Right of way' means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances or direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.
- (28) 'Roadway' means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the

- term 'roadway' as used herein refers to any such roadway separately but not to all such roadways collectively.
- (29) 'Safety zone' means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.
- (30) 'School bus' means every motor vehicle as defined in sec. 286-181 and any regulations promulgated pursuant thereto by the department of education.
- (31) 'Sidewalk' means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.
- (32) 'Stand' or 'standing' means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.
- (33) 'Stop' when required means complete cessation from movement.
- (34) 'Stop' or 'stopping' when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
- (35) 'Street' means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (36) 'Through highway' means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right of way to vehicles on such through highway in obedience to a stop sign, yield sign, or other official traffic control device, when such signs or devices are erected as provided by law.
- (37) 'Traffic' means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for purposes of travel.
- (38) 'Traffic-control signal' means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.
- (39) 'Urban district' means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more.
- (40) 'Vehicle' means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks."

SECTION 2. Section 291C-47, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

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(a) The director of transportation is authorized to and the counties by ordinance with respect to highways under their respective jurisdictions may establish no-passing zones where overtaking and passing or driving to the left of the roadway would be especially hazardous and shall by appropriate signs or markings on the highway establish or indicate the beginning and the end of a no-passing zone and may place intermediate signs establishing or indicating the continued existence of a no-passing zone. Signs or markings placed by the director of transportation establishing the zone and signs or markings indicating the zone established by ordinance shall be clearly visible to an ordinarily observant person and every driver of a vehicle shall obey the directions thereof."

SECTION 3. Section 291C-82, Hawaii Revised Statutes, is amended to read:

**"Sec. 291C-82 Turning so as to proceed in the opposite direction.** (a) No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

(b) In addition to the prohibition in subsection (a), the director of transportation is authorized to and the counties may by ordinance with respect to highways under their respective jurisdictions prohibit the turning of any vehicle so as to proceed in the opposite direction on the highway at any location where such turning would be dangerous to those using the highway or would unduly interfere with the free movement of traffic.

(c) The director of transportation and the counties by ordinance with respect to the highways under their respective jurisdictions shall place signs which are clearly visible to an ordinarily observant person prohibiting the turning of a vehicle to proceed in the opposite direction. The signs shall be official signs and no person shall turn any vehicle in violation of the restrictions stated on such signs."

SECTION 4. Section 291C-111, Hawaii Revised Statutes, is amended to read:

**"Sec. 291C-111 Non-compliance with stopping, standing, or parking requirements prohibited.** (a) The director of transportation is authorized to and the counties by ordinance may with respect to highways under their respective jurisdictions prohibit or restrict the stopping, standing, or parking of vehicles where the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic.

(b) The director of transportation and the counties with respect to highways under their respective jurisdictions shall place signs which are clearly visible to an ordinarily observant person prohibiting or restricting the stopping, standing, or parking of vehicles on the highway. Such signs shall be official signs and no person shall stop, stand, or park any vehicle in violation of the restrictions stated on such signs."

SECTION 5. Section 291C-145, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) Persons riding bicycles upon a roadway shall ride in single file; provided that upon paths or parts of roadways set aside for the exclusive use of bicycles riding two abreast shall be permitted, unless otherwise prohibited by rule or ordinance adopted by the director of transportation or by the counties.”

SECTION 6. Section 291C-147, Hawaii Revised Statutes, is amended to read:

**“Sec. 291C-147 Lamps and other equipment on bicycles.** (a) Any bicycle used upon any highway from thirty minutes after sunset until thirty minutes before sunrise shall display a lighted lamp, facing forward, which shall meet the following specifications:

- (1) Emit a white light;
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the front of the bicycle from a distance of at least five hundred feet.

(b) A tail lamp when used on a bicycle shall meet the following specifications:

- (1) Emit a red light; and,
- (2) Be visible at night when viewed from any direction within thirty degrees to each side of the longitudinal axis toward the rear of the bicycle from a distance of at least five hundred feet.

(c) A lamp meeting the specifications of subsections (a) and (b) displayed on the left arm or left leg of the bicycle operator shall be considered to meet the requirements of subsections (a) and (b).

(d) After December 31, 1974, no person shall use any bicycle upon any highway from thirty minutes after sunset until thirty minutes before sunrise unless the bicycle or the operator is equipped with Class A reflectors meeting the specifications of the Society of Automotive Engineers Standard J594d-1970, or an area of reflectorized material, as follows:

- (1) A crystal (white) reflector with a minimum of three square inches in area or six square inches of white reflectorized material on the front facing straight ahead in a position which will not be obstructed at any time when viewed from the front of the bicycle;
- (2) An amber reflector with a minimum of three square inches in area or twelve square inches of amber reflectorized material on each side facing outward;
- (3) Amber reflectors on both front and rear surfaces of all pedals;
- (4) A red reflector with a minimum of three square inches in area facing to the rear in a position which will not be obstructed at any time when viewed from the rear; and
- (5) The requirements of item (2) of this subsection shall not apply to bicycles having a reflectorized finish covering the entire bicycle frame.

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(e) After December 31, 1974, no person shall use any bicycle upon the highway unless it is equipped with a bell or any other device, except a siren or a whistle which are prohibited, capable of giving a signal audible for a distance of at least one hundred feet.

(f) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement."

SECTION 7. Section 291-27, Hawaii Revised Statutes, is repealed:

SECTION 8. 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 material or the underscoring.\*

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

(Approved June 3, 1974.)

## ACT 134

H.B. NO. 2331-74

A Bill for an Act Relating to Tax Relief for Natural Disaster Losses.

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

SECTION 1. Section 234-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 234-4 Tax relief, claim and allowance.** (a) In case of losses due to damage or destruction of real or personal property of a claimant resulting from a natural disaster and certified by the natural disaster claims commission or adjudged by the court, the director of taxation may remit, refund, or forgive the taxes hereafter mentioned, due or to become due from the claimant suffering such losses in the manner provided in subsections (b) and (c) of this section.

(b) The claimant shall, on or before December 31, of the year in which the disaster occurred or such other date as may be prescribed by the commission, but not to exceed six months from the date of occurrence of the natural disaster, file a claim, under oath with the commission setting forth the amount of his losses. The commission shall thereupon investigate the claim and determine the total loss suffered by reason of the damage or destruction of the real or personal property based on the market value on the date of the natural disaster. The total loss shall be determined by taking the difference between the market value immediately prior to the date of the natural disaster and the market value immediately after the date of the natural disaster. The losses to be certified to the director of taxation from the total losses recognized by the commission shall be computed by the commission as follows:

(I) Deduct all insurance benefits received or to be received by the claimant by reason of the damage or destruction of the property as a result of the natural disaster;

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\*Edited accordingly.

- (2) Deduct the portion of the losses resulting from insurable property in excess of \$100,000;
- (3) Deduct tax benefits from the Federal Internal Revenue Service; and
- (4) Deduct any other recoveries.

The balance remaining after the foregoing deductions have been deducted from the total losses recognized shall be the loss certified to the director of taxation.

The finding of the commission shall be final, unless within thirty days after receipt of a copy of the commission's certification to the director, the claimant files a notice of appeal to the circuit court in the county for which the commission was appointed. In all cases of such appeal, the commission and the director shall be notified of the pendency thereof by the clerk of the court. On appeal to the circuit court, the claimant shall be entitled to trial by jury. The right to trial by jury shall be deemed to be waived unless claimed within ten days from the date the notice of appeal is filed. The court may, by proper rules, prescribe the procedure to be followed in such appeals, and shall give such appeals precedence over all other civil cases. Upon determination of the appeal, the court shall enter judgment as to the amount of the claimant's loss, which judgment shall be final. The clerk of the court shall certify the judgment of the court to the director.

The finding of the commission or the judgment of the court as to the amount of the loss suffered by the claimant shall be final for the purposes of chapters 235, 237, and 246, notwithstanding section 235-7.

Whenever the market value for the purpose of the total losses of any real property is determined under this subsection, the market value utilized as the value of the property immediately after the disaster shall be prima facie evidence of the value of such real property as of the time immediately after the natural disaster whenever the real property is thereafter condemned, exchanged, or purchased by the State or any of its political subdivisions.

(c) Upon receipt of the certification from the commission or the clerk of the circuit court, the director shall remit or refund from the current general revenues of the State or forgive, for a period not to exceed five consecutive years commencing January 1 of the year in which the disaster occurred, until the amount of the loss certified or adjudged is recovered up to but not in excess of the limits provided in section 234-8 or until the claimant recovers the full amount of his certified or adjudged loss, or until the expiration of the five year period, whichever shall first occur:

- (1) Real property taxes for that year and thereafter as provided above, due from the claimant on account of any real property located on the island on which the losses were incurred under chapter 246, and
- (2) Taxes due from the claimant under chapter 237 on account of any trade or business conducted by the claimant on the island on which the losses were incurred for the year in which the disaster occurred and thereafter as provided above.

In no event shall taxes due and payable under chapter 235 by a public utility as defined in section 269-1, be remitted, refunded, or forgiven."

## ACT 134

SECTION 2. Section 234-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 234-5 Review of claims, adjustment.** The amount of loss certified by the natural disaster claims commission or adjudged by the court pursuant to section 234-4 shall be subject to review by the commission or the court in the event substantial and new evidence should show more accurately the amount of losses suffered from damage by destruction or real or personal property resulting from the natural disaster, provided, that any such substantial and new evidence shall only be acceptable if applicable as of the date the losses were incurred. In such event, the taxpayer, within six months from the filing of the original claim, may file an amended claim with the commission, or with the court if an appeal is pending or the court has rendered a judgment, and the commission or the court shall receive further proof of the amount of the loss initially claimed by the taxpayer. The determination of the loss by the commission on the amended claim may be appealed by the claimant to the circuit court in the same manner as an appeal in the case of a determination of loss by the commission on the original claim. The judgment of the circuit court shall be final in all cases. In the event of any change in the amount of the certification or judgment furnished to the director of taxation, the commission or the clerk of the court shall notify the director of such adjustments, and the director shall make appropriate adjustments in the remitting, refunding, or forgiveness of taxes above provided; in case any adjustments are made, any tax refund which exceeds the amount of adjusted loss recoverable may be collected in the same manner as a tax due and payable under chapters 237 or 246."

SECTION 3. Section 234-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 234-8 Amount of relief, maximum limits.** No claimant shall recover against total losses certified by the natural disaster claims commission or adjudged by the court, remittances, refunds, or forgiveness of taxes in excess of \$25,000 for all taxes due under chapter 237, nor shall any claimant recover remittances, refunds, or forgiveness of taxes in excess of \$35,000 for all taxes due under chapters 237 and 246. Whenever a claimant has deducted in his chapter 235 returns for any of the five years stated in section 234-4 (c) any portion of the losses suffered by reason of the disaster as permitted by section 235-7(f), there shall be deemed as having been due from such claimant under chapter 235 and as having been remitted, refunded, or forgiven an additional amount of tax equal to the difference between the taxes due as returned and the taxes which would have been due if computed without deducting the losses so that the amount of his recovery shall not exceed that amount recoverable under this chapter if the deduction were not taken. In no event shall any claimant recover through the foregoing taxes any amount whatsoever in excess of his losses certified by the commission or adjudged by the court, nor recover any amounts in excess of the limits set forth in this section; provided, that he may use any one or more of the foregoing taxes as a basis for his remittance, refund, or

forgiveness of the taxes so long as it does not exceed any of the limits as herein set forth, and the taxes became due for real property, trade, or business conducted on the island on which the losses were incurred."

**SECTION 4.** 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

**ACT 135**

H.B. NO. 2436-74

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

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

**SECTION 1.** Section 239-5, Hawaii Revised Statutes, is amended by adding a new subsection to be designated as subsection (c) and to read as follows:

"(c) Notwithstanding subsection (a), the rate of tax upon the portion of the gross income of a public utility which consists of the receipts from the sale of its products or services to another public utility which resells such products or services shall be one-half of one percent, provided that the resale is subject to taxation under this section, and provided further that the public utility's exemption from real property taxes imposed by chapter 246 shall be reduced by the proportion that its public utility gross income described herein bears to its total public utility gross income. Whenever the public utility has other public utility gross income the gross income from the sale of its products or services to another public utility shall be included in applying subsection (a) in determining the rate of tax upon the other public utility gross income."

**SECTION 2.** New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 3, 1974.)

**ACT 136**

H.B. NO. 2455-74

A Bill for an Act Relating to the Public Employees Health Fund.

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

**SECTION 1.** Section 87-1, Hawaii Revised Statutes, is amended to read as follows:

\*Edited accordingly.

**"Sec. 87-1 Definitions.** As used in this chapter:

- (1) "Board" means the board of trustees as described in section 87-11;
- (2) "Carrier" means a voluntary association, corporation, partnership, or organization engaged in providing, paying for, arranging for, or reimbursing the cost of health services under group insurance contract or medical, hospital, or dental services agreements;
- (3) "Contributions" means money payments made to the fund by the State or the several counties or an employee-beneficiary;
- (4) "Dependent-beneficiary" means an employee-beneficiary's spouse and any unmarried child, including an adopted child, stepchild, foster child, or recognized natural child who lives with the employee-beneficiary, deemed eligible by the board to receive health or dental services of a health benefits plan;
- (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; and
    - (ix) A retired member of the employees retirement system, the county pension system or the police, firemen, or bandsmen pension system of the State or county;
  - (B) But excluding:
    - (i) A designated beneficiary of a retired member of the employees retirement system, the county pension system or the police, firemen, or bandsmen pension system of the State or county;
    - (ii) A person employed temporarily on a fee or contract basis;
    - (iii) A person hired on a part-time, limited-term, or provisional basis;
    - (iv) A member of a board, commission, or agency appointed by the governor, or mayor, or chairman of the State or county, respectively; and

- (v) An employee of the legislature other than a member of the permanent staff;
- (6) "Employee-beneficiary" means an employee, the beneficiary of an employee who is killed in the performance of his duty, an employee who retired prior to the establishment of the fund, or the beneficiary of a retired member of the employees retirement system, a county pension system, or a police, firemen, and bandsmen pension system of the State or county, upon the death of the retired member and, which beneficiary, if a child, does not marry, or if a surviving spouse, does not remarry; provided that for the purposes of this subsection, "family member" means the deceased retired member's or employee's spouse and unmarried child under the age of nineteen years (including a legally adopted child and a stepchild or recognized natural child who lives with the deceased retired member or employee in a regular parent-child relationship), or unmarried child regardless of age who is incapable of self-support because of a mental or physical incapacity which existed prior to his reaching the age of nineteen years; and provided further that the employee, his beneficiary, or the beneficiary of the deceased retired member is deemed eligible by the board to receive health or dental services of a health benefits plan;
- (7) "Fund" means the trust fund as described in section 87-2;
- (8) "Health benefits plan" means (A) a group insurance contract or medical, hospital, or dental service agreement in which a carrier agrees to provide, pay for, arrange for or reimburse the cost of health or dental services as determined by the board; or (B) a similar schedule of benefits established by the board and provided through the fund on a noninsured basis;
- (9) "Periodic charge" means the periodic payment by the board to a carrier for any health benefits plan; and
- (10) "Trustee" means a trustee of the board of trustees as described in section 87-11."

SECTION 2. Section 87-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 87-6 Contributions by an employee-beneficiary.** Each employee-beneficiary shall make a monthly contribution to the fund amounting to the difference between the monthly charge of the health benefits plan selected by the employee-beneficiary and the State's and county's contributions to the fund.

During the period the health benefits plan selected by an employee-beneficiary is in effect, the employee-beneficiary shall authorize, if allowed under present laws, that his contribution be withheld and transmitted to the fund monthly by the comptroller, county auditor, or finance officer from whom he receives his compensation, pension, or retirement pay. If, however, an employee-beneficiary's contribution to the fund is not withheld and transmitted to the fund, the employee-beneficiary shall pay his monthly contribution (1) directly to the fund by the tenth day of each month, in the case

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of an employee-beneficiary who normally receives his compensation from the comptroller of the State, or (2) in the case of all other employee-beneficiaries, to the respective county auditor or finance officer from whom he normally receives his compensation for transmittal to the fund by the tenth day of each month.

Notwithstanding any other law to the contrary, the beneficiary of an employee who is killed in the performance of his duty, an employee-beneficiary who is a retired employee, or upon his death his beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary, as described in section 87-1(6) shall not be required to make any contribution to the fund. The monthly contribution of the beneficiary of an employee who is killed in the performance of his duty, an employee-beneficiary who is a retired employee, or upon his death his beneficiary, including employees who retired prior to the establishing of the fund and their beneficiaries, or the beneficiary of any employee-beneficiary as described in section 87-1(6), shall be financed by the State through the department of budget and finance and the several counties through their respective departments of finance for each of their respective employee-beneficiaries."

**SECTION 3.** Section 87-25, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 87-25 Determine eligibility of employee or dependent.** The board of trustees shall establish and adopt eligibility requirements to determine which employee and dependent may qualify as an employee-beneficiary or dependent-beneficiary, respectively, provided, that a retired member of the employees' retirement system, a county pension system, or a police, firemen, and bandsmen pension system of the State or county, or his dependent shall be eligible to qualify as an employee-beneficiary or dependent-beneficiary, whether or not the retired member was actively employed by the State or county at the time of his retirement and whether or not the employee retired before or after the establishing of the public employees health fund. Employees who retired prior to the establishing of the health fund shall be treated as if they were members of the system during their period of employment with the State or county and receive the same benefits as other members. Only an employee-beneficiary or dependent satisfying the eligibility requirements may qualify as an employee-beneficiary or dependent-beneficiary."

**SECTION 4.** Section 87-27, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 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 is living, including members of the old county pension system and after his death his spouse provided she 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 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 5. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

ACT 137

H.B. NO. 2544-74

A Bill for an Act Relating to Urban Renewal Law.

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

SECTION 1. Section 53-21, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 53-21 Auxiliary redevelopment area; displaced persons.** Where the redevelopment agency of a county finds:

- (1) That there is a shortage of decent, safe, and sanitary housing in the county;

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\*Edited accordingly.

- (2) That the provision of decent, safe, and sanitary housing for rent or dwelling units for sale is necessary to accomplish the relocation of families displaced or to be displaced from areas acquired by governmental agencies for public purposes or displaced from disaster areas as defined by this chapter; and
- (3) That the acquisition of a fee or leasehold interest of a particularly described area in a county (hereinafter also called an auxiliary redevelopment project), suitable for development for predominantly residential uses and so characterized in the master plan, is essential to provide for the development of housing facilities at rents the displaced families can afford or of dwelling units at prices the displaced families can pay,

then the planning, acquisition, preparation for development or disposal of the auxiliary redevelopment area shall constitute a redevelopment project which may be undertaken by the agency in the manner provided by this chapter.

The procedure and exceptions set forth in section 53-20 shall apply to any projects; provided that pursuant to section 101-5, the agency may take and acquire any estate less than a fee simple estate in lands whenever it appears that the purposes of this section shall be best achieved and promoted by the taking.

Where the redevelopment plan for the project makes provision for the development of housing facilities for rent, the agency shall sell, lease, or sublease the land or the completed development to qualified developers or non-profit sponsors for use in accordance with the redevelopment plan. The sale, lease, or sublease shall be made at a fair value reflecting the restrictions imposed on developers and covenants running with the project land, including restrictions on rent ceilings and modification thereof which the agency may impose by regulation for a period up to thirty years for the development in order to achieve private ownership and operation of the properties at a reasonable profit while providing for rentals which displaced families can afford.

Where the redevelopment plan for the project makes provision for the subdivision and development of the land for single family dwelling units for sale to the displaced families, the agency shall sell the land or the completed development to qualified developers or non-profit sponsors for development and use in accordance with the redevelopment plan. The sale shall be made at a fair value reflecting the restrictions imposed on developers and covenants running with the project lands to limit the price of sale thereof, the prices which displaced families can afford while permitting developers a reasonable profit therefrom, and preventing speculative resale thereof by purchasers and their assigns.

All developers of auxiliary redevelopment projects authorized by this section shall be entitled to claim exemption or relief from taxes as provided by section 53-38 for all project lands and improvements providing for housing facilities for rent to families displaced from public projects or from disaster areas."

SECTION 2. 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 material, or the underscoring.\*

SECTION 3. This Act shall take effect on January 1, 1975.

(Approved June 3, 1974.)

**ACT 138**

H.B. NO. 2621-74

A Bill for an Act Relating to the Administration of Taxes.

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

SECTION 1. Section 231-39, Hawaii Revised Statutes, is amended to read:

**"Sec. 231-39 Additions to taxes for noncompliance or evasion; interest on underpayments and overpayments.** (a) Except as otherwise provided, this section shall apply to every tax or revenue law of the State that provides for the filing with the director of taxation of a return or statement of the tax or the amount taxable.

(b) There shall be added to and become a part of the tax imposed by such tax or revenue law, and collected as such:

(1) Failure to file tax return. In case of failure to file any tax return required to be filed on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not due to neglect, there shall be added to the amount required to be shown as tax on the return five per cent of the amount of the tax if the failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five per cent in the aggregate. For purposes of this paragraph, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return. This paragraph shall not apply to any failure to file a declaration of estimated tax required by section 235-97.

(2) Failure to pay tax.

(A) If any part of any underpayment is due to negligence or intentional disregard of rules and regulations (but without intent to defraud), there shall be added to the tax an amount up to ten per cent of the underpayment as determined by the director.

(B) If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount up to fifty per cent of the underpayment as determined by the director.

\*Edited accordingly.

- (C) If any penalty is assessed under subparagraph (B) (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under paragraph (1) (relating to failure to file the return) shall be assessed with respect to the same underpayment.
- (3) Failure to pay tax after filing timely returns. If a return is filed on or before the date prescribed therefor and the amount shown as tax on the return is not completely paid within 90 days of the prescribed filing date, there shall be added to the unpaid tax an amount up to ten per cent as determined by the director.
- (4) Interest on underpayment or nonpayment of tax.
- (A) If any amount of tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate of two-thirds of one per cent a month or fraction of a calendar month shall be paid for the period beginning with the first month following the date prescribed for payment, or if the prescribed date for payment is the end of a calendar month, and section 231-21 is applicable, beginning with the month on which the due date as so extended is a part, to the date paid.
- (B) If the amount of any tax is reduced by reason of a carryback of a net operating loss allowed under chapter 235, such reduction in tax shall not affect the computation of interest under this paragraph for the period ending with the last day of the taxable year in which the net operating loss arises.
- (C) Interest prescribed under this paragraph on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes.
- (D) No interest under this paragraph shall be imposed on interest provided by this paragraph.
- (E) If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this paragraph on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to the overpayment.
- (F) Interest prescribed under this paragraph on any tax may be assessed and collected at any time during the period within which the tax to which the interest relates may be collected.
- (G) This paragraph shall not apply to any failure to pay estimated tax required by section 235-97.
- (c) No taxpayer shall be exempt from any penalty or interest by reason of having contested the tax, but only to the extent that the tax is adjudged to be excessive or contrary to law."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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\*Edited accordingly.

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

(Approved June 3, 1974.)

ACT 139

H.B. NO. 2623-74

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 231-18, Hawaii Revised Statutes is amended to read:

**"Sec. 231-18 Federal or other tax officials permitted to inspect returns; reciprocal provisions.** Notwithstanding the provisions of any law making it unlawful for any person, officer, or employee of the State to make known information imparted by any tax return or permit any tax return to be seen or examined by any person, it shall be lawful to permit a duly accredited tax official of the United States or of any state or territory or the Multistate Tax Commission to inspect any tax return of any taxpayer, or to furnish to such official, commission, or the authorized representative thereof an abstract of the return or supply him with information concerning any item contained in the return or disclosed by the report of any investigation of the return or of the subject matter of the return for tax purposes only. The Multistate Tax Commission may make such information available to a duly accredited tax official of the United States or to a duly accredited tax official of any state or territory, or the authorized representative thereof, for tax purposes only."

SECTION 2. Section 231-37, Hawaii Revised Statutes, is amended to read:

**"Sec. 231-37 Neglect of duty, etc., misdemeanor.** Any officer of the department of taxation, the state director of finance, any person duly authorized by the director of taxation, or any police officer, on whom duties are imposed under this chapter, who wilfully fails or refuses or neglects to perform faithfully any duty or duties of him required by this chapter, shall be deemed guilty of a misdemeanor."

SECTION 3. Section 235-116, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-116 Disclosure of returns unlawful; penalty.** It shall be unlawful for any person, or any officer or employee of the State to make known intentionally information imparted by any income tax return or estimate made under sections 235-92, 235-94, 235-95, and 235-97 or wilfully to permit any income tax return or estimate so made or copy thereof to be seen or examined by any person other than the taxpayer or his authorized agent, persons duly authorized by the State in connection with their official duties, the Multistate Tax Commission or the authorized representative thereof, except as provided by law, and any offense against the foregoing provisions shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both."

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**SECTION 4.** Section 235-117, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-117 Reciprocal supplying of tax information.** Notwithstanding section 235-116, the department of taxation may permit the Secretary of the Treasury of the United States, the Commissioner of Internal Revenue, the Multistate Tax Commission, or the proper officer of any state or territory imposing an income tax upon incomes of persons taxable under this chapter, or the authorized representatives thereof to inspect the income tax returns and estimates of any such person for tax purposes only. The department may also furnish to such authorized persons an abstract of an income tax return or estimate or supply such persons with information concerning any item of income contained in a return or disclosed by the report of an investigation of the income or return of a taxpayer. The Multistate Tax Commission may make such information available to a duly accredited tax official of any state or territory, or the authorized representative thereof, for tax purposes only."

**SECTION 5.** Section 237-34, Hawaii Revised Statutes, is amended to read:

**"Sec. 237-34 Filing of returns; inspection.** 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.

Monthly and annual returns shall be available for inspection by officers of the State or of any county, the Multistate Tax Commission or the authorized representative thereof, or in the case of a return made by a corporation by the officers and stockholders thereof, and not otherwise; provided, that the department of taxation may permit the inspection of any return by any person upon being satisfied that the inspection is desired for some lawful and proper purpose.

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 6.** Section 237-39, Hawaii Revised Statutes, is amended to read:

**"Sec. 237-39 Audits; procedure, penalties.** For the purpose of verification or audit of a return made by the taxpayer, or where there is reasonable ground to believe that any return made is so deficient as not to form the basis of a satisfactory assessment of the tax, or for the purpose of making an assessment where no return has been made, the department of taxation or the Multistate Tax Commission pursuant to chapter 255 or the authorized representative thereof may examine all account books, bank books, bank statements, records, vouchers, taxpayer's copies of federal tax returns, and any and all other documents and evidences having any relevancy to the determination of the gross income or gross proceeds of sales of any taxpayer

as required to be returned under this chapter and may summon or require the attendance of the person by or for whom the return, if any, has been made or whose tax is being assessed, and any employee of the person, and may summon or require the attendance of any person having knowledge in the premises, naming the time and place in the summons, and may require the production of any books, statements, or other evidences open to his examination, and may take testimony in reference to any such matter relevant to the gross income or gross proceeds of sales of the taxpayer for the period under consideration, with power to require that the person so called and appearing shall be interrogated under oath and to administer the oath.

If the department determines that any gross income or gross proceeds of sales liable to the tax have not been assessed the department may assess the same as provided in sections 237-36 and 237-38.

Any individual knowingly giving false testimony under oath at any such hearing before the department shall be guilty of perjury and shall be punished as provided by law.

Any person refusing or neglecting to obey any summons issued by the department, and any individual appearing and refusing to testify under oath, shall be fined \$50 for the first offense and \$100 for each succeeding offense."

SECTION 7. Section 237-41, Hawaii Revised Statutes, is amended to read:

**"Sec. 237-41 Records to be kept; examination; penalties.** Every taxpayer shall keep in the English language within the State, and preserve for a period of three years, suitable records of gross proceeds of sales and gross income, and such other books, records of account, and invoices as may be required by the department of taxation, and all such books, records, and invoices shall be open for examination at any time by the department or the Multistate Tax Commission pursuant to chapter 255, or the authorized representative thereof. Any person violating this section shall be guilty of a misdemeanor; and any director, president, secretary, or treasurer of a corporation who permits, aids, or abets the corporation to violate this section shall likewise be guilty of a misdemeanor; the penalty for such misdemeanor shall be that prescribed by section 237-48 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section."

SECTION 8. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to Civil Service.

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

SECTION 1. Section 76-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-8 Public employment program personnel.** Employees in the public employment program which is funded in part or wholly under the Emergency Employment Act of 1971, PL 92-54, and in the public service career program plan "A", which is funded in part or wholly under the Federal Manpower Development and Training Act of 1962, as amended, who are employed by the State or county governments and who are not in the civil service systems of their respective jurisdictions may be granted by the chief executive of the jurisdiction concerned permanent appointment status in the appropriate civil service system as provided in this chapter. Permanent appointment status may be granted by the chief executive of the jurisdiction concerned provided that funds shall have been appropriated for the positions affected and these employees shall not be required to qualify in civil service examinations and shall be entitled to all of the rights, benefits and privileges (including credit for service in the positions occupied, vacation and sick leave credits) earned or accrued up to the date this Act takes effect, and provided further the creditable service in computing retention rights shall commence at the point of conversion to civil service status. The employees affected shall continue to receive the same rates of pay as a consequence of this Act, provided that there is no conflict with existing personnel laws, rules and regulations."

SECTION 2. Section 76-16, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 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 personnel 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 for 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 nature and that

- recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
  - (5) Employees in the office of the governor and household employees at Washington Place and six 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 and each judge of the circuit court; one law clerk for each justice of the supreme court and each judge 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 subparagraph (17);
  - (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 research projects approved by the governor, for which projects federal funds are available, provided the period of employment shall not exceed one year;
  - (13) Election inspectors, election clerks and other election employees;
  - (14) Positions filled by inmates, kokua, patients, and students of state institutions, and persons with severe physical or mental handicaps participating on the work experience training programs under Titles 1 and 2 of the Federal Manpower Development and Training Act of 1962, as amended;
  - (15) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
  - (16) Positions filled by persons employed on a fee, contract, or piece-work 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;

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- (17) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article IV, 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, and an administrative assistant to the superintendent of education;
- (18) 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;
- (19) 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.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, as it existed on July 1, 1955."

**SECTION 3.** Act 218, Part II, Program Appropriations, F. Social Problems, Item No. 9, Substitute Family Services, Homemaker Services, SOC 141, Session Laws of Hawaii 1973, is amended to include twelve additional permanent positions (homemakers). Incumbents of these positions, having passed their probationary period, shall attain permanent civil service status in these positions.

**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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

**ACT 141**

H.B. NO. 2796-74

A Bill for an Act Relating to Real Estate Brokers and Salesmen.

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

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

\*Edited accordingly.

**"Sec. 467-1 Definitions.** As used in this chapter:

- (1) "Commission" means the real estate commission of the State.
- (2) "Real estate broker" means and includes any person, copartnership, or corporation, who for compensation or a valuable consideration, sells or offers to sell, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or lists, or solicits for prospective purchasers, or who leases or offers to lease, or rents or offers to rent, any real estate, or the improvements thereon, for others, as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by him of the option and for the purpose or as a means of evading the licensing requirement of this chapter;
- (3) "Real estate salesman" means any person who, for a compensation or valuable consideration, is employed either directly or indirectly by a real estate broker to sell or offer to sell, buy or offer to buy, or list, or solicit for prospective purchasers, or who leases or offers to lease, or rents or offers to rent any real estate, or the improvements thereon, for others as a whole or partial vocation; or who secures, receives, takes, or accepts, and sells or offers to sell, any option on real estate without the exercise by him of such option and for the purpose or as a means of evading the licensing requirements of this chapter;
- (4) "Real estate" means and includes lands, the improvements thereon, leaseholds, and all other interests in real property. It shall be immaterial that a transaction also involves property other than real estate, as for example a transaction for the sale of a going business, an asset of which consists of a leasehold or other interest in real property. In such a case, to the extent that real estate is involved, it shall be considered a real estate transaction for the purpose of this definition.
- (5) "Custodian or caretaker" means any person, who for compensation or valuable consideration, is employed either directly or indirectly by a single owner and has the responsibility to manage or care for that real property left in his trust; provided that the term "custodian" or "caretaker" shall not include any person who leases or offers to lease, or rents or offers to rent, any real estate for more than a single owner; provided further, that a single owner shall not include an association of owners of a condominium, cooperative or planned unit development."

SECTION 2. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 3, 1974.)

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\*Edited accordingly.

## ACT 142

ACT 142

H.B. NO. 2810-74

A Bill for an Act Relating to Solicitation by Telephone.

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

SECTION 1. Section 468-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 468-4 Solicitation by telephone.** Persons granted a permit under this chapter are prohibited from soliciting orders, options of sale, contracts, or subscriptions, by telephone to individuals at their homes and places of employment, when such solicitations offer the opportunity to receive prizes, gifts, premiums, stamps, coupons, tickets, or other redeemable devices as an inducement for sales or for appointments for sales; provided that a solicitor may telephone prospective customers for an appointment and solicit orders during the appointment.

This section applies only to persons, manufacturers, producers, and their employees, representatives, or authorized agents and solicitors engaging in the business of selling products, goods, wares, and merchandise in the State at retail for consumption or use by the purchaser and not for resale."

SECTION 2. 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 material or the underscoring.\*

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

(Approved June 3, 1974.)

ACT 143

H.B. NO. 2862-74

A Bill for an Act Relating to Funeral Leave for Public Officers and Employees.

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

SECTION 1. Section 79-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 79-13 Funeral leave.** Three days' leave with pay, on such days as may be designated by the officer or employee, shall be granted any officer or employee in the service of the State or any county upon the death of any member of the officer's or employee's immediate family. The term 'immediate family' shall include the spouse, children, parents, siblings, father-in-law, mother-in-law, grandparents, of the officer or employee, or an individual who has become a member of an immediate family through the Hawaiian 'hanai' custom; provided, however, an individual affected by the 'hanai' relationship shall be entitled to utilize funeral leave only for those members of his immediate family resulting from the 'hanai' relationship."

\*Edited accordingly.

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 3, 1974.)

ACT 144

H.B. NO. 2981-74

A Bill for an Act Relating to the Use Tax Law.

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

SECTION 1. **Purpose.** The purpose of this bill is to encourage private industry to participate in and help solve the State's water borne transportation problems by exempting from use taxes those high-speed oceangoing vehicles used for passenger transportation from one point to another within the State.

SECTION 2. The definition of "use" in section 238-1, Hawaii Revised Statutes, is amended to read:

"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 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.

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\*Edited accordingly.

## **ACT 145**

- (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 of 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 the 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 as a public utility as defined in chapter 269.
- (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 3.** New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 3, 1974.)

## **ACT 145**

S.B. NO. 1791-74

A Bill for an Act Relating to Costs of Judicial Proceedings, Amending Chapters 607, and Sections 91-14, 92-21, 232-22, 386-88, and 664-8, Hawaii Revised Statutes.

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

**SECTION 1.** Subsection (b) of section 91-14, Hawaii Revised Statutes, is amended to read as follows:

“(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary

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\*Edited accordingly.

ruling or within thirty days after service of the certified copy of the final decision and order of the agency pursuant to the provisions of the Hawaii Rules of Civil Procedure, except where a statute provides for a direct appeal to the supreme court and in such cases the appeal shall be in like manner as an appeal from the circuit court to the supreme court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal (except in cases appealed under sections 11-51 and 40-91). The court in its discretion, may permit other interested persons to intervene."

SECTION 2. Section 92-21, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 92-21 Copies of records; other costs and fees.** Except as otherwise provided by law, a copy of any public document or record, including any map, plan, diagram, photograph, or photostat, which is open to the inspection of the public shall be furnished to any person applying for the same by the public officer having charge or control thereof upon the payment of the following:

- (1) \$1 for every hundred words or fraction thereof contained in any written document, record, entry, or other paper when the copy is made in writing or when typewritten or the like by the public officer having charge or control thereof;
- (2) \$1 per page or fraction thereof for reproducing any written document, record, entry, or other paper when the copy is made by the public officer having charge or control thereof by the use of any photostat, or other similar means of reproduction;
- (3) \$1 per page or sheet for making a copy of any map, plan, diagram, or photograph, which copy may be made by any method of reproduction;
- (4) 25 cents for every hundred words or fraction thereof for comparing any copy of a written document, record, entry, or other paper with the original thereof, when comparison is required or requested;
- (5) \$1 for the certification to any copy, when certification is required or requested;
- (6) Printed forms; certified copies:
  - Marriage certificates ..... \$1.50
  - Comparing and certifying of printed or photostatic copies, first copy full charge, all others certifying charge only.
  - Exemplification ..... \$1.50
  - Certification or authentication of notaries ..... \$1.00
  - Legal notices, affidavits of publication ..... \$1.00;
- (7) All such fees shall be paid in by the public officer receiving or collecting the same to the state director of finance or county director of finance or by which the officer is employed as government realizations."

SECTION 3. Section 232-22, Hawaii Revised Statutes, is amended to read as follows:

## ACT 145

**"Sec. 232-22 Costs; deposit for an appeal.** The costs to be deposited by the taxpayer on appeal to the board of review shall be \$3 for each real property tax appeal. No costs shall be charged on appeal to the board of review in other cases.

The costs to be deposited by the taxpayer on any appeal to the tax appeal court shall be five per cent of the amount of taxes in dispute but not more than \$100 nor less than \$5 in any one case.

On appeal to the supreme court, the deposit for costs, and costs chargeable, shall be the same as in appeals to the supreme court from decisions of circuit courts, as provided by sections 607-5 and 607-6. If the decision of the supreme court is in favor of the taxpayer, he shall pay no costs for the appeal and any payment or deposit therefor shall be returned to him. If the decision is only partly in favor of the taxpayer, the costs shall be prorated in the manner provided by section 232-23. No costs shall be payable by, and no deposit shall be required from, the assessor or the county in any case."

SECTION 4. Section 386-88, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 386-88 Judicial review.** The decision or order of the appellate board shall be final and conclusive, except as provided in section 386-89, unless within thirty days after mailing of a certified copy of the decision or order, the director or any other party appeals to the supreme court by filing a written notice of appeal with the appellate board. A fee in the amount prescribed by section 607-5 for filing a notice of appeal from a circuit court shall be paid to the appellate board for filing the notice of appeal from the board, which together with the supreme court costs shall be deemed costs of the supreme court proceeding. The appeal shall be on the record and the court shall review the appellate board's decision on matters of law only. No new evidence shall be introduced in the supreme court, except that the court may, if evidence is offered which is clearly newly discovered evidence and material to the just decision of the appeal, admit the same."

SECTION 5. Section 607-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 607-1 Power of supreme court with respect to costs and fees.** The supreme court shall have power by rule of court, from time to time, to revise, amend, add to, or eliminate any of the items of costs and fees provided in this chapter, to prescribe such costs and fees as it deems reasonable in all cases not therein provided for, and to prescribe the amount to be paid in advance to the clerk of any court in any proceeding on account of the costs and fees."

SECTION 6. Subsections (a) and (b) of section 607-4, Hawaii Revised Statutes, are amended to read as follows: (a) The fees prescribed by subsection (b) shall be paid to the clerk of the district court as costs of court by the person instituting the action or proceeding, or offering the paper for filing, or causing the document to be issued or the services to be performed in the district court; provided that nothing in subsection (b) shall apply to

cases of adults charged with commission of a crime, or minors referred to the district court by the family court; provided further that for the purposes of subsection (b) "judgment" includes an order from which an appeal lies.

(b) The fees referred to in subsection (a) are:	
(1) For the institution of each action or proceeding, to include all charges except as provided by paragraphs (2) to (13) . . . . .	\$10
(2) Intervention; answer containing one or more cross claims or counter-claims; third-party complaint, for each such matter . . . . .	\$5
(3) Motion or other application for: change of venue; involuntary dis- missal, or preliminary hearing of a defense which may lead to invol-untary dismissal; judgment on the pleadings; summary judgment; new trial; vacating, altering, or amending judgment, for each such matter, provided that an application in the alternative shall be treated as one matter . . . . .	\$3
(4) For the issuance of garnishee summons; writ of possession, attach-ment, or execution; or any other writ, for each such matter . . . . .	\$3
(5) Issuance of a subpoena, for each witness to be served . . . . .	\$1
(6) Deposition upon oral examination or written questions, or physical or mental examination, or examination of judgment debtor or other person under section 636-4, to be paid by the party filing the first paper in the matter, for each person whom the party seeks to question or examine . . . . .	\$3
(7) Demand for jury trial . . . . .	Fee prescribed by section 607-5
(8) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs . . . . .	\$30
(9) Search of records by the clerk . . . . .	\$2
(10) Mak <sup>i</sup> ng of a copy; comparing of copy with original . . . . .	Fees prescribed by section 92-21
(11) Certification under seal of copy of pleading or other paper subse-quent to the initial filing of the pleading or paper, except record on appeal . . . . .	\$1
(12) Exemplification, instead of item (11) . . . . .	\$1
(13) Posting notice; service fees; garnishee fees; mileage charges; or other services actually performed . . . . .	Amounts necessary to cover actual costs or disbursements."

SECTION 7. Section 607-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 607-5 Costs, circuit courts.**

The fees prescribed by the below schedule shall be paid to the clerk of the circuit court as costs of court by the person instituting the action or pro-ceeding, or offering the paper for filing, or causing the document to be issued or the services to be performed in the circuit court; provided that nothing in the schedule shall apply to cases of adults charged with commission of a

## ACT 145

crime, or to proceedings under section 571-11(1) or (2), or to proceedings under chapter 333 or 334, or to small estates (including decedents' estates and protection of property of minors and persons under disability) when the amount payable is fixed by another statute.

For the purpose of this section, "judgment" includes a decree and any order from which an appeal lies.

### SCHEDULE

In the application of this schedule, each case assigned a new number or filed under the number previously assigned to a probate, trust, guardianship, or conservatorship, shall carry a fee for the institution or transfer of the action or proceeding as prescribed by part I, and in addition the fees prescribed by parts II and III unless otherwise provided.

### PART I

#### Action or proceeding, general:

- |   |      |
|---|------|
| (1) Civil action or special proceeding, unless another item in this part I applies .....              | \$30 |
| (2) Appeal to a circuit court .....   | \$30 |
| (3) Transfer of action to circuit court from district court, in addition to district court fees ..... | \$20 |

#### Trusts:

- |   |                        |
|---|------------------------|
| (4) Proceeding for (A) appointment of trustee; (B) appointment of successor; (C) resignation of trustee; (D) instructions; (E) approval of investment; (F) approval of sale, mortgage, lease, or other disposition of property; (G) approval of compromise of claim, for each such matter ..... | \$15                   |
| (5) Proceeding for (A) removal of trustee; (B) order requiring accounting; (C) invalidation of action taken by trustee; (D) termination of trust, for each such matter .....  | \$15                   |
| (6) Accounting, this fee to be paid for each account filed and to include the settlement of the account .....   | \$10                   |
| (7) Vesting order .....   | no charge under part I |
| (8) Allowance of fees of trustees, attorneys, or other fees for services incurred in a proceeding for which a fee has been paid under this section.....   | no charge under part I |
| (9) Any other proceeding relating to a trust.....   | \$15                   |

#### Guardianship of estate, or conservatorship:

- |   |      |
|---|------|
| (10) Proceeding for (A) appointment; (B) appointment of successor; (C) resignation; (D) instructions, unless included in one of the foregoing proceedings; (E), (F), (G) approval of any matter listed in (E), (F), or (G) of item (4) in relation to a trust, for each such matter ..... | \$15 |
| (11) Proceeding of the nature listed in (A), (B), (C), or (D) of item (5) in relation to a trust, for each such matter.....   | \$15 |
| (12) Accounting, same as provided by item (6) in relation to a trust.   | \$10 |

- (13) Any other proceeding relating to guardianship of an estate, or a conservatorship ..... no charge under part I

**Probate (decedents' estates).** These fees include all matters of the nature listed in items (4) to (9), without additional charge:

- (14) Application for letters of temporary administration, in addition to fee prescribed by item (15) ..... \$10

- (15) Probate, administration, or ancillary administration, this fee to be paid once only for each decedent's estate ..... \$30

**Family court cases:**

- (16) Matrimonial action (annulment, divorce, separation, or separate maintenance) ..... \$30

- (17) Adoption ..... \$15

- (18) Guardianship of the person, including all matters of the nature listed in items (4) to (9) ..... \$15

- (19) Termination of parental rights ..... no charge under part I

- (20) Any other family court proceeding, including without limitation custody proceedings even if in the form of an habeas corpus proceeding ..... \$15

## PART II

The fees prescribed by this part do not apply to decedents' estates, guardianships, or conservatorships.

**Intervention; affirmative relief:**

- (21) Intervention ..... \$15

- (22) Answer containing one or more cross-claims, cross-complaints, or counterclaims ..... \$15

- (23) Third-party complaint ..... \$15

**Motions:**

- (24) Motion or other application for: (A) preliminary injunction including temporary restraining order; (B) change of venue; (C) involuntary dismissal, or preliminary hearing of a defense which may lead to involuntary dismissal; (D) judgment on the pleadings; (E) summary judgment; (F) new trial; (G) vacating, altering, or amending judgment, for each such matter, provided that an application in the alternative shall be treated as one matter ..... \$15

**Writs; garnishee summons.** For the issuance of the following:

- (25) Garnishee summons ..... \$10

- (26) Writ of possession, attachment, or execution ..... \$10

- (27) Temporary restraining order or other injunction ..... no charge except for the motion

- (28) Any other writ ..... \$10

## PART III

The fees prescribed by this part apply without exception.

**Jury trial:**

- (29) Demand for jury trial, including without limitation probate cases,

appeals to the circuit court, and cases transferred to the circuit court from the district court, this fee to be paid to the court in which the demand is filed by the party first making the demand ..... \$50

**Subpoena:**

(30) Issuance of a subpoena, for each witness to be served ..... \$3

**Deposition; examination:**

(31) Deposition upon oral examination or written questions, or physical or mental examination, or examination of judgment debtor or other person under section 636-4, to be paid by the party filing the first paper in the matter, for each person whom the party seeks to question or examine ..... \$10

**Miscellaneous:**

(32) Filing of notice of appeal to supreme court, to be paid in addition to the deposit of supreme court costs ..... \$30

(33) Search of records by the clerk ..... \$2

(34) Making of copy; comparing of copy with original; certification or authentication of notaries ..... Fees prescribed by section 92-21

(35) Certification under seal of copy of pleading or other paper subsequent to the initial filing of the pleading or paper, except record on appeal ..... \$1

(36) Exemplification, instead of item (35) ..... \$2

(37) Filing of copy of notice of completion of contract, with affidavit of publication ..... \$3

(38) Filing of initial paper under section 507-43 by person asserting mechanic's or materialman's lien (this fee to be additional to the fee prescribed by part I for bringing an action under section 507-47) ..... \$15

(39) Filing of any other paper not in a pending proceeding ..... \$3

(40) Printing, publishing, or posting notice; service fees; garnishee fees; mileage charges; or other services actually performed .... Amounts necessary to cover actual costs or disbursements."

SECTION 8. Section 607-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 607-6 Supreme court costs.** (a) Upon the filing of any appeal, or the institution of any original suit, action, or other proceeding in the supreme court, there shall be paid to the clerk of the supreme court by the person filing such appeal, or instituting the suit, action, or other proceeding, as costs of court, the sum of ..... \$50.

(b) In addition to the costs of court enumerated in subsection (a), the clerk of the supreme court shall charge and collect, for miscellaneous service performed by him, the following sums:

(1) For filing any paper not in a pending suit, action, or other proceeding ..... \$3

(2) For issuing any subpoena, for each witness to be served ..... \$3

(3) All amounts necessary to cover actual costs or disbursements for printing, publishing, or posting notice, service fees, mileage charges, or other services actually performed."

SECTION 9. Section 664-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 664-8 Appeal.** Any party deeming himself aggrieved by the decision of the commissioner of boundaries may appeal therefrom to the supreme court within thirty days from the rendition of the decision and within the period shall pay all costs accrued and shall pay or deposit costs for appeal as provided in sections 607-5, 607-6, and 607-7; provided that any land owner absent from the State and not represented by an authorized agent within the State, shall have the right of appeal for one year from the rendition of the decision."

SECTION 10. 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 material, or the underscoring.\*

SECTION 11. This Act shall take effect July 1, 1974.

(Approved June 4, 1974.)

## ACT 146

H.B. NO. 27

A Bill for an Act Relating to Substitute Justices of the Supreme Court.

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

SECTION 1. Section 602-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 602-11 Full court; substitute justices.** Parties shall be entitled to a hearing before a full court. In case of a vacancy, or if a justice of the supreme court is disqualified from sitting in any case pending before the supreme court, or is unable to attend, the vacancy or the place of such justice may be temporarily filled by a circuit judge designated by the chief justice or by the appointment of a justice who has retired from the supreme court. Such retired justice chosen to serve as substitute justice shall not be actively engaged in the practice of law, nor have attained the age of seventy years. A retired justice, when sitting as substitute justice, shall be compensated at a rate of pay of associate justices of the supreme court. When necessary, the court may consist of five circuit judges, so designated or five retired justices so appointed or any combination of circuit judges and retired justices."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 4, 1974.)

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\*Edited accordingly.

## ACT 147

### ACT 147

H.B. NO. 676

A Bill for an Act Amending Section 612-8 of the Hawaii Revised Statutes, Relating to Pay of Jurors.

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

SECTION 1. Section 612-8 of the Hawaii Revised Statutes is amended to read as follows:

"The pay of jurors shall be \$20 for each day of actual attendance at court, and in addition 20 cents for each mile actually and necessarily traveled in going only. The mileage fee may be allowed to a juror although, upon his request, he is excused from jury service, or claims exemption from jury service, provided he reports in person at the time for which he was summoned. In the discretion of the court any juror who incurs expenses for transportation, board, and lodging as a result of the distance he resides from the location of the court may be reimbursed for actual expenses."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$200,000, 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. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, and the underscoring.\*

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

(Approved June 4, 1974.)

### ACT 148

H.B. NO. 2467-74

A Bill for an Act Relating to Family Courts.

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

SECTION 1. Section 571-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-13 Retention of jurisdiction.** Except as provided in section 571-22, jurisdiction obtained by the court in the case of a child may be retained by it, for the purposes of this chapter, until he becomes eighteen years of age, unless judicially terminated prior thereto."

SECTION 2. Section 571-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 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 the full investigation and hearing where the person during

\*Edited accordingly.

his minority, but on or after his 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 this 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 his minority.

(b) Transfer of a child sixteen years or older for criminal proceedings terminates the jurisdiction of the court over the child 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 him to a court of competent criminal jurisdiction.

(c) If criminal proceedings instituted under subsections (a) and (b) 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.

(d) A minor shall not be subject to criminal prosecution based on the facts giving rise to a petition filed under this chapter except as provided for in this section.

(e) Where the petition has been filed in a circuit other than the minor's residence, the judge may in his discretion transfer the case to the family court of the circuit of the minor's residence.

(f) 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 3. 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 material, or the underscoring.\*

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

(Approved June 4, 1974.)

A Bill for an Act Relating to Fees for Service of Process.

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

SECTION 1. Section 607-4(d), Hawaii Revised Statutes, as amended, is further amended to read:

\*Edited accordingly.

## ACT 150

### **"Sec. 607-4 District court costs.**

(d) Sheriff's or police officer's fees:

- (1) For serving any criminal summons, warrant, attachment, or other criminal process, \$5 from and after until July 1, 1974, and \$6 thereafter.
- (2) For serving any civil summons, warrant, attachment, or other civil process, \$5.
- (3) For every copy of an attachment and inventory of the property attached, served upon the defendant, \$1.50.
- (4) For serving any execution, 12 cents for every \$1 collected up to \$50, and 7 cents for every \$1 over \$50.
- (5) For serving subpoena or garnishee summons, \$3."

SECTION 2. Section 607-8, Hawaii Revised Statutes, as amended, is further amended by amending the third and fourth paragraphs thereof (only) to read:

**"Sec. 607-8 Sheriff's or serving or levying officer's fees in circuit or supreme courts.** For serving civil summons or any other civil process, except a subpoena or a garnishee summons, for each person served therewith, \$5.

For serving subpoena or garnishee summons, for each person, \$3."

SECTION 3. 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 material or the underscoring.\*

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

(Approved June 4, 1974.)

## ACT 150

S.B. NO. 1844-74

A Bill for an Act Relating to Employment Practices.

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

SECTION 1. Section 378-33, Hawaii Revised Statutes, is hereby amended to read as follows:

### **"Sec. 378-33 Complaint against unlawful suspension or discharge.**

(a) Any employee aggrieved by an alleged unlawful suspension or discharge 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 or discharge, 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 or discharge, except that an alleged act of unlawful discharge under subsection 378-32(2) occurring while the ag-

\*Edited accordingly.

grieved 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 2. 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 material or the underscoring.\*

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

(Approved June 4, 1974.)

## ACT 151

H.B. NO. 144

A Bill for an Act Relating to Workmen's Compensation.

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

SECTION 1. Section 386-42, Hawaii Revised Statutes, is amended to read:

**"Section 386-42 Dependents.** (a) The following persons, and no others, shall be deemed dependents and entitled to income, and indemnity benefits under this chapter:

A child who is (1) unmarried and under eighteen years, or (2) unmarried and under twenty years if he is a full-time student at a high school, business school, or technical school, or unmarried and under twenty-two years if he is a full-time undergraduate student at a college, or (3) unmarried and incapable of self-support, or (4) married and under eighteen years, if actually dependent upon deceased.

The surviving spouse, if either living with the deceased at the time of the injury or actually dependent upon the deceased;

A parent or grandparent, if actually dependent upon the deceased;

A grandchild, brother, or sister, if (1) under eighteen years or incapable of self-support, and (2) actually and wholly dependent upon the deceased.

(b) A person shall be deemed to be actually dependent upon the deceased, if he or she contributed all or a substantial portion of the living expenses of such person at the time of the injury.

(c) Alien dependents not residing in the United States at the time of the injury or leaving the United States subsequently shall maintain annual proof of such dependency as required by the director of labor and industrial relations."

SECTION 2. Section 386-43, Hawaii Revised Statutes, is amended to read:

**"Section 386-43 Duration of dependents' weekly benefits.** (a) The weekly benefits to dependents shall continue:

To a surviving spouse, until death or remarriage, with two years' compensation in one sum upon remarriage.

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\*Edited accordingly.

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To or for a child, (1) so long as unmarried, until attainment of the age of eighteen, or (2) so long as unmarried, until attainment of the age of twenty if he is a full-time student at a high school, business school, technical school, or unmarried and under twenty-two years if he is a full-time undergraduate student at a college, or (3) so long as unmarried, until termination of his incapability of self-support, or (4) until marriage, except that in the case of a married child under eighteen, weekly benefits shall continue during the period of actual dependency until attainment of the age of eighteen.

To a parent or grandparent, for the duration, whether continuous or not, of such actual dependency, provided that the amount of the weekly benefits shall at no time exceed the amount payable at the time of death.

To or for a grandchild, brother, or sister, for the period in which he or she remains actually and wholly dependent until attainment of the age of eighteen or termination of the incapability of self-support.

(b) The aggregate weekly benefits payable on account of any one death shall not exceed \$35,100, but this limitation shall not apply with respect to benefits to a surviving spouse who is physically or mentally incapable of self-support and unmarried as long as he or she remains in that condition and to benefits to a child except in the case of an unmarried child over eighteen incapable of self-support as long as he or she is otherwise entitled to such compensation.

(c) Upon the cessation under this section of compensation to or for any person, the benefits of the remaining dependents in the same class for any further period during which they are entitled to weekly payments shall be in the amounts which they would have received, had they been the only dependents entitled to benefits at the time of the employee's death."

SECTION 3. 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 material or the underscoring.\*

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

(Approved June 4, 1974.)

## ACT 152

H.B. NO. 2193-74

A Bill for an Act Relating to the Hawaii Occupational Safety and Health Law.

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

SECTION 1. Section 396-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-3 Definitions.** When used in this chapter:

'Department' means the department of labor and industrial relations.

'Director' means the director of labor and industrial relations.

\*Edited accordingly.

'Appeals board' means the labor and industrial relations appeals board.

'Employer' means:

- (1) The State and every state agency;
- (2) Each county and all public and quasi-public corporations and public agencies therein;
- (3) Every person which has any natural person in service;
- (4) The legal representative of any deceased employer;
- (5) Every person having direction, management, control, or custody of any employment, place of employment, or any employee.

'Employee' means every natural person who is required or directed or permitted or suffered by any employer to engage in any employment, or to go to work or be at any time in any place of employment.

'Place of employment' means any place, and the premises appurtenant thereto, where employment is carried on, except a place the safety jurisdiction over which is vested by law in any federal agency.

'Employment' includes the carrying on of any trade, business, occupation, or work, including all excavation, demolition, and construction work, or any process or operation in any way related thereto, in which any person is engaged to work for hire except domestic service in or about a private home.

'Safe' and 'safety' as applied to an employment or place of employment mean such freedom from danger to employees as the nature of the employment reasonably permits.

'Safety device' and 'safeguard' shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger.

'Manufacturer' means, for the purpose of the section concerning explosives, any person who is engaged in the manufacture of explosives or who otherwise produces any explosive;

'Occupational safety and health standard' means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

'Dealer' means, for the purpose of the section concerning explosives, any person, not a manufacturer, engaged in the business of buying and selling explosives."

SECTION 2. Section 396-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-4 Powers and duties of department.** (a) Administration. The department shall be responsible for administering occupational safety and health standards throughout the State.

- (1) The department shall prescribe and enforce rules and regulations under chapter 91 as may be necessary for carrying out the purposes and provisions of this chapter. The department shall make such reports to the Secretary of Labor in such form and containing such

information as the Secretary shall from time to time require pursuant to federal law.

- (2) Emergency temporary standards may be promulgated without conforming to chapter 91, without hearings or publication by the department by giving three days written notice for compliance for the protection of employees against new hazards unforeseen by this chapter. Said emergency temporary standard shall be effective until superseded by a standard promulgated in accordance with the procedures set forth in chapter 91, but in any case shall be effective no longer than six months;
- (3) Variances from occupational safety and health standards promulgated under this chapter may be granted upon application of an employer or employers. Application for variances must correspond to procedures set forth in the rules and regulations of this chapter. The employer shall also notify his employees upon each application for variance and said employees shall be given an opportunity to request and participate in hearings or other proceedings relating to applications for variance. No inference of admission of violation of a standard shall be made against the employer by reason of his application for variance;
- (4) The department may, upon the application of any employer or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order. Any person affected by an order may petition the department for an extension of time, which may be granted if the department finds it necessary.
  - (b) Inspection and investigation.
    - (1) Authorized representatives of the director shall have the right to enter without delay any place of employment during regular working hours and at other reasonable times;
    - (2) The department shall inspect places of employment and machines, devices, apparatus, and equipment for the purpose of insuring adequate protection to the life, safety and health of workers;
    - (3) The department shall inspect construction activities for the purpose of protecting the health and safety of employees and the general public. A construction activity includes any activity related to the erection, construction, alteration, demolition or maintenance of buildings, structures, bridges, highways, roadways, dams, tunnels, sewers, underground buildings or structures, underground pipelines or ducts, and any other construction project or facility;
    - (4) The department shall inspect, at least semiannually, all mechanically or electrically operated devices considered as major rides and used as amusement rides at a carnival, circus, fair, or amusement park for the purpose of protecting the safety of the general public. This section shall not apply to any coin operated ride or mechanically or electrically operated devices considered or known in the amusement trade as kiddie rides;
    - (5) The department may investigate the cause of all industrial injuries

- resulting in disability or death which occur in any employment, or place of employment, and may make reasonable orders and recommendations with respect to the cause of the injuries;
- (6) The department shall have the right to question privately any such employer, owner, operator, agent or employee in investigation, enforcement and inspection activities;
- (7) There shall be a prohibition against advance notice of inspection except that written exception may be expressly authorized by the director in his discretion and pursuant to the rules and regulations promulgated under this chapter. Those inspections requiring advance notice for preparation or for other purposes of inspection as further defined in the rules and regulations promulgated under this chapter shall not be included in the prohibition against advance notice.
- (c) Education and training.
- (1) The department may disseminate through exhibitions, moving pictures, lectures, pamphlets, and any other method of publicity, information to employers, employees and the general public regarding the causes and prevention of industrial accidents and injuries.
- (2) Where appropriate, the department shall undertake programs in training and consultation with employers and employees as a means of encouraging voluntary compliance.
- (d) Enforcement.
- (1) Whenever right of entry or inspection is refused to an authorized representative of the director, the department may apply to the circuit court of the circuit where such place of employment exists for a search warrant providing on its face that the wilful interference with its lawful execution may be punished as a contempt of court.
- (2) Whenever the department finds that any employment or place of employment or the operation of any machine, device, apparatus, or equipment is not safe, or that any practice, means, method, operation, or process employed or used in connection therewith is unsafe or does not afford adequate protection to the life, safety and health of employees in the employment, the department shall make an order relative thereto which is necessary to render the employment or place of employment safe and protect the life and safety of employees therein and deliver the same to the employer. The department may in the order direct that, in the manner and within a time specified, such additions, repairs, improvements, or changes be made and such safety devices and safeguards be furnished, provided and used as are reasonably required to render the employment or place of employment safe. The employer shall obey and observe all safety orders and post said order at or near the place where the violation referred to in the order occurred.
- (3) Whenever in the opinion of the department the condition of any employment or place of employment, or the operation of any machine, device, apparatus, or equipment, or any practice, means,

method, operation, or process employed or used, is in an unsafe condition or is not properly guarded or dangerously placed, the use thereof shall be prohibited by the department, and an order to that effect shall be posted prominently in the working place. The order shall be removed: (A) when a determination has been made by the department that the place of employment, machine, device, apparatus, or equipment is made safe and the required safeguards or safety devices are provided for; and (B) by an authorized representative of the department.

- (4) Whenever in the opinion of the department the condition of any employment or place of employment, or the operation of any machine, device, apparatus, or equipment, or any practice, means, method, operation, or process employed or used constitutes an imminent hazard to the life or safety of any person, the department may apply to the circuit court of the circuit in which such place of employment, machine, device, apparatus, or equipment is situated or such practice, means, method, operation, or process is employed for an injunction restraining the use or operation thereof until the use or operation is made safe. The application to the circuit court accompanied by an affidavit showing that the use or operation exists in violation of an order of the department and constitutes an imminent hazard to the life or safety of any employee, and accompanied by a copy of the order applicable thereto, shall warrant, in the discretion of the court, the immediate granting of a temporary restraining order. No bond shall be required from the department as a prerequisite to the granting of a restraining order.
- (5) The director and his authorized agents shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be examined witnesses as are possessed by a court, and may take depositions and certify to official acts. The circuit court of any circuit upon application by the director shall have power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed. Subpoena and witness fees and mileage in such cases shall be the same as in criminal cases in the circuit courts. Necessary expenses of or in connection with any such hearings or investigations shall be payable from the funds appropriated for expenses of administration of the department.  
No person shall be excused from attending or testifying or producing material, books, paper, correspondence, memoranda, and other records before the director or in obedience to subpoena on the grounds 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 individuals so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

- (6) Where a condition or practice in a place of employment could reasonably be expected to cause death or serious physical harm, the department shall have the right, independent of any other enforcement powers under this chapter, to: (A) immediately inform the employees and employers of such hazard by meeting, posted notice, or otherwise; (B) take steps to obtain immediate abatement of the hazard by the employer and where appropriate to initiate necessary legal proceedings to require such abatement."

SECTION 3. Section 396-6, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-6 Employer responsibility: Safe place of employment; safety devices and safeguards.** (a) Every employer shall furnish to each of his employees employment and a place of employment which are safe as well as free from recognized hazards. No employer shall require or direct or permit or suffer any employee to go or be in any employment or place of employment which is not free from recognized hazards that are causing or likely to cause death or serious physical harm to employees or which does not comply with occupational safety and health standards promulgated under this chapter except for the specific purpose of abating said hazard.

(b) Every employer shall furnish and use safety devices, and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe.

(c) No employer shall construct or cause to be constructed any place of employment that is not safe, and no employer shall occupy or maintain any unsafe place of employment.

(d) Every employer shall make such reports as the Secretary of Labor may require pursuant to PL 91596 Section 8 (c).

(e) Each employer shall make, keep and preserve and make available to the department such records regarding his activities relating to this chapter as the department may prescribe by regulation as necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses.

The department shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on work related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

(f) All employers shall be required to post prominently in the working place all posters and information provided by the department for posting as well as notices informing employees of their rights and obligations under this chapter."

SECTION 4. Section 396-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-8 Employee responsibility and rights.** (a) Employee compliance. Each employee shall comply with occupational safety and health standards and all rules, regulations and orders issued under this chapter which are applicable to his own actions and conduct.

(b) Complaints to the department. Complaints may be made to the department and where reasonable grounds exist for the department to believe there may be a hazard, there shall be an inspection in response to the complaint.

(c) Opportunity for employees to participate in inspections. At the time and place of inspections under section 396-4(b) (2), (3), and (4), an opportunity shall be provided for employees and their representatives to bring possible violations to the attention of the authorized representative of the director conducting said inspection in order to aid inspections. This requirement may be fulfilled by allowing a representative of the employees and a representative of the employer to accompany the director's authorized representative during the physical inspection of the workplace, or in absence of the employees' representative, there shall be a consultation with a reasonable number of employees.

(d) Notice of nonaction to employees. The department shall notify the employees when the department decides not to take compliance action as a result of violations alleged by any employee or any representative of the employees. This notice shall state the decision not to take compliance action, the reasons therefor, and the procedures for informal review of such decision.

(e) Discharge or suspension of employee for refusal to engage in unsafe practices prohibited.

- (1) No employer shall discharge, suspend or otherwise discriminate in terms and conditions of employment against any employee by reason of:
  - (A) his failure or refusal to operate or handle any machine, device, apparatus, or equipment which is in any unsafe condition; or
  - (B) his failure or refusal to engage in unsafe practices in violation of this chapter or of any rule or regulation issued under the authority of this chapter; or
  - (C) his failure or refusal to operate or handle any machine, device, apparatus, or equipment in violation of this chapter or of any rule or regulation issued under the authority of this chapter; or
  - (D) his filing a complaint, testifying or otherwise acting to exercise rights under this chapter for himself or others.
- (2) Upon discretion of the director or request, names of complainants may be withheld from the employer.
- (3) Within thirty days of the alleged act of discrimination, the employee shall file a complaint with the department setting forth the circumstances thereof.

- (4) The director shall investigate said complaint and if he finds discrimination in violation of this chapter, he shall order the employer to provide necessary relief to the employee. This relief may include rehiring, reinstatement to former job with back pay and restoration of seniority.
- (5) Nothing in this section shall prevent a penalty being levied against the employer under section 396-10.

(f) Except for those complainants alleging violations under subsection (e) above, names of all complainants and witnesses shall be withheld from the employer unless prior permission is given by the complainant or witness to release his name."

SECTION 5. Section 396-10, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-10 Violations and penalties.** (a) Any employer who violates this chapter, or any occupational safety and health standard promulgated hereunder or any rule or regulation issued under the authority of this chapter, or who violates or fails to comply with any notice or order made under or by virtue of this chapter or under or by virtue of any rule or regulation of the department, or who defaces, displaces, destroys, damages, or removes without the authority of the department any safety device, safeguards, notice or warning required by this chapter or any rule or regulation of the department may be assessed a civil penalty as specified in this chapter. Each day a violation continues shall constitute a separate violation except that during an abatement period, penalty may be suspended. Posting violations are also specifically covered by this penalty.

(b) Any employer who has received an order or citation for a serious violation of any standard, rule, or order promulgated pursuant to this chapter, shall be assessed a civil penalty of not more than \$1,000 for each such violation.

(c) Any employer who has received an order or citation for a violation of any standard, rule or order promulgated pursuant to this chapter, and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to \$1,000 for each such violation.

(d) Each day a violation continues shall constitute a separate violation except that during an abatement period only, no additional penalty shall be levied against the employer.

(e) Any employer who violates any of the posting requirements, as prescribed under the provisions of this chapter, shall be assessed a civil penalty of up to \$1,000 for each violation.

(f) Any employer who wilfully or repeatedly violates this chapter, any occupational safety and health standard promulgated hereunder, or any rule or regulation issued under the authority of this chapter, shall be assessed a civil penalty of not more than \$10,000 for each violation.

(g) Any employer who wilfully violates any standard, rule, or order promulgated pursuant to this chapter and that violation caused death to an employee, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months or both, except

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that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine of not more than \$20,000 or by imprisonment for not more than one year or by both. Failure to correct a violation for which an order or citation of arrest has been issued shall be evidence of wilful conduct.

(h) Any person who gives advance notice of any inspection to be conducted under this chapter, without authority from the director or his designees shall, upon conviction be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.

(i) The director shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(j) For the purposes of this section, a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

(k) Civil penalties owed under this chapter shall be paid to the department and may be recovered in a civil action in the name of the department and the State of Hawaii and brought in the district or circuit court for the circuit where the violation is alleged to have occurred or where the employer has its principal office.

(l) Notice of violation. When an alleged violation of any provision of this chapter or any rule or regulation promulgated thereunder has occurred, the department shall promptly issue a written order to the employer who shall be required to post said order in a prominent place. Said order shall include the abatement requirements and within a reasonable time the employer shall be advised of the proposed sanctions.

(m) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both."

SECTION 6. Section 396-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-11 Appeals.** Any order of the director issued under this chapter shall be final and conclusive against the employer unless the employer, within twenty days after a copy of such order is received by him, petitions the appeals board for a review thereof. After hearing, the appeals board may set aside the order or continue it upon such terms and conditions as may be deemed necessary. The filing with the appeals board of a petition for review shall not stay or suspend the operation of the order, and no stay shall be granted by the appeals board pending its decision. The

employees or their representatives shall have the right to participate in all hearings."

SECTION 7. Section 396-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 396-13 Trade secrets.** Information obtained by the department containing or revealing a trade secret shall be held confidential and access shall be limited to authorized representatives of the director concerned with carrying out this chapter or when relevant in any proceeding under this chapter. In such proceeding the director or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets."

SECTION 8. 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 material, or the underscoring.\*

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

(Approved June 4, 1974.)

## ACT 153

H.B. NO. 2297-74

A Bill for an Act Relating to Workmen's Compensation.

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

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

**"Section 386-1 Definitions.** In this chapter, unless the context otherwise requires:

'Appellate board' means the labor and industrial relations appeals board.

'Compensation' means all benefits accorded by this chapter to an employee or his dependents on account of a work injury as defined in this section; it includes medical and rehabilitation benefits, income and indemnity benefits in cases of disability or death, and the allowance for funeral and burial expenses.

'Covered employment' means employment of an employee as defined in this section or of a person for whom the employer has provided voluntary coverage pursuant to section 386-4.

'Director' means the director of labor and industrial relations.

'Disability' means loss or impairment of a physical or mental function.

'Department' means the department of labor and industrial relations.

'Employee' means any individual in the employment of another person except where such employment is solely for personal, family, or household purposes.

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\*Edited accordingly.

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Where an employee is loaned or hired out to another person for the purpose of furthering the other person's trade, business, occupation, or profession, the employee shall, beginning with the time when the control of the employee is transferred to the other person and continuing until the control is returned to the original employer, be deemed to be the employee of the other person regardless of whether he is paid directly by the other person or by the original employer. The employee shall be deemed to remain in the sole employment of the original employer if the other person fails to secure compensation to the employee as provided in section 386-121.

Whenever an independent contractor undertakes to perform work for another person pursuant to contract, express or implied, oral or written, the independent contractor shall be deemed the employer of all employees performing work in the execution of the contract, including employees of his subcontractors and their subcontractors. However, the liabilities of the direct employer of an employee who suffers a work injury shall be primary and that of the others secondary in their order. An employer secondarily liable who satisfies a liability under this chapter shall be entitled to indemnity against loss from the employer primarily liable.

'Employee in comparable employment' means a person, other than the injured employee, who is employed in the same grade in the same type of work by the same employer or, if there is no person so employed, a person, who is employed in the same grade in the same type of work by another employer in the same district.

'Employer' means any person having one or more persons in his employment. It includes the legal representative of a deceased employer and the State, any county or political subdivision of the State, and any other public entity within the State.

The insurer of an employer is subject to the employer's liabilities and entitled to his rights and remedies under this chapter as far as applicable.

'Employment' means any service performed by an individual for another person under any contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully entered into. It includes service of public officials, whether elected or under any appointment or contract of hire express or implied.

'Employment' does not include the following service:

- (1) Service for a religious, charitable, educational, or nonprofit organization if performed in a voluntary or unpaid capacity;
- (2) Service for a religious, charitable, educational, or nonprofit organization if performed by a recipient of aid therefrom and the service is incidental to or in return for the aid received;
- (3) Service for a school, college, university, college club, fraternity, or sorority if performed by a student who is enrolled and regularly attending classes and in return for board, lodging, or tuition furnished, in whole or in part;
- (4) Service performed by a duly ordained, commissioned, or licensed minister, priest, or rabbi of a church in the exercise of his ministry or by a member of a religious order in the exercise of nonsecular duties required by the order.

As used in this paragraph 'religious, charitable, educational or non-profit organization' means a corporation, unincorporated association, community chest, fund, or foundation organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

'Personal injury' includes death resulting therefrom.

'Total disability' means disability of such an extent that the disabled employee has no reasonable prospect of finding regular employment of any kind in the normal labor market.

'Trade, business, occupation, or profession' means all commercial, occupational, or professional activities, whether conducted for pecuniary gain or not. It includes all activities of nonprofit organizations conducted in pursuit of their purposes.

'Wages' means all remuneration for services constituting employment. It includes the market value of board, lodging, fuel, and other advantages having a cash value which the employer has paid as a part of the employee's remuneration and gratuities received in the course of employment from others than the employer to the extent that they are customary and expected in that type of employment or accounted for by the employee to the employer.

'Work injury' means a personal injury suffered under the conditions specified in section 386-3.

'Medical care', 'medical services', or 'medical supplies', means every type of care, treatment, surgery, hospitalization, attendance, service, and supplies as the nature of the work injury requires, and includes such care, services and supplies rendered or furnished by a licensed or certified physician, dispensing optician, podiatrist, physical therapist, nurse, or masseur.

'Physician' includes a doctor of medicine, a dentist, a chiropractor, an osteopath, a naturopath, and an optometrist.

'State average weekly wage' means the amount determined by the director under Section 383-22, Hawaii Revised Statutes, as the average weekly wage."

SECTION 2. Section 386-31, Hawaii Revised Statutes, is amended to read:

**"Section 386-31 Total disability.** (a) Permanent total disability. Where a work injury causes permanent total disability the employer shall pay the injured employee a weekly benefit equal to sixty-six and two-thirds per cent of his average weekly wages, subject to the following limitation:

Beginning January 1, 1975, and during each succeeding 12 month period thereafter, not more than the state average weekly wage last determined by the director, rounded to the nearest dollar, nor less than \$38 or 25% of the foregoing maximum amount, rounded to the nearest dollar, whichever is higher.

In the case of the following injuries, the disability caused thereby shall be deemed permanent and total:

- (1) The permanent and total loss of sight in both eyes;
- (2) The loss of both feet at or before the ankle;
- (3) The loss of both hands at or above the wrist;

- (4) The loss of one hand and one foot;
- (5) An injury to the spine resulting in permanent and complete paralysis of both legs or both arms or one leg and one arm;
- (6) An injury to the skull resulting in incurable imbecility or insanity.

In all other cases the permanency and totality of the disability shall be determined on the facts. No adjudication of permanent total disability shall be made until after two weeks from the date of the injury.

(b) Temporary total disability. Where a work injury causes total disability not determined to be permanent in character, the employer, for the duration of the disability but not including the first two days thereof shall pay the injured employee a weekly benefit at the rate of sixty-six and two-thirds per cent of his average weekly wages, subject to the limitations on weekly benefit rates prescribed in section 386-31, or if his average weekly wages are less than the minimum weekly benefit rate prescribed in section 286-31, at the rate of one hundred per cent of his average weekly wages. In case the total disability exceeds seven days, the compensation shall be allowed from the date of disability.

Temporary total disability benefits shall be paid promptly as it accrues and directly to the person entitled thereto without waiting for a decision from the director, unless the right to the benefits is controverted by the employer. The first payment of benefits shall become due and shall be paid no later than on the tenth day after the employer has been notified of the occurrence of the total disability, and thereafter the benefits due shall be paid weekly except as otherwise authorized pursuant to section 386-53."

SECTION 3. Section 386-32, Hawaii Revised Statutes, is amended to read:

**"Section 386-32 Partial disability.** (a) Permanent partial disability. Where a work injury causes permanent partial disability the employer shall pay the injured worker a weekly benefit at the rate of sixty-six and two-thirds per cent of his average weekly wages, subject to the limitations on weekly benefit rates prescribed in section 386-31, for the period named in the schedule as follows:

Thumb. For the loss of thumb, seventy-five weeks;

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks;

Second finger. For the loss of a second finger, commonly called the middle finger, thirty weeks;

Third finger. For the loss of a third finger, commonly called the ring finger, twenty-five weeks;

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks;

Phalanx of thumb or finger. Loss of the first phalanx of the thumb shall be equal to the loss of three-fourths of the thumb, and compensation shall be three-fourths of the amount above specified for the loss of the thumb. The loss of the first phalanx of any finger shall be equal to the loss of one-half of the finger, and compensation shall be one-half of the amount above speci-

fied for loss of the finger. The loss of more than one phalanx of the thumb or any finger shall be considered as loss of the entire thumb or finger;

Great toe. For the loss of a great toe, thirty-eight weeks;

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks;

Phalanx of toe. Loss of the first phalanx of any toe shall be equal to the loss of one-half of the toe; and the compensation shall be one-half of the amount specified for the loss of the toe. The loss of more than one phalanx of any toe shall be considered as the loss of the entire toe;

Hand. For the loss of hand, two hundred and forty-four weeks;

Arm. For the loss of an arm, three hundred and twelve weeks;

Foot. For the loss of a foot, two hundred and five weeks;

Leg. For the loss of a leg, two hundred and eighty-eight weeks;

Eye. For the loss of an eye by enucleation, one hundred and sixty weeks.

For the loss of vision in an eye, one hundred and forty weeks. Loss of binocular vision or of eighty per cent of the vision of an eye shall be considered loss of vision of the eye;

Ear. For the permanent and complete loss of hearing in both ears, two hundred weeks. For the permanent and complete loss of hearing in one ear, fifty-two weeks. For the loss of both ears, eighty weeks. For the loss of one ear, forty weeks;

Loss of use. Permanent loss of the use of a hand, arm, foot, leg, thumb, finger, toe or phalanx shall be equal to and compensated as the loss of a hand, arm, foot, leg, thumb, finger, toe or phalanx;

Partial loss or loss of use of member named in schedule. Where a work injury causes permanent partial disability resulting from partial loss of use of a member named in this schedule, and where such disability is not otherwise compensated in this schedule, compensation shall be paid for a period which stands in the same proportion to the period specified for the total loss or loss of use of such member as the partial loss or loss of use of that member stands to the total loss or loss of use thereof;

More than one finger or toe of same hand or foot. In cases of permanent partial disability resulting from simultaneous injury to the thumb and one or more fingers of one hand, or to two or more fingers of one hand, or to the great toe and one or more toes other than the great toe of one foot, or to two or more toes other than the great toe of one foot, the disability may be rated as a partial loss or loss of use of the hand or the foot and the period of benefit payments shall be measured accordingly. In no case shall the compensation for loss or loss of use of more than one finger or toe of the same hand or foot exceed the amount provided in this schedule for the loss of a hand or foot;

Amputation. Amputation between the elbow and the wrist shall be rated as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be rated as the equivalent of the loss of a foot. Amputation at or above the elbow shall be rated as the loss of an arm. Amputation at or above the knee shall be rated as the loss of a leg.

Disfigurement. In cases of personal injury resulting in disfigurement

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the director of labor and industrial relations may, in his discretion, award such compensation as he deems proper and equitable in view of the disfigurement but not to exceed \$15,000. Disfigurement is separate from other permanent partial disability and includes scarring and other disfiguring consequences caused by medical, surgical, and hospital treatment of the employee.

Other cases. In all other cases of permanent partial disability resulting from the loss or loss of use of a part of the body or from the impairment of any physical function, weekly benefits shall be paid at the rate and subject to the limitations specified in this subsection for a period which bears the same relation to a period named in the schedule as the disability sustained bears to a comparable disability named in the schedule. In cases in which the permanent partial disability must be rated as a percentage of total loss or impairment of physical or mental function of the whole man the maximum compensation shall be computed on the basis of the corresponding percentage of the product of 312 times the effective maximum weekly benefit rate prescribed in section 386-31.

Unconditional nature and time of commencement of payment. Compensation for permanent partial disability shall be paid regardless of the earnings of the disabled employee subsequent to the injury. Payments shall not commence until after termination of any temporary total disability that may be caused by the injury.

(b) Temporary partial disability. Where a work injury causes partial disability, not determined to be permanent, which diminishes the employee's capacity for work, the employer, beginning with the first day of the disability and during the continuance thereof, shall pay the injured employee weekly benefits equal to sixty-six and two-thirds per cent of the difference between his average weekly wages before the injury and his weekly earnings thereafter, subject to the schedule for the maximum and minimum weekly benefit rates prescribed in section 386-31.

(c) Provisions common to permanent and temporary partial disability. No determination of partial disability shall be made until two weeks from the date of the injury."

SECTION 4. Section 386-41, Hawaii Revised Statutes, is amended to read:

**"Section 386-41 Entitlement to and rate of compensation.** (a) Funeral and burial allowance. Where a work injury causes death, the employer shall pay funeral expenses not to exceed \$1,000 to the mortician and burial expenses not to exceed \$500 to the cemetery selected by the family or next of kin of the deceased or in the absence of such family or next of kin, by the employer. Such payments shall be made directly to the mortician and cemetery.

(b) Weekly benefits for dependents. In addition, the employer shall pay weekly benefits to the deceased's dependents at the percentages of the deceased's average weekly wages specified below, taking into account not more than the maximum weekly benefit rate prescribed in section 386-31 divided by .667 and not less than the minimum prescribed in said section divided by .667.

To the dependent widow or widower, if there be no dependent children, fifty per cent.

To the dependent widow or widower, if there be one or more dependent children of the deceased, sixty-six and two-thirds per cent. The compensation to the widow or widower shall be for the use and benefit of the widow or widower and of the dependent children, and the director of labor and industrial relations may from time to time apportion the compensation between them in such way as he deems best.

If there be no dependent widow or widower, but a dependent child, then to the child forty per cent, and if there be more than one dependent child, then to the children in equal parts sixty-six and two-thirds per cent.

If there be no dependent widow, widower, or child, but there be a dependent parent, then to the parent, if wholly dependent fifty per cent, or if partially dependent twenty-five per cent; if both parents be dependent, then one-half of the foregoing compensation to each of them; if there be no dependent parent, but one or more dependent grandparents, then to each of them the same compensation as to a parent.

If there be no dependent widow, widower, child, parent or grandparent, but there be a dependent grandchild, brother, or sister, or two or more of them, then to such dependents thirty-five per cent for one dependent, increased by fifteen per cent for each additional dependent, to be divided equally among the dependents if more than one.

(c) Maximum weekly amounts. The sum of all weekly benefits payable to the dependents of the deceased employee shall not exceed sixty-six and two-thirds per cent of his average weekly wages, computed by observing the limits specified in subsection (b), if necessary, the individual benefits shall be proportionally reduced.

(d) Liability to special compensation fund in the absence of dependents. If there be no dependents who are entitled to benefits under this section, the employer shall pay the sum of \$8,775.00 for any one death into the special compensation fund, pursuant to an order made by the director. The employer, pursuant to an order made by the director, shall pay any remaining balance into the special compensation fund, if the weekly benefits to which dependents are entitled terminate without totalling the sum of \$8,775.00."

SECTION 5. Section 386-43, Hawaii Revised Statutes, is amended to read:

**"Section 386-43 Duration of dependents' weekly benefits.** (a) The weekly benefits to dependents shall continue:

To a widow, until death or remarriage, with two years' compensation in one sum upon remarriage.

To a widower, until termination of his incapability of self-support or until remarriage.

To or for a child, (1) so long as unmarried, until attainment of the age of eighteen, or (2) so long as unmarried, until attainment of the age of twenty if he is a full-time student at a high school, business school, technical school, or college, or (3) so long as unmarried, until termination of his incapability of

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self-support, or (4) until marriage, except that in the case of a married child under eighteen, weekly benefits shall continue during the period of actual dependency until attainment of the age of eighteen.

To a parent or grandparent, for the duration, whether continuous or not, of such actual dependency, provided that the amount of the weekly benefits shall at no time exceed the amount payable at the time of death.

To or for a grandchild, brother, or sister, for the period in which he or she remains actually and wholly dependent until attainment of the age of eighteen or termination of the incapability of self-support.

(b) The aggregate weekly benefits payable on account of any one death shall not exceed the product of 312 times the effective maximum weekly benefit rate prescribed in section 386-31, but this limitation shall not apply with respect to benefits to a widow who is physically or mentally incapable of self-support and unmarried as long as she remains in that condition and to benefits to a child except in the case of an unmarried child over eighteen incapable of self-support as long as he or she is otherwise entitled to such compensation.

(c) Upon the cessation under this section of compensation to or for any person, the benefits of the remaining dependents in the same class for any further period during which they are entitled to weekly payments shall be in the amounts which they would have received, had they been the only dependents entitled to benefits at the time of the employee's death."

SECTION 6. 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 material, or the underscoring.\*

SECTION 7. This Act shall take effect on January 1, 1975.

(Approved June 4, 1974.)

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H.B. NO. 2506-74

A Bill for an Act Relating to Temporary Disability Insurance.

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

SECTION 1. Section 392-26(a), Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 392-26(a)** An individual shall be ineligible to receive temporary disability benefits with respect to any period during which he is not under the care of a person duly licensed to practice medicine, surgery, dentistry, chiropractic, osteopathy, or naturopathy, who shall certify, in the form and manner specified by regulation of the director, the disability of the claimant, the probable duration thereof, and such other medical facts within his knowledge as required by regulation."

\*Edited accordingly.

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 4, 1974.)

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H.B. NO. 2617-74

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:

**"Sec. 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 reduced below the standard 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 less than the standard 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, 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

\*Edited accordingly.

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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. 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 classifications 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 standard rate of contributions shall be payable by it 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 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 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 section 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."

SECTION 2. Section 383-68, Hawaii Revised Statutes, is amended to read:

**"Sec. 383-68 Contribution rate schedules; rates based on experience.**

- (a) Before December 31 of each year the contribution rate schedule applicable for the following calendar year shall be determined on the basis of the relationship between the most recent current reserve fund and the most recent

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adequate reserve fund. If the current reserve fund is less than the adequate reserve fund, contribution rate schedule I in this section shall apply; if the current reserve fund equals or exceeds the adequate reserve fund but is less than 1.5 times the adequate reserve fund, contribution rate schedule II in this section shall apply; and if the current reserve fund equals or exceeds 1.5 times the adequate reserve fund, contribution rate schedule III in this section shall apply. If, however, the total assets of the fund available for the payment of benefits at the end of a calendar year, or calendar quarter, are \$15,000,000 or more but less than \$20,000,000, the applicable contribution rate schedule for the following calendar year, or remaining calendar quarters in the calendar year, as the case may be, shall be contribution rate schedule I, and if the assets are less than \$15,000,000 at the end of a calendar year, or calendar quarter, this section shall not apply during the following calendar year, or remaining calendar quarters in the calendar year, as the case may be.

(b) Subject to the requirements of sections 383-63 to 383-67 and 383-69, an employer's contribution rate for a calendar year shall be that rate which appears on the same line as his reserve ratio for the year in the contribution rate schedule applicable for the year.

### CONTRIBUTION RATE SCHEDULE

<b>Employer Reserve Ratio</b>	<b>Schedule I</b>	<b>Contribution Rate Schedule II</b>	<b>Schedule III</b>
1000 or more	.8 per cent	.4 per cent	.2 per cent
0950-.0999	1.0 per cent	.6 per cent	.4 per cent
0900-.0949	1.2 per cent	.8 per cent	.6 per cent
0850-.0899	1.4 per cent	1.0 per cent	.8 per cent
0800-.0849	1.6 per cent	1.2 per cent	1.0 per cent
0750-.0799	1.8 per cent	1.4 per cent	1.2 per cent
0700-.0749	2.0 per cent	1.6 per cent	1.4 per cent
0650-.0699	2.2 per cent	1.8 per cent	1.6 per cent
0600-.0649	2.4 per cent	2.0 per cent	1.8 per cent
0550-.0599	2.6 per cent	2.2 per cent	2.0 per cent
0500-.0549	2.8 per cent	2.4 per cent	2.2 per cent
0450-.0499	2.8 per cent	2.6 per cent	2.4 per cent
0400-.0449	2.8 per cent	2.8 per cent	2.6 per cent
0350-.0399	2.8 per cent	2.8 per cent	2.8 per cent
Less than .0350	3.0 per cent	3.0 per cent	3.0 per cent

SECTION 3. 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 material or the underscoring.\*

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

(Approved June 4, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 383-7 Excluded service.** 'Employment' does not include the following service:

- (1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit which had, in each of the current and the preceding calendar years, (A) no more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees, or (B) no more than nineteen individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week;
- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority performed in any calendar quarter by an individual if the cash remuneration paid by an employing unit for such service is less than \$225;
- (3) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs such service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employing unit in the performance of such service during the preceding calendar quarter;
- (4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;  
(B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (i) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United

- States), and (ii) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion of a day in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year, and (iii) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
  - (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided that if this State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;
  - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
  - (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
  - (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization described in section 401(a) or under section 521 of such code), if (i) the remuneration for such service is less than \$50, or (ii)

- the service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
- (B) Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;
- (10) Service performed in the employ of a foreign government (including service as a consular or other officer or employee of a nondiplomatic representative);
- (11) Service performed in the employ of an instrumentality wholly owned by a foreign government:
- (A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
- (B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
- (12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (13) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
- (14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspaper or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;
- (16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;
- (17) Service performed by an individual for an employing unit as a real

estate salesman, if all such service performed by such individual for such employing unit is performed for remuneration solely by way of commission.

None of the foregoing exclusions (1) to (17) shall apply to any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter."

SECTION 2. Section 383-168, Hawaii Revised Statutes, is amended to read:

**"Sec. 383-168 Definitions.** As used in this part, unless the context clearly requires otherwise:

- (1) 'Extended benefit period' means a period which:
  - (A) Begins with the third week after whichever of the following weeks occurs first:
    - (i) A week for which there is a national 'on' indicator, or
    - (ii) A week for which there is a State 'on' indicator; and
  - (B) Ends with either of the following weeks, whichever occurs later:
    - (i) The third week after the first week for which there is both a national 'off' indicator and a State 'off' indicator; or
    - (ii) The thirteenth consecutive week of such period; provided that no extended benefit period may begin by reason of a state 'on' indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this State; and provided further that, within the period beginning on July 1, 1971 and ending on December 31, 1971, an extended benefit period may become effective and be terminated in this State solely by reason of a State 'on' and a State 'off' indicator, respectively.
- (2) There is a 'national "on" indicator' for a week if the United States Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 per cent.
- (3) There is a 'national "off" indicator' for a week if the United States Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 per cent.
- (4) There is a 'State "on" indicator' for this State for a week if the director of labor and industrial relations determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

- (A) Equaled or exceeded 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and
- (B) Equaled or exceeded 4 per cent.
- (5) There is a 'State "off" indicator' for this State for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
  - (A) Was less than 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
  - (B) Was less than 4 per cent.
- (6) 'Rate of insured unemployment,' for purposes of paragraph (4) and (5) of this section, means the percentage derived by dividing:
  - (A) The average weekly number of individuals filing claims in this State for weeks of unemployment with respect to the most recent thirteen-consecutive week period, as determined by the director on the basis of his reports to the United States Secretary of Labor, by
  - (B) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.
- (7) 'Regular benefits' means benefits payable to an individual under this chapter or under any other state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.
- (8) 'Extended benefits' means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this part for weeks of unemployment in his eligibility period.
- (9) 'Additional benefits' means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law, including but not limited to chapter 385.
- (10) 'Eligibility period' of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any week thereafter which begins in such period;
- (11) 'Exhaustee' means an individual who, with respect to any week of unemployment in his eligibility period:
  - (A) Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week;

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- provided that, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or
- (B) His benefit year having expired prior to such week, has no, or has insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and
- (C) (i) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and
- (ii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.
- (12) 'State law' means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1954."

SECTION 3. Section 383-172, Hawaii Revised Statutes, is amended to read:

**"Sec. 383-172 Total extended benefit amount.** The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year shall be fifty per cent of the total amount of regular benefits which were payable to him under this chapter in his applicable benefit year; provided that the amount so determined shall be reduced by the total amount of additional benefits paid (or deemed paid) to the individual for weeks of unemployment in the individual's benefit year which began prior to the effective date of the extended benefit period which is current in the week for which the individual first claims extended benefits."

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 material, or the underscoring.\*

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

(Approved June 4, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to Workmen's Compensation.

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

SECTION 1. Section 386-54, Hawaii Revised Statutes, is amended to read:

**"Sec. 386-54 Commutation of periodic payments.** Upon application of the disabled employee, his dependents or the employer, the director of labor and industrial relations may order that the periodic benefit payments be commuted to one or more lump sum payments equal to the present value at the time when the lump sum payments are due of the future benefit payments, computed at four per cent true discount compounded annually, if he finds that such commutation is in the best interest of the employee or his dependents and does not impose undue hardship upon the employer.

The probability of the death of the disabled employee or of a dependent entitled to benefits before the expiration of the period during which he is entitled to receive such payments and the probability of the remarriage of the spouse shall be determined in accordance with the latest United States Life Tables and the American Remarriage Tables, respectively, as adjusted and corrected on the basis of the most recent available experience, or in accordance with any other appropriate actuarial tables selected by the director, upon advice of the chief actuary of the Social Security Administration. The probability of the happening of any other contingency affecting the amount or duration of the benefit payments shall not be considered.

Payment of the lump sums shall discharge the employer of his liability for the corresponding income and indemnity benefits."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 4, 1974.)

A Bill for an Act Relating to General Powers of Counties.

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

SECTION 1. The legislature finds that the degree of urbanization, density of population, and other conditions vary from county to county. The legislature further finds that actions which create a public nuisance in one region may not create such a nuisance in another region. The legislature

\*Edited accordingly.

## ACT 159

further finds that the regulation of public nuisances is more properly a matter of county rather than state concern.

It is the purpose of this Act to so provide.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 46- Regulation of certain public nuisances.** Any provision of law to the contrary notwithstanding, the council of any county may adopt and provide for the enforcement of ordinances regulating or prohibiting noise, smoke, dust, vibration, or odors which constitute a public nuisance. No such ordinance shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that in any case of conflict between the statute or rule and ordinance, the law which affords the most protection to the public shall apply."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 6, 1974.)

## ACT 159

S.B. NO. 1944-74

A Bill for an Act Clarifying the Relationship of Executive Agencies with the Judicial Branch and the Legislative Branch.

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

SECTION 1. **Findings and Purpose.** The Constitution of the State of Hawaii provides for three separate and co-equal branches of government, the executive branch, the judicial branch, and the legislative branch.

The legislature finds that, although the Constitution incorporates the principle of separation of powers and the principle that no one branch of government shall dominate another branch, the Hawaii Revised Statutes are not completely consistent with these constitutional principles. This is particularly the case with respect to those statutes which appear to permit the executive branch to exercise various administrative controls over the judiciary and its courts and the legislature and its agencies. Such statutes are in conflict with the constitutional status of the judicial branch and the legislative branch as separate and co-equal branches of government.

The purpose of this Act is to clarify the Hawaii Revised Statutes and to bring the statutes into conformance with the separate and co-equal status intended by the State Constitution for the executive branch, the judicial branch, and the legislative branch.

\*Edited accordingly.

SECTION 2. Part 1 of Chapter 26, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 26- Services to the judiciary and legislature.** Any executive department may provide services to the judiciary and the legislature, but nothing in this part and this chapter shall be construed as granting any authority to the governor or any department to exercise control over the organization, programs, functions, operations, and expenditures of the judiciary and the legislature."

SECTION 3. Paragraph (1) of Section 37-62, Hawaii Revised Statutes, is amended to read as follows:

"(1) 'Agency' means any executive department, independent commission, board, bureau, office, or other establishment of the state government (except the legislature and the judiciary), or any quasi-public institution which is supported in whole or in part by state funds."

SECTION 4. Section 40-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 40-1 Comptroller to supervise accounts, etc.** (a) The comptroller shall be the general accountant of the State, and he shall cause to be recorded every receipt and disbursement of money made to, by, or through the treasury. He shall have the power to withhold any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(b) With respect to the executive branch, he shall have complete supervision of all accounts. He shall pre-audit all proposed payments to determine the propriety of expenditures and compliance with such executive orders, rules and regulations as may be in effect. He shall, when necessary, withhold his approval of any payment. Whenever he withholds his approval, he shall promptly notify the department or agency concerned.

(c) With respect to the judiciary and the legislature, he shall make available to the judiciary and the legislature the total amount appropriated to each, except that the judiciary and the legislature may request his services in maintaining custody of the amount appropriated to each and in making payments therefrom. When such services are requested, he shall make all disbursements requested by the judiciary or the legislature, but he shall not make any disbursement for which no appropriation has been made or which would cause a specific appropriation to be exceeded.

(d) Any financial transaction recorded by the comptroller may be inspected by the public."

SECTION 5. Section 40-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 40-2 Accounting systems and internal control; enforcing the use of and inspection of the same.** The accounting system installed by the commission on public accountancy under Act 181, session laws of Hawaii 1923,

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as amended by Act 220, session laws of Hawaii 1925, for use in the offices of the comptroller, director of finance, departmental and agency services of the State and the auditors, treasurers, departmental and agency services of the several counties shall be the accounting and reporting systems of the State and counties. The comptroller shall make such changes and modifications in the accounting system as shall from time to time appear to be in the best interest of the State and counties.

The departments and agencies of the executive branch are respectively charged with the responsibility to maintain an adequate system of internal control and with the further responsibility to see that the internal control system continues to function effectively as designed. The comptroller shall make such investigations and audits from time to time to enforce the use of the accounting system and internal control systems in the executive branch.

The judiciary, the legislature, and each county shall be responsible for the establishment and maintenance of its respective internal control system."

**SECTION 6.** Section 40-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 40-4 Publication of statements.** The comptroller shall prepare and submit to the governor, and publish in a newspaper of general circulation in the State, immediately following the close of each fiscal year, a statement of income and expenditure by funds, showing the principal sources of revenue, the function or purpose for which expenditures were made, together with a consolidated statement showing similar information for all funds; also a statement showing the balance in each fund at the beginning of the fiscal year, plus the receipts, minus the disbursements, and the balance on hand at the close of the fiscal year after deducting outstanding warrants and vouchers. The comptroller may request all agencies, the judiciary, and the legislature to provide such information as may be required for the preparation of the statements."

**SECTION 7.** Section 40-51, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 40-51 Money drawn only on warrants.** Excepting moneys paid for the redemption of bonds of the state debt, and the interest coupons of the same, and for interest on overdue warrants, and drafts against special deposits and for the expenses of the legislature and the judiciary, no money shall be drawn from or out of the treasury except upon warrants, substantially in the form of section 40-52, issued from the comptroller's office, provided that upon request, the comptroller shall provide financial services involving the issuance of warrants on behalf of the legislature and the judiciary. Every such warrant shall be signed by the comptroller or his deputy or by means of any mechanical check signer that may be adopted by the comptroller, and shall be made payable upon such date as may be approved by the director of finance to the order of the person to whom the State is directly indebted."

**SECTION 8.** Section 76-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-3 Uniform administration.** It is the intent of the legislature that the system of personnel administration established by this chapter and chapter 77 shall be as uniformly administered as is practicable. In order to promote such uniformity, the several commissioners and directors of the state department of personnel services and of the county departments of civil service and the administrative director of the courts shall meet at least once each year at the call of the director of personnel services of the State."

SECTION 9. Part I of Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 76- Employees of the judiciary.** It is the intent of the legislature that the personnel of the judiciary are included in the system of personnel administration established by this chapter and chapter 77, unless specifically exempted by this chapter or any other law; provided that:

- (1) In the development of a position classification plan, the formulation of personnel rules and regulations, and the administration of the State personnel system, the director of personnel services shall consult with the chief justice or his representative insofar as such plan, rules and regulations, and administration affect the personnel of the judiciary;
- (2) In all cases where the action of the director of personnel services is required, including the classification, reclassification, allocation, and reallocation of a particular position, the publication of a vacancy announcement, the examination of applicants, and the preparation of an eligible list, any request for any such action submitted by the judiciary with respect to any of its positions shall be acted upon by the director within ninety days after receipt of the request. If the director takes no action within the ninety days, the chief justice, pursuant to the applicable provisions of this chapter, chapter 77, and the personnel rules and regulations, may determine the action to be taken. In case of a disagreement between the director and the chief justice as to the action to be taken on the request of the judiciary, the chief justice shall prevail. Any action taken by the director of personnel services or the chief justice may be appealed by any employee in the judiciary affected by such action or by any affected exclusive bargaining unit representative of employees of the judiciary to a board of arbitrators composed of three members, one each to be selected by the director of personnel services, the chief justice, and the employee or the exclusive bargaining unit representative concerned. Notwithstanding any other provision of this chapter and chapter 77, the decision of the majority of the arbitrators shall be final and binding on all parties. The cost of such arbitration shall be borne equally by the department of personnel services, the judiciary, and the employee or exclusive bargaining unit representative concerned; and
- (3) Nothing in chapters 76 and 77 shall be construed to require the approval of the governor or any executive agency for the judiciary

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to establish such positions in the judicial branch as may be authorized and funded by the legislature.”

SECTION 10. Paragraph (4) of Section 76-11, Hawaii Revised Statutes, is amended to read:

“(4) ‘Department’ includes the judicial branch and any department, board, commission, or agency of the State;”

SECTION 11. Paragraph (5) of Section 77-1, Hawaii Revised Statutes, is amended to read as follows:

“(5) ‘Department’ includes the judicial branch and any department, board, commission, or agency of the State or any of its political subdivisions;”

SECTION 12. Paragraph (12) of Section 77-1, Hawaii Revised Statutes, is amended to read as follows:

“(12) ‘Chief executive officer’ means the governor in the case of the State, the chief justice of the supreme court in the case of the judiciary, the mayor in the case of the city and county of Honolulu or the chairman of the respective board of supervisors in the case of the counties of Hawaii, Maui, and Kauai;”

SECTION 13. Paragraph (14) of Section 77-1, Hawaii Revised Statutes, is amended to read as follows:

“(14) ‘Fiscal officer’ means the director of finance in the case of the State, the administrative director of the courts in the case of the judiciary, the director of finance in the case of the city and county of Honolulu, and the respective auditors in the case of the counties of Hawaii, Maui, and Kauai;”

SECTION 14. Section 601-1, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 601-1 Judiciary.** There shall be a branch of government, styled the judiciary.”

SECTION 15. Section 601-2, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 601-2 Administration.** (a) The chief justice shall be the administrative head of the judiciary. He shall make a report to the legislature, at each regular session thereof, of the business of the judiciary and of the administration of justice throughout the State. He shall present to the legislature a unified budget, six-year program and financial plan, and variance report for all of the programs of the judiciary. He shall direct the administration of the judiciary, with responsibility for the efficient operation of all of the courts and for the expeditious dispatch of all judicial business.

(b) He shall possess the following powers, subject to such rules as may be adopted by the supreme court:

- (1) To assign circuit judges from one circuit to another;
- (2) In a circuit court with more than one judge, (A) to make assign-

- ments of calendars among the circuit judges for such period as he may determine and, as deemed advisable from time to time, to change assignments of calendars or portions thereof (but not individual cases) from one judge to another, and (B) to appoint one of the judges, for such period as he may determine, as the administrative judge to manage the business of the court, subject to the rules of the supreme court and the direction of the chief justice;
- (3) To prescribe for all of the courts a uniform system of keeping and periodically reporting statistics of their business;
  - (4) To procure from all of the courts estimates for their appropriations; with the cooperation of the representatives of the court concerned to review and revise them as he deems necessary for equitable provisions for the various courts according to their needs and to present the estimates, as reviewed and revised by him, to the legislature as collectively constituting a unified budget for all of the courts;
  - (5) To exercise exclusive authority over the preparation, explanation, and administration of the judiciary budget, programs, plans, and expenditures, including without limitation policies and practices of financial administration and the establishment of guidelines as to permissible expenditures, provided that all expenditures of the judiciary shall be in conformance with program appropriations and provisions of the legislature; and
  - (6) To do all other acts which may be necessary or appropriate for the administration of the judiciary.

(c) The budget, six-year program and financial plan, and the variance report of the judiciary shall be submitted by the chief justice to the legislature in accordance with the schedule of submission specified for the governor in chapter 37 and shall contain the program information prescribed in that chapter. By November 1 of each year preceding a legislative session in which a budget is to be submitted, the chief justice shall provide written notification to the governor of the proposed total expenditures, by cost categories and sources of funding, and estimated revenues of the judiciary for each fiscal year of the next fiscal biennium."

SECTION 16. Section 601-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 601-3 Administrative director.** The chief justice with the approval of the supreme court, shall appoint an administrative director of the courts to assist him in directing the administration of the judiciary. The administrative director shall be a resident of the State for a continuous period of three years prior to his appointment, and shall be appointed without regard to chapters 76 and 77 and shall serve at the pleasure of the chief justice. He shall hold no other office or employment. Effective July 1, 1970, he shall receive a salary of not more than \$22,670 a year. He shall, subject to the direction of the chief justice, perform the following functions:

- (1) Examine the administrative methods of the courts and make recommendations to the chief justice for their improvements;

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- (2) Examine the state of the dockets of the courts, secure information as to their needs for assistance, if any, prepare statistical data and reports of the business of the courts and advise the chief justice to the end that proper action may be taken;
- (3) Examine the estimates of the courts for appropriations and present to the chief justice his recommendations concerning them;
- (4) Examine the statistical systems of the courts and make recommendations to the chief justice for a uniform system of judicial statistics;
- (5) Collect, analyze, and report to the chief justice statistical and other data concerning the business of the courts;
- (6) Assist the chief justice in the preparation of the budget, the six-year program and financial plan, the variance report and any other reports requested by the legislature; and
- (7) Attend to such other matters as may be assigned by the chief justice.

The administrative director shall, with the approval of the chief justice, appoint such assistants as may be necessary. The assistants shall be appointed subject to chapters 76 and 77. The administrative director shall be provided with necessary office facilities.

The judges, clerks, officers, and employees of the courts shall comply with all requests of the administrative director for information and statistical data relating to the business of the courts and the expenditure of public funds for their maintenance and operation."

**SECTION 17.** Wherever in the Hawaii Revised Statutes appears the term "judiciary department" or "department" in reference to the judiciary, the revisor of statutes shall reword the term to read, "judicial branch," "judiciary," or "branch," as appropriate.

**SECTION 18.** Except as modified in Sections 8, 9, 10, 11, 12, and 13 of this Act, no part of this Act shall contravene any part of Chapters 76, 77, 89, or any collective bargaining agreement that may have been or may be negotiated under Chapter 89.

**SECTION 19. Severability.** If any provision of this Act or the application thereof to any person or circumstance is held unconstitutional, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this Act without such invalid or unconstitutional provision.

**SECTION 20.** 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 material, or the underscoring.\*

**SECTION 21.** This Act shall take effect upon its approval.

(Approved June 6, 1974.)

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\*Edited accordingly.

## ACT 160

S.B. NO. 463

A Bill for an Act Relating to Qualifications for Registration as Engineers, Surveyors, Architects and Landscape Architects.

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

SECTION 1. Section 464-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 464-8 Qualifications for registration.** No person shall be eligible for registration as a professional engineer, architect, land surveyor or landscape architect unless:

- (1) He is the holder of an unexpired certificate of registration issued to him by any jurisdiction, domestic or foreign, in which the requirements for registration at the time he was first registered were of a standard satisfactory to the board of registration of professional engineers, architects, and surveyors; provided, this paragraph shall be only applicable to professional engineering, architecture and landscape architecture and provided, that if the board is in doubt as to whether the standards were satisfactory, or as to whether the holder was required to fully comply with them, it shall require that he successfully pass a written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession for which registration is desired; or
- (2) He is a graduate of a school or college approved by the board as of satisfactory standing, and has completed an engineering or landscape architectural curriculum of four years or more, all as the case may be; and also has had three years of full-time lawful experience in engineering or landscape architecture work, as the case may be, of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has also successfully passed a written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession for which registration is desired; or
- (3) He has had twelve years of full-time lawful experience in engineering or landscape architecture work as the case may be, of a character satisfactory to the board, or part-time experience which the board finds to be the equivalent thereof; and has also successfully passed a written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession for which registration is desired; or
- (4) (A) He holds a master's degree in architecture from an approved institution of higher education with training and education in the field of architecture adequate to the satisfaction of the board; and has also had one year of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written or oral examination, or both, prescribed by the board and designed to

- test his knowledge, skill, and competency in the profession of architecture; or
- (B) He holds a bachelor's degree in architecture from a school or college approved by the board as of satisfactory standing, and has completed an architectural curriculum of five years; and also had two years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a professional written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession of architecture; or
- (5) He is a graduate of a school or college approved by the board as of satisfactory standing and has completed a pre-architecture or arts and science curriculum of four years or more; and has also had five years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession of architecture; or
- (6) He is a graduate of a community college or other technical training school approved by the board as of satisfactory standing, and has completed an architectural technology curriculum of two years or more; and has also had eight years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession of architecture; or
- (7) He has had eleven years of full-time lawful experience in architecture work of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession of architecture; or
- (8) He is a graduate of a school or college approved by the board as of satisfactory standing, and has completed a geo-science, civil engineering or general engineering curriculum of four years or more; and has also had three years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a professional written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill and competence in the profession of land surveying; or
- (9) He is a graduate of a community college approved by the board as of satisfactory standing, and has completed a civil engineering technology (survey option) curriculum of two years or more; and has also had seven years of full-time lawful experience in land

surveying of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill and competency in the profession of land surveying; or

- (10) He has had eleven years of full-time lawful experience in land surveying of a character satisfactory to the board; and has also successfully passed a qualifying written examination and a professional written or oral examination, or both, prescribed by the board and designed to test his knowledge, skill, and competency in the profession of land surveying.

In addition to the foregoing requirements, the board, may, in its discretion, require additional proof that the applicant is competent to practice professionally, and whenever the board is not fully satisfied from the results of an examination that any applicant is competent to practice professionally, it may give him a further examination or examinations.

No person shall be eligible for registration as a professional engineer, architect, land surveyor or landscape architect who is not of good character and reputation."

**SECTION 2.** This Act shall not apply to persons who submitted applications prior to the effective date of this Act.

**SECTION 3.** 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 material, or the underscoring.\*

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

(Approved June 6, 1974.)

## ACT 161

S.B. NO. 1536-74

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

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

**SECTION 1.** The purpose of this act is to increase the number of board of regents tuition waivers and scholarships available to students in the university of Hawaii system.

**SECTION 2.** Section 304-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 304-4 Powers of regents; official name.** The board of regents shall have the general management and control of the affairs of the university. It may appoint a treasurer and such other officers as it deems necessary. It may authorize any officers elected or appointed by it to approve and sign on its behalf any voucher or other document which the board may approve

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\*Edited accordingly.

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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 of not less than \$170 per academic year for regular courses of instruction; at any university of Hawaii campus that grants baccalaureate degrees and not less than \$30 per academic year for regular courses of instruction at any college in the system of community colleges; provided that the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than four times the tuition fee for resident students, but in no event less than \$680. The board may also charge other fees for 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 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, not 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 exceeding 600 in number, which shall be counted as part of the quota of financial aids allocable to the baccalaureate campuses 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 rules 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 the 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 3. Section 304-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 304-15 Scholarships.** The board of regents shall each year award scholarships to well qualified students. Of the scholarships available each year, 85% shall be known as Hawaii State Scholarships and shall be awarded to well qualified full-time students in such necessitous circumstances that in the judgment of the university they would otherwise be unable to attend the university, a college, or a community college; 15% shall be known as Hawaii merit scholarships and shall be awarded to either full-time or part-time students who are well qualified. To qualify for such a scholarship, a student must be a bona fide resident of the State for the five consecutive years 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 4. Section 304-17, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 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 Hawaii merit scholarship among two or more part-time students or among students whose financial need will not substantiate a full scholarship. The total units of State financial aid in any given academic year shall not exceed the following:

- (1) In 1971 six percent of the total full-time undergraduate enrollment in the previous September;
- (2) In 1972 seven percent of the total full-time undergraduate enrollment in the previous September;
- (3) In 1973 eight percent of the total full-time undergraduate enrollment in the previous September;
- (4) In 1974 eleven percent of the total full-time undergraduate enrollment in the previous September;
- (5) In 1975 and in each and every year thereafter thirteen percent of the total full-time undergraduate enrollment in the previous September;
- (6) 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 undergraduate students

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enrolled in the baccalaureate system and in the community college system.

Scholarships awarded to students in the 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. 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. Each Hawaii merit scholarship shall be granted for the period of one semester and may be renewed. 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 5. This Act shall take effect upon its approval.

(Approved June 6, 1974.)

## ACT 162

S.B. NO. 2095-74

A Bill for an Act Relating to Improvements at Waikiki, Oahu.

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

SECTION 1. Act 197, item 67, section 2, part I, subsection K, subheading tourism, Session Laws of Hawaii 1971, as amended by Act 204, Session Laws of Hawaii, 1972, is hereby further amended to read as follows:

### "Tourism

(To be expended by the City and County of Honolulu or the State of Hawaii)

67. Waikiki Improvements. Oahu—General improvement planning, project planning, design, engineering, land acquisition and construction of public facilities for the general improvement of the Waikiki area, the boundaries of which are delineated on the Development Plan for the Kalia, Waikiki and Diamond Head areas (Map designated as portion of 1967 General Plan Development Plan Waikiki—Diamond Head [section A]). The City and County may initiate action for the creation of an improvement district or districts for Waikiki, or any portions thereof, and adopt special assessment ordinances to provide for the cost of such improvements, other than costs for the development of General Improvement Planning, Project Planning, Design, Engineering, incidentals and inspection. Such ordinances may provide for assessments against lands and improvements on the basis of assessed valuation for real property tax purposes, or assessments against land on a frontage basis, or area basis, or any combination thereof. The governor may expend the sum appropriated herein for planning, design, and engineering or he may transmit such sum to the City and County to be expended for such purposes.	9,000,000 4,000,000(c)
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## **ACT 164**

Notwithstanding the foregoing, if the governor deems it necessary in the public interest, he may authorize the construction of the Waikiki improvements under any other applicable statute which authorizes the creation of State improvement districts.

FY 71-72

General Improvement Planning, Project Planning, Design, and Engineering for Proposed Waikiki Improvements, Land and Construction

\$1,000,000  
2,000,000  
1,000,000(c)

FY 72-73

Land and Construction

\$6,000,000  
3,000,000(c)\*

**SECTION 2.** 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 material, or the underscoring; provided that the term “[section A]” and the brackets around the term shall not be deleted.\*

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

(Approved June 6, 1974.)

## **ACT 163**

H.B. NO. 465

A Bill for an Act Making an Appropriation for Aerial Spotting of Skipjack Tuna Schools in Hawaiian Waters.

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

**SECTION 1.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$17,220, or so much thereof as may be necessary, for the aerial spotting of skipjack tuna schools in Hawaiian waters, covering two seasons, to help determine the feasibility of a purse-seining fishery in the islands.

**SECTION 2.** The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

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

(Approved June 6, 1974.)

## **ACT 164**

H.B. NO. 2241-74

A Bill for an Act Relating to Unreasonable Noise.

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

**SECTION 1.** Section 711-1101, Hawaii Revised Statutes is amended to read as follows:

\*Edited accordingly.

## ACT 165

**"Sec. 711-1101 Disorderly conduct.** (1) A person commits the offense of disorderly conduct if, with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, he:

- (a) engages in fighting or threatening, or in violent or tumultuous behavior; or
- (b) makes unreasonable noise; or
- (c) makes any offensively coarse utterance, gesture, or display, or addresses abusive language to any person present, which is likely to provoke a violent response; or
- (d) creates a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit.

(2) Noise is unreasonable, within the meaning of subsection (1) (b), if considering the nature and purpose of the person's conduct and the circumstances known to him, including the nature of the location and the time of the day or night, his conduct involves a gross deviation from the standard of conduct that a law-abiding citizen would follow in the same situation.

(3) Disorderly conduct is a petty misdemeanor if it is the defendant's intention to cause substantial harm or serious inconvenience, or if he persists in disorderly conduct after reasonable warning or request to desist. Otherwise disorderly conduct is a violation."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 6, 1974.)

## ACT 165

H.B. NO. 2263-74

A Bill for an Act Relating to the Marine Affairs Coordinator.

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

SECTION 1. Section 218-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 218-1 Findings and declaration of necessity.** The legislature finds that:

(1) The marine environment is one of Hawaii's most valuable assets. It has shaped the uniqueness of the way of life in Hawaii, and it has contributed to the major elements of the State's economy. Hawaii can secure even greater benefits from the judicious use of the resources in and around the sea if it energetically coordinates the development of technology needed to exploit these resources, the promotion of marine businesses, and the establish-

\*Edited accordingly.

ment of programs dedicated to a better understanding and knowledge of the marine environment.

(2) There is a need for a planned and concerted effort to explore and develop to their fullest potential the vast, under-utilized resources of the Pacific Ocean. In view of its mid-Pacific location, unique oceanographic environment and other advantages, Hawaii can take the lead in fostering the development of the ocean's resources, consistent with State and national goals of economic growth, international development assistance, and cooperation with neighbors in the Pacific basin.

(3) The development and utilization of marine resources require the deep involvement of state government. Responsibilities and authorities already exist in the various agencies of state government to address many of the opportunities and problems that may arise in marine affairs in the foreseeable future. However, there is no mechanism to bring a unified and co-ordinated approach to marine activities that cut across the responsibilities of the various agencies of state government.

(4) If Hawaii is to capitalize on the immediate and long-term opportunities for the fullest development and utilization of marine resources, it is essential that the total efforts of the State in the planning, research, development, and promotion of the marine environment must be effectively coordinated. The marine programs in existence and those being planned require a mechanism in the state government to bring about the most effective and efficient use of resources in developing the marine environment. This mechanism can best be provided through the establishment of a marine affairs coordinator in state government at a level which will make possible the coordinated management of all marine activities.

The legislature further finds that new opportunities and needs for the development and utilization of marine resources have arisen and further effort and support from the State are necessary to meet these opportunities and needs."

**SECTION 2. Appropriations.** There is appropriated from the general revenues of the State of Hawaii the sum of \$460,000, or so much thereof as may be necessary, to be expended by the marine affairs coordinator for the following purposes, provided that any expenditure of State funds shall be matched by an equal amount from private institutions or local government or in the alternative shall be matched by twice the amount of funds provided by the federal government or by a combination thereof; provided that when matching funds are not available and when the proposed facility or project is deemed to be vital to the marine interest of the State of Hawaii then such expenditure of State funds need not be matched:

- (a) \$225,000 for research, development and promotion of the State's marine resources, including food and other biological resources, mineral resources, ocean energy resources and other ocean potentials, and for the continuing development of a detailed atlas of such state marine resources.
- (b) \$25,000 for participation and support of relevant scientific and technological events.

## **ACT 166**

- (c) \$10,000 for other informational and promotional support.
- (d) \$200,000 to insure the support of marine facilities of the State.

**SECTION 3.** New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 6, 1974.)

## **ACT 166**

H.B. NO. 2264-74

A Bill for an Act Relating to a Marine Exposition in Hawaii.

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

**SECTION 1. Findings and declaration of necessity.** The legislature hereby finds and declares that:

- (1) The original "Hawaii and the Sea" report having recommended that an international marine exposition be held, the legislature appropriated \$30,000 by way of Act 137, Session Laws of Hawaii 1970, for the investigation and preliminary planning of such an exposition;
- (2) The preliminary investigation was completed and indicated that such an exposition is feasible, provided proper planning was initiated and federal and local support (both financial and moral) was secured;
- (3) Following this, the legislature mandated the creation of a Hawaii Bicentennial Marine Exposition Commission, and outlined the duties and responsibilities of that commission, by way of Act 131, Session Laws of Hawaii 1972;
- (4) After considerable deliberation, the commission determined that while Hawaii does have an obligation to celebrate its own bicentennial in 1978, an exposition sanctioned by the Bureau of International Exposition, as originally proposed, would not be in the best interests of the people and State of Hawaii;
- (5) The commission further determined that an all-Hawaii marine exposition should be held under the State's own rules and regulations, to show how a high quality of life and environment can be achieved through proper regard for, and use of, the sea;
- (6) In order for the commission to proceed further with the planning and implementing of such an all-Hawaii marine exposition in 1978, both an amendment to Act 131, Session Laws of Hawaii 1972, and an appropriation is required.

**SECTION 2.** Section 4 of Act 131, Session Laws of Hawaii 1972, is amended to read:

\*Edited accordingly.

**"Section 4. Powers and duties.** The commission shall:

- (1) Make a detailed study to implement the holding of a proposed international marine exposition in the State of Hawaii in the latter half of 1977, or the first half of 1978, and in either event encompassing January, 1978.
- (2) Choose an exposition site or sites and concept prior to the end of calendar year 1972.
- (3) Formulate and submit to the governor plans for an independent non-profit corporation which will assist the commission in the planning and development of the international marine exposition.
- (4) Coordinate and direct the planning and promotion of the international marine exposition.
- (5) Direct and coordinate events during the international marine exposition in 1977 and 1978.
- (6) Contract for services as may be necessary, provided funds are available for such purposes."

**SECTION 3. Appropriation.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary, for the planning and promotion of an all-Hawaii marine exhibition in 1978.

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 material or the underscoring.\*

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

(Approved June 6, 1974.)

A Bill for an Act Relating to the Sale of Hearing Aids.

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

SECTION 1. Section 451A-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 451A-12 Receipt required to be furnished to a person supplied with hearing aid.** (a) Any person who practices the fitting and sale of hearing aids shall deliver to each purchaser a receipt containing the licensee's signature, his business address, and the number of his certificate, together with specifications as to the make and model of the hearing aid furnished and the terms of the sale. If hearing aid which is not new is sold, the receipt and the container thereof shall be clearly marked as 'used' or 'reconditioned', with the terms of guarantee, if any.

(b) The receipt shall bear, in type no smaller than the largest that is used in the body copy portion, the following: the purchaser has been ad-

\*Edited accordingly.

## **ACT 167**

vised at the outset of his relationship with the hearing aid dealer and fitter that any examination or representation made by a hearing aid dealer and fitter in connection with the fitting and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this State and shall not be considered as medical opinion or advice.

SECTION 2. Section 451A-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 451A-14 Prohibited acts and practices.** No person shall:

- (1) Sell, barter, offer to sell, barter or transfer or assign a license, certificate of endorsement, or temporary permit;
- (2) Purchase or procure by barter a license, certificate of endorsement, or temporary permit with intent to use it as evidence of qualification to practice the fitting and selling of hearing aids;
- (3) Alter a license, certificate of endorsement, or temporary permit with fraudulent intent;
- (4) Use or attempt to use license, certificate of endorsement, or temporary permit which is invalid because it was purchased, fraudulently obtained, forged or materially altered;
- (5) Make a false statement in an application for license, certificate of endorsement, temporary permit, or application for renewal of license;
- (6) Solicit for the sale of hearing aids 'house to house' as defined in Section 476-1, Hawaii Revised Statutes."

SECTION 3. Chapter 451A, Hawaii Revised Statutes, is hereby amended by adding Section 451A-14.1 to read as follows:

**"Sec. 451A-14.1 Requirement of authorization from physician or otolaryngologist; authorization records.** (a) No person engaged in the fitting and selling of hearing aids shall sell, barter, offer to sell or otherwise knowingly establish a commercial relationship with a potential purchaser without first obtaining and maintaining in his possession written authorization by a physician that the purchaser or potential purchaser has been examined by him and that he has prescribed or approved a hearing device, provided, however that in the case of a child ten years of age or under, such written authorization must be by an otolaryngologist.

(b) For the purposes of subsection (a) of this section, such written authorization must be signed by the physician or otolaryngologist within ninety days prior to the date of sale, barter, offer or commencement of a commercial relationship as referred to above; provided, however, that the ninety day limit provided in this subsection shall not apply if the written authorization of the physician or otolaryngologist states that a return visit of the patient is not necessary for subsequent purchases of a hearing device.

(c) Every hearing aid dealer and fitter licensed pursuant to this chapter shall keep a suitable book or file, or a microfilm of such book or file, in which shall be preserved, for a period of not less than five years, every authorization by physicians or otolaryngologists received pursuant

to this section. The book, file, or microfilm of such authorizations shall at all times be open to inspection by the board of hearing aid dealers and fitters and other law enforcement agencies."

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 material, or the underscoring.\*

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

(Approved June 6, 1974.)

**ACT 168**

H.B. NO. 2480-74

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

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

SECTION 1. Chapter 294, Hawaii Revised Statutes, is amended to read as follows:

1. Part I is amended to read as follows:

**"CHAPTER 294  
THE HAWAII MOTOR VEHICLE ACCIDENT  
REPARATIONS ACT**

**PART I. NO-FAULT INSURANCE**

**Sec. 294-1 Purpose.** The purpose of this chapter is to create a system of reparations for accidental harm and loss arising from motor vehicle accidents, to compensate these damages without regard to fault, and to limit tort liability for these accidents.

**Sec. 294-2 Definitions.** As used in this chapter:

- (1) 'Accidental harm' means bodily injury, death, sickness, or disease caused by a motor vehicle accident while in or upon or entering into or alighting from, or through being struck by a motor vehicle or object drawn or propelled by a motor vehicle.
- (2) 'Commissioner' means the state commissioner of motor vehicle insurance as defined in section 431-31(c).
- (3) 'Criminal conduct' means: the commission of an offense punishable by imprisonment for more than one year; or the operation or use of a motor vehicle with the specific intent of causing injury or damage; or the operation or use of a motor vehicle as a converter without a good faith belief by the operator or user that he is legally entitled to operate or use such vehicle.

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\*Edited accordingly.

- (4) 'Injury' means accidental harm not resulting in death.
- (5) 'Insured motor vehicle' means a motor vehicle
  - (A) which is insured under a no-fault policy, or
  - (B) the owner of which is a self-insurer with respect to such vehicle.
- (6) 'Insurer' means every person engaged in the business of making contracts of motor vehicle insurance and includes reciprocal or inter-insurance exchanges.
- (7) 'Monthly earnings' means:
  - (A) In the case of a regularly employed person, one-twelfth of the average annual compensation before state and federal income taxes at the time of injury or death;
  - (B) In the case of a person regularly self-employed, one-twelfth of the average annual earnings before state and federal income taxes at the time of injury or death;
  - (C) In the case of an unemployed person or a person not regularly employed or self-employed, one-twelfth of the anticipated annual compensation before state and federal income taxes of such person paid from the time such person would reasonably have been expected to be regularly employed;
- (8) 'Motor vehicle' means any vehicle required to be registered under chapter 286, including a vehicle with less than four wheels or a trailer.
- (9) 'Motor vehicle accident' means an accident arising out of the operation, maintenance, or use of a motor vehicle.
- (10) 'No-fault benefits' with respect to any accidental harm shall be subject to an aggregate limit of \$15,000 per person or his survivor and means:
  - (A) All appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional nursing, dental, optometric, ambulance, prosthetic services, products and accommodations furnished, x-ray and may include any non-medical remedial care and treatment rendered in accordance with the teachings, faith or belief of any group which depends for healing upon spiritual means through prayer;
  - (B) All appropriate and reasonable expenses necessarily incurred for psychiatric, physical, and occupational therapy and rehabilitation;
  - (C) Monthly earnings loss measured by an amount equal to the lesser of:
    - (i) \$800 per month, or
    - (ii) The monthly earnings for the period during which the accidental harm results in the inability to engage in available and appropriate gainful activity, or
    - (iii) A monthly amount equal to the amount, if any, by which the lesser of (i) or (ii) exceeds any lower monthly earnings of the person sustaining injury at the time he resumes gainful activity.

- (D) All appropriate and reasonable expenses necessarily incurred as a result of such accidental harm, including, but not limited to, (i) expenses incurred in obtaining services in substitution of those that the injured or deceased person would have performed for the benefit of himself or his family up to \$800 per month, (ii) funeral expenses not to exceed \$1,500, and (iii) attorney's fees and costs to the extent provided in section 294-30 (a).
- (11) 'No-fault policy' means an insurance policy which meets the requirements of section 294-10.
- (12) 'Operation, maintenance, or use' when used with respect to a motor vehicle includes occupying, entering into and alighting from it but does not include conduct in the course of loading or unloading the vehicle unless the accidental harm occurs in the immediate proximity of the vehicle, and does not include conduct within the course of a business of repairing, servicing, or otherwise maintaining vehicles unless the conduct occurs outside the premises of such business.
- (13) 'Owner' means a person who holds the legal title to a motor vehicle; except that in the case of a motor vehicle which is the subject of a security agreement or lease with option to purchase with the debtor or lessee having the right to possession, such term means the debtor or lessee. Whenever transfer of title to a motor vehicle occurs, the seller shall be considered the owner until delivery of the executed title to the buyer, from which time the buyer holding the equitable title shall be considered the owner.
- (14) 'Person' means, when appropriate to the context, not only individuals, but corporations, firms, associations, and societies.
- (15) 'Regulation' means any rule and regulation promulgated by the commissioner pursuant to chapter 91.
- (16) 'Self-insurer', with respect to any motor vehicle, means a person who has satisfied the requirements of section 294-8(a) (2).
- (17) 'Without regard to fault' means irrespective of fault as a cause of accidental harm, and without application of the principle of liability based on negligence.

**Sec. 294-3 Right to no-fault benefits.** (a) If the accident causing accidental harm occurs in this State, every person, insured under this chapter, and his survivors, suffering loss from accidental harm arising out of the operation, maintenance or use of a motor vehicle has a right to no-fault benefits.

(b) If the accident causing accidental harm occurs outside this State, the following persons and their survivors suffering loss from accidental harm arising out of the operation, maintenance or use of a motor vehicle have a right to no-fault benefits:

- (1) No-fault insureds; and
- (2) The driver and other occupants of an insured vehicle other than a vehicle which is regularly used in the course of the business of transporting persons or property and which is one of five or more vehicles under common ownership.

(c) 'Maximum limit'. The total no-fault benefits payable per person per motor vehicle accident, regardless of the number of motor vehicles involved or insured or the number of policies applicable on account of accidental harm sustained by each person, or to his survivors, shall be \$15,000.

(d) 'No-fault insured' means:

- (1) Person identified by name as an insured in a no-fault policy complying with section 294-10; and
- (2) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of no-fault policy complying with this chapter: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with a named insured. A person resides in the same household if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

**Sec. 294-4 Obligation to pay no-fault benefits.** Every no-fault and self-insurer shall provide no-fault benefits for accidental harm as follows:

- (1) Except as otherwise provided in section 294-5(c):
  - (A) In the case of injury arising out of a motor vehicle accident to any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian struck by said vehicle, the insurer shall pay, without regard to fault, to such person an amount equal to the no-fault benefits payable to such person as a result of such injury; or
  - (B) In the case of death arising out of a motor vehicle accident of any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian struck by said vehicle, the insurer shall pay, without regard to fault, to the legal representative of such person, for the benefit of the surviving spouse and any dependent, as defined in section 152 of the Internal Revenue Code of 1954, of such person, an amount equal to the no-fault benefits payable to such spouse and dependent as a result of the death of such person.
- (2) Payments for no-fault benefits shall be made as such benefits accrue except that in the case of death, payment for such benefits may, at the option of the beneficiary, be made immediately in a lump sum payment. Amounts of benefits accrued unpaid thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof shall, after the expiration of such thirty days, bear interest at the rate of one and one-half per cent per month.
- (3) No part of no-fault benefits paid shall be applied in any manner as attorney's fees in the case of injury or death for which such benefits are paid. The insurer shall pay, subject to section 294-30, in addition to the no-fault benefits due, all attorney's fees and costs of settlement or suit, necessary to effect the payment of any or all no-fault benefits found due under the contract. Any contract in violation of

this provision shall be illegal and unenforceable, and it shall constitute an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any such contract.

**Sec. 294-5 Payment from which insurer.** (a) A claim for no-fault benefits for accidental harm of a person who is not an occupant of any motor vehicle involved in an accident may be made against the no-fault insurer of any involved vehicle. The no-fault insurer against whom the claim is asserted shall process and pay the claim as if wholly responsible, but such insurer shall thereafter be entitled to recover from the no-fault insurers of all other involved vehicles proportionate contribution for the benefits paid and the costs of processing the claim.

(b) All no-fault benefits shall be paid secondarily and net of any benefits a person receives because of the accidental harm from social security laws, workmen's compensation laws, or public assistance laws.

(c) No payment of no-fault benefits may be made to the occupants of a motor vehicle other than the insured motor vehicle or to the operator or user of a motor vehicle engaging in criminal conduct which causes any loss.

(d) The no-fault insurance applicable on a primary basis to accidental harm to which this chapter applies is the insurance on the vehicle occupied by the injured person at the time of the accident, or, if the injured person is a pedestrian, the insurance on the vehicle which struck such pedestrian.

If there is no such insurance on such vehicle, any other no-fault insurance applicable to the injured person shall apply.

No person shall recover no-fault benefits from more than one insurer for accidental harm as a result of the same accident.

**Sec. 294-6 Abolition of tort liability.** (a) Tort liability of the owner, operator or user of an insured motor vehicle, or the operator or user of an uninsured motor vehicle who operates or uses such vehicle without reason to believe it to be an uninsured motor vehicle, with respect to accidental harm arising from motor vehicle accidents occurring in this State, is abolished, except as to the following persons or their administrators, executors, or legal guardians, and in the following circumstances:

(1) Death occurs to a person in such a motor vehicle accident; or injury occurs which consists, in whole or in part, in a significant permanent loss of use of a part or function of the body; or injury occurs which consists of a permanent and serious disfigurement which results in subjection of the injured person to mental or emotional suffering;

(2) Injury occurs to a person in a motor vehicle accident in which the amount paid or accrued exceeds the medical-rehabilitative limit established in section 294-10(b) for expenses provided in section 294-2(10) (A) and (B);

(3) Injury occurs to a person in such an accident and as a result of such injury the maximum no-fault benefits are exhausted.

(b) No provision of this chapter shall be construed to exonerate, or in any manner to limit, the liability of any person in the business of manufac-

## ACT 168

turing, retailing, repairing, servicing, or otherwise maintaining motor vehicles, arising from a defect in a motor vehicle caused, or not corrected, by an act or omission in the manufacturing, retailing, servicing, or other maintenance of a vehicle in the course of his business.

(c) No provision of this section shall be construed to exonerate, or in any manner to limit the criminal or civil liability of any person who, in the maintenance, operation, or use of any motor vehicle:

- (1) Intentionally causes injury or damage to a person or property; or
- (2) Engages in criminal conduct which causes injury or damage to person or property; or
- (3) Engages in conduct resulting in punitive or exemplary damages.

(d) No provision of this section shall be construed to abolish tort liability with respect to property damage arising from motor vehicle accidents.

**Sec. 294-7 Rights of subrogation.** Whenever any person effects a tort liability recovery for accidental harm, whether by suit or settlement, the no-fault insurer shall be subrogated to fifty per cent of the amount of all no-fault benefits paid to such person.

**Sec. 294-8 Conditions of operation and registration.** (a)

- (1) No person may register any motor vehicle in this State or operate or use a motor vehicle upon any public street, road, or highway of this State at any time unless such motor vehicle is insured under a no-fault policy, containing the requirements of this chapter and pursuant to such regulations, including those determining the manner and term of proof of such insurance as the commissioner shall prescribe.
- (2) The requirements of this subsection may be satisfied by any owner of a motor vehicle if:
  - (A) Such owner provides a surety bond, proof of qualifications as a self-insurer, or other securities affording security substantially equivalent to that afforded under a no-fault policy, as determined and approved by the commissioner under regulations, and
  - (B) The commissioner is satisfied that in case of injury or death or property damage, any claimant would have the same rights against such owner as the claimant would have had if a no-fault policy had been applicable to such vehicle.

(b) Any person who violates the provisions of subsection (a) shall be subject to the provisions of subsection 294-39(a).

**Sec. 294-9 Obligations upon termination of insurance.** (a) An owner of a motor vehicle registered in this State who fails to maintain insurance as required by section 294-8, shall immediately surrender the registration certificate and license plates for the vehicle to the county director of finance and may not operate or permit operation of the vehicle in this State until insurance has again been provided and proof of the insurance furnished as required by this chapter.

(b) Except as provided in subsection (d), an application for a no-fault

policy covering a motor vehicle may not be rejected by an insurer authorized to issue such a policy unless:

- (1) The principal operator of such vehicle does not have a license which permits him to operate such vehicle, or
- (2) The application is not accompanied by a reasonable portion of the premium, as determined under regulations of the commissioner.
- (c) A no-fault policy once issued may not be canceled or refused renewal by an insurer except for:
  - (1) Suspension or revocation of the license of the principal operator to operate the type of motor vehicle insured, or
  - (2) Failure to pay the premium for such policy after reasonable demand therefor.

In any case of cancellation or refusal to renew the insurer shall continue all no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. In any case of cancellation or refusal to renew, written notice by registered or certified mail deliverable to addressee only, shall be given to the insured, the commissioner, and the county director of the appropriate county of registration not less than thirty days prior to the effective date of such cancellation or refusal to renew.

(d) An insurer may reject or refuse to accept additional applications for, or refuse to renew no-fault policies (1) if the commissioner determines that the financial soundness of such insurer would be impaired by the writing of additional policies of such insurance, or (2) such insurer ceases to write any new policies of insurance of any kind in this State.

(e) Whoever knowingly violates, or conspires to violate, the provisions of subsection (b) or (c) shall be assessed a civil penalty in an amount not to exceed \$1,000 for each separate violation. Each violation of subsection (b) with respect to any policyholder or applicant for insurance shall constitute a separate violation.

**Sec. 294-10 Required policy coverage.** (a) In order to be a no-fault policy, an insurance policy covering a motor vehicle shall provide, in addition to the coverage specified in section 294-4, insurance to pay on behalf of the owner or any operator of the insured motor vehicle sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others which arise out of the ownership, operation, maintenance, or use of the motor vehicle:

- (1) Liability coverage of not less than \$25,000 for all damages arising out of accidental harm sustained by any one person as a result of any one accident applicable to each person sustaining accidental harm arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle;
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, as a result of any one accident

arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle.

(b) The commissioner shall accumulate experience data for all motor vehicle accidents in the State on a yearly basis commencing January 1, 1973, resulting in accidental harm, and shall tabulate the amounts of benefits paid; claims filed; and tort claims filed, settled or litigated; hereinafter collectively termed "claims", for expenses specified in section 294-2 (10) (A) and (B) for each of these accidents. He shall arrange the claims made by dollar value from maximum to zero and then determine, annually, that specific figure in dollar value, below which are ninety per cent of all motor vehicle accident medical-rehabilitative claims made and/or paid during the year. This specific figure shall be utilized annually as the medical-rehabilitative limit during the second and succeeding years for all accidents occurring during those years for purpose of section 294-6(a) (2). During the first year of the no-fault program, September 1, 1974 through August 31, 1975, the medical-rehabilitative limit shall be \$1,500.

(c) For the purposes of this section the no-fault policy term year shall commence annually on September 1 and terminate the following August 31. For each term year the commissioner shall make the tabulation of data necessary for the computation of the medical-rehabilitation limit during the period July 1 to June 30 preceding the September 1 start of the no-fault policy term year.

**Sec. 294-11 Required optional additional insurance.** (a) In addition to the no-fault coverages described in section 294-10 every insurer issuing a no-fault policy shall make available to the insured the following optional insurance under the following conditions:

- (1) At the option of the insured, every insurer shall offer provisions covering loss resulting from damage to the insured's motor vehicle with such deductibles including \$250, as the commissioner, by regulation, shall provide.
- (2) At the option of the insured, every insurer shall offer to compensate for damage, not covered by no-fault benefits, to the insured, his spouse, any dependents, or any occupants of the insured's vehicle.
- (3) Additional coverages and benefits with respect to any injury, death, or any other loss from motor vehicle accidents or loss from operation of a motor vehicle; and
- (4) Terms, conditions, exclusions, and deductible clauses consistent with the required provisions of such policy and approved by the commissioner who shall only approve terms, conditions, exclusions, deductible clauses, coverages, and benefits which are fair and equitable, and which limit the variety of coverage available so as to give buyers of insurance reasonable opportunity to compare the cost of insuring with various insurers.
- (5) At appropriately reduced premium rates, no-fault insurers shall offer each of the following deductibles applicable only to claims of

no-fault insureds and, in case of death of a no-fault insured, of his survivors:

- (A) Deductibles in the amounts of \$100, \$300, and \$500 from all no-fault benefits otherwise payable, except that if two or more no-fault insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them; and
- (B) Deductibles in the amounts of \$100, \$300, \$500, and \$1,000 per accident from all no-fault benefits otherwise payable for injury to a person which occurs while he is operating or is a passenger on a motor vehicle with less than four wheels.

(b) Any policy of insurance described in this section shall contain a provision in accordance with regulations of the commissioner specifying the periods within which claims may be filed and actions against the insurer may be brought.

**Sec. 294-12 Prohibitions, penalty.** (a) No insurer shall issue or offer to issue any policy which he represents is a no-fault policy unless such insurer meets the requirements of this part.

(b) Any insurer, any general agent, agent, solicitor, or representative of an insurer who violates subsection (a) shall be subject to the provisions of subsection 294-39(c).

**Sec. 294-13 Motor vehicle insurance rates.** (a) Except as otherwise provided in this chapter, all premium rates for motor vehicle insurance shall comply with the provisions of the casualty rating law contained in chapter 431.

(b) All premium rates for motor vehicle insurance shall be made in accordance with the following provisions:

- (1) Due consideration shall be given to past and prospective loss experience within this State, to catastrophe hazards, if any, to a reasonable margin for profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective loss experience within the State; reasonable margin for profit from and contingencies in the administration of motor vehicle insurance sold within the State; past and prospective expenses in the sale and administration of motor vehicle insurance within the State; and, optionally, to past or prospective loss, sales and administrative costs experience in the nation or regionally, whenever such consideration will serve to reduce rates.
- (2) Due consideration shall be given to the investment income from reserves and unearned insurance premiums and other unearned proceeds received on account of motor vehicle insurance sold in this State, and all other factors that may be deemed relevant, such as but not limited to types of vehicles, occupations, and involvement

in past accidents, provided they are established to have a probable effect upon losses or expense, or rates.

- (3) The systems of expenses provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
- (4) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
- (5) Rates shall not be excessive, inadequate, or unfairly discriminatory.
- (6) Rate making and regulation of rates for all insurance subject to this chapter shall be governed by chapter 431; subject, however, to the following:
  - (A) To assure the proper implementation and evaluation of the chapter the commissioner shall fully comply with the provisions of section 431-703;
  - (B) Except as provided in subsection (j) the commissioner shall establish rates and shall consider with other relevant factors loss experience in this State and the investment income of the insurers, and insofar as section 431-694 and section 431-695 are in conflict with this provision, sections 431-694 and 431-695 shall not be applicable herein;
  - (C) To afford all interested persons an opportunity to be heard the commissioner shall, after notice is published pursuant to chapter 91, hold a public hearing whenever rates are to be increased;
  - (D) The initial rates shall be reviewed prior to July 1, 1975, and thereafter shall be reviewed at least every two years. The commissioner shall issue a public statement or an order approving the rates for the benefit of the public;
  - (E) The commissioner shall order insurers to rebate to policy-holders any excessive profit realized by insurers from their operations.
- (c) Except to the extent necessary to meet the provisions of item (4) of subsection (b) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.
- (d) No manual of classification, rule, rate, rating plan, designation of rating territories, or standard for motor vehicle insurance shall be effective unless approved by the commissioner. The commissioner shall have the power to set rates under this chapter, pursuant to and following the procedure under chapter 91, except as specifically provided herein. The commissioner

shall not set any rates without a public hearing at which all affected and interested parties have a full opportunity to examine, to comment, and to present evidence on the impact and application of the proposed establishment, or revision of rates. The commissioner shall publish a notice of the date, time, and place of the public hearing at least once in each of three successive weeks in a newspaper of general circulation.

(e) Any person aggrieved by the application as to him of any classification, rule, standard, rate, or rating plan made, followed, or adopted by an insurer may make written request to the commissioner to review such application and grant the relief requested. If the commissioner finds that probable cause for the complaint exists or that the complaint charges a violation of this chapter or any applicable provisions of the casualty rating law, he shall conduct a hearing on the complaint. The hearing shall be subject to the procedure provided in section 431-705(a).

(f) If the commissioner has good cause to believe that a classification, rule, standard, rate, rating territory, or rating plan made, followed, or adopted by an insurer does not comply with any of the requirements of this chapter or any applicable provisions of the casualty rating law, he shall, unless he has good cause to believe that such noncompliance is wilful, give notice, in writing, to each insurer stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten days thereafter, within which such noncompliance may be corrected. Notices under this subsection shall be confidential as between the commissioner and the parties unless a hearing is held as provided in subsection (g).

(g) If the insurance commissioner has good cause to believe such noncompliance to be wilful, or if, within the period prescribed by the commissioner in the notice, the insurer does not make such changes as may be necessary to correct the noncompliance specified by the commissioner or established to the satisfaction of the commissioner that such specified noncompliance does not exist, then the commissioner may proceed with a hearing which shall be subject to the hearing procedure provided in section 431-705(a).

(h) If, after a hearing conducted pursuant to subsection (b) or (e), the commissioner finds that the complainant is entitled to relief or that any classification rule, standard, rate, rating territory, or rating plan violates this chapter or any applicable provisions of the casualty rating law, he shall issue an order granting the complainant's claim for relief or prohibiting the insurer from using such classification, rule, standard, rate, rating territory, or rating plan. The order shall contain the commissioner's finding of facts and conclusions of law, including, as appropriate, a specification of the respects in which a violation of this chapter or any applicable provision of the casualty rating law exists and shall specify a reasonable time period within which the insurer shall comply with the terms of the order. Any such order shall be subject to judicial review in accordance with the provisions of section 431-705(b).

(i) The commissioner shall periodically review and evaluate the motor vehicle insurance program described in this chapter, including an annual review of the premium rates, benefit payments, and insurers' loss experience.

(j) For the period of three years from September 1, 1974, and terminating on August 31, 1977, the commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this chapter as either no-fault insurance or as optional additional insurance except as provided under section 294-23. This three-year period shall be a period of open rating. Each firm licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner shall, however, monitor and survey the several companies' rate making methods and systems. The commissioner shall require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits, he deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.

Notwithstanding this prohibition, the commissioner shall, in his discretion, intervene at any time during this three-year period, to adjust rates, for the no-fault, mandatory, or optional-additional coverages, being assessed by any or all insurers, upon a finding that all or any rates are excessively high or unconscionably below the actual costs of provision of the coverage being assured.

On June 1, 1977, the applicable transition provisions of this chapter shall be effective as to rate making and the commissioner shall perform all acts required by this chapter for the setting and regulation of uniform rates conforming to this chapter to be effective on and after September 1, 1977.

In the establishment of their individual rate schedules, each insurer shall conform fully to paragraphs (b) (1), (2), and (4), during the open rating period.

(k) Notwithstanding any other law to the contrary, no insurer shall agree, combine, or conspire with any other private insurer or enter into, become a member of, or participate in any understanding, pool, or trust, to fix, control, or maintain, directly or indirectly, motor vehicle insurance rates. Any violation of this section shall subject the insurer and each of its officers and employees involved to the penalties of chapter 480 without benefit of any exemption otherwise permitted by section 480-11.

(l) Notwithstanding subsection (j), commencing with September 1, 1974, the commissioner shall enforce a mandatory reduction of not less than fifteen per cent by each insurer, calculated as a percentage of the insurer's premium for a comparable combination of insurance coverage in effect on January 1, 1973, on all motor vehicle coverages, as provided in this chapter, including the basic no-fault policy. There shall be no exception to the requirements of this provision, unless the commissioner shall find that the use of the rates required herein by any insurer will be inadequate to the extent that such rates jeopardize the solvency of the insurer required to use such rates. No rate for the insurance required by this chapter shall be increased prior to September 1, 1975, unless the insurer proposing such rate increase shall show that the rates herein are inadequate as stated above.

(m) Notwithstanding subsection (j), and commencing with September 1, 1974, each insurer shall assess, and the commissioner shall enforce, a premium for any student purchasing a no-fault policy, or for any policyholder becoming a student in the future, not less than ten per cent less than the regular premium each insurer assesses for such policy. A student shall be defined for purposes of this subsection as any person enrolled in any accredited institution of the secondary or higher education level, and defined by the institution as a full-time student for academic purposes, regardless of any extracurricular employment.

**Sec. 294-14 Insurer's requirements.** (a) Prior to licensing an insurer to transact no-fault or the optional additional motor vehicle insurance business in this State, the commissioner:

- (1) Shall effect a thorough examination of the insurer's business experience, financial soundness and general reputation as an insurer in this and other states. In the discretion of the commissioner, this examination may include an examination of any or all the business records of the insurer, and an audit of all or any part of the insurer's motor vehicle insurance business, each to be performed by the commissioner's staff or by independent consultants. No license shall be issued until the commissioner is satisfied as to the business experience, financial solvency, and the economic soundness of the insurer; and
- (2) Shall require of each insurer, and determine that satisfactory arrangements have been made for, the provision of a complete sales and claims service office in the State.
- (3) Notwithstanding any other requirements of this section or of chapter 431, may require a bond in a reasonable amount and with deposits or sureties determined in his discretion of any applicant for a license hereunder. The commissioner may, at any time, make and enforce such a requirement of any licensed insurer or self-insurer.

(b) The commissioner may, prior to issuing a certificate of self-insurance to any person, require the applicant to provide for a complete claims service office and an officer for the purpose of service of process in this State.

(c) The commissioner shall promulgate regulations to permit any licensed health insurer to secure a license to engage in the business of motor vehicle insurance to provide only those no-fault benefits described in section 294-2 (10) (A) and (B) and optional major medical coverages.

**Sec. 294-15 Inspection and audit.** Each insurer licensed to transact motor vehicle no-fault or optional additional insurance businesses in this State shall provide the commissioner with periodic reports on every aspect of the no-fault and the optional additional insurance business the insurer transacts in the State, including, but not limited to, reports on the investment, reserve, reinsurance, loss and profit experience, rate making and schedules, claims received and paid.

The commissioner shall have the right and the duty of visitation, inspection, and audit of all business records, including internal memoranda, audits,

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and correspondence related in any way to the insurer's motor vehicle insurance business in this State.

Each insurer shall, not less frequently than quarterly, report to the commissioner the detail of each claim received, claim paid, application for and sale of a motor vehicle insurance policy, each termination and renewal refusal notice posted and of each cancellation and refusal to renew effected on both no-fault and optional additional insurance policy transactions.

The commissioner shall, in his discretion, cause an audit to be made of all or any segment of the motor vehicle insurance books and business records of any insurer by the staff of the division or by an independent auditor. A copy of every audit, internal or external, performed by any insurer of any aspect of its motor vehicle books and business records shall be submitted immediately upon completion to the commissioner.

The commissioner shall assess and collect from each insurer, self-insurer, and from every applicant for a certificate of self-insurance or a license to transact the motor vehicle no-fault and optional additional insurance business in this State such portion of the full costs of every audit, inspection, examination, visitation, and other service related to motor vehicle insurance required by this or any other chapter, or performed by the commissioner in his discretion under this chapter or chapter 431, as he deems equitable in the rendering of such service. The charges shall be collected and paid into the general fund of this State.

Any insurer failing to report information in the manner and within the time required by the commissioner, or failing fully to cooperate with the commissioner and his staff in the fulfillment of their duties under this chapter and chapter 431 shall be subject to the penalty provided in section 431-707.

**Sec. 294-16 Annual report of the commissioner.** The commissioner 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 insurance program, with respect to both required and optional coverages. The report shall include a summary of abuses and deficiencies in benefit payments, the complaints made to the commissioner and their disposition, the extent of compliance and noncompliance by each insurer with the provisions of this chapter and any applicable provision of the Hawaii insurance law, and his reasons for making and establishing rates, classifications, rules, rating plans and policy forms of insurers."

2. Part II is repealed and a new part II is substituted to read as follows:

### **"PART II. JOINT UNDERWRITING PLAN**

**Sec. 294-20 Joint underwriting plan, establishment.** (a) A joint underwriting plan is established consisting of all insurers authorized to write and engage in writing automobile insurance in this State. Each insurer shall be a member of the plan and shall maintain membership as a condition of its licensure to transact such insurance in this State.

The commissioner shall establish and maintain a joint underwriting plan bureau in the division of motor vehicle insurance to receive, assign, and supervise the servicing of all assigned claims and all applications for

joint underwriting plan coverage. The commissioner shall adopt regulations for the operation of the bureau, the assignment of applications for joint underwriting plan coverage and assigned claims, and the inspection, supervision, and maintenance of this service on a fair and equitable basis in accordance with this chapter.

All costs incurred in the operation of the joint underwriting plan bureau and the operation of this plan including administrative, staff, and consultative costs as provided in section 294-15, and claims paid, excepting assigned claims as provided in section 294-23(d), shall, under regulations to be established by the commissioner be allocated fairly and equitably among the no-fault insurers.

(b) The bureau shall promptly assign each claim and application and notify the claimant or applicant of the identity and address of the assignee of the claim or application. Claims and applications shall be assigned so as to minimize inconvenience to claimants and applicants. The assignee thereafter has rights and obligations as if it had issued no-fault, mandatory public liability and property damage policies complying with this chapter applicable to the accidental harm or other damage, or, in case of financial inability of a no-fault insurer or self-insurer to perform its obligations, as if the assignee had written the applicable no-fault insurance, undertaken the self-insurance, or lawfully obligated itself to pay no-fault benefits.

**Sec. 294-21 Board of governors.** (a) A board of governors, hereinafter referred to as the board, shall be established by the commissioner within the bureau for the purpose of providing expertise and consultation on all matters pertaining to the operation of the bureau and the joint underwriting plan. The board shall be composed of two persons from, and members or representatives of, each of the following associations, groups, or organizations, appointed by the commissioner for terms of two years each:

- (1) Two members of, and nominated by, the American Insurance Association;
- (2) Two members of, and nominated by, the American Mutual Insurance Alliance;
- (3) Two members of, and nominated by, the National Association of Independent Insurers;
- (4) Two members, not affiliated with the foregoing organizations, nominated by such non-affiliated insurers;
- (5) Two members, each a self-insurer under this chapter, and nominated by all the certified self-insurers in the State;
- (6) Two members each, to be selected by the commissioner or nominated by each of the classifications provided for in section 294-22(b).

(b) The commissioner shall provide, after consultation with the board, in the budget of the bureau, funds sufficient to reimburse each member of the board for the actual costs of transportation, overnight housing, food, and other incidental costs of attending to the business and meetings of the board. Otherwise, the members shall serve without compensation.

(c) The board shall elect its chairman and vice-chairman annually. The first meeting of the board shall be convened by the commissioner within

sixty days of the effective date of this chapter. Thereafter, the board shall meet at its discretion, but not less frequently than monthly.

**Sec. 294-22 Joint underwriting plan risks, eligibility.** (a) The commissioner shall establish classifications of eligible persons and uses for which the joint underwriting plan shall provide both the required no-fault policies and any optional additional insurance an eligible person or user applies for. The commissioner may further refine the definitions of the classifications provided for in subsection (b). The commissioner shall, by regulation, establish, implement, and supervise the joint underwriting plan, through the bureau, assuring that insurance for motor vehicles will be conveniently and expeditiously afforded, subject only to payment or provision for payment of the premium, to all applicants for insurance required by this chapter to provide insurance for payment of no-fault and tort liability insurance, or optional additional benefits, and who cannot reasonably obtain insurance at rates not in excess of those applicable to applicants under the plan.

(b) The plan shall provide all no-fault benefits and services, and tort liability coverage, to the limits and coverages specified in part I for all classes of persons, motor vehicles, and motor vehicle uses specified in this section upon the payment of premiums as provided in section 294-24, as follows:

- (1) The plan shall provide no-fault benefits and policies for each of the following classes, and each class shall secure a no-fault and tort liability policy through the plan:
  - (A) All motor vehicles owned by licensed assigned risk drivers as the commissioner shall, by regulation, define. The commissioner shall regulate the class in accordance with the general practice of the industry, the applicable results, if any, of his examination of the motor vehicle insurers' business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk automobile driver.
  - (B) All motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application, in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
    - (i) Heedless and careless driving,
    - (ii) Driving while license suspended or revoked,
    - (iii) Leaving the scene of an accident,
    - (iv) Manslaughter, if resulting from the operation of a motor vehicle,
    - (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug, except marihuana, as provided in section 291-7.
  - (C) All commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuitously.
  - (D) All commercial uses, second class, defined as any commercial,

business, or institutional use other than the transport of passengers as described in (C) or the exclusive use of a vehicle for domestic-household-familial purposes;

- (E) All motorcycles, motor scooters, and vehicles with less than four wheels required to be registered under chapter 286.
- (2) The plan shall provide no-fault benefits and policies for all classes of persons, motor vehicles and motor vehicle uses, at the premiums specified under section 294-24, at the options of the owners, for the following classes, which the commissioner shall, by regulation, further define and regulate:

- (A) All licensed drivers receiving public assistance benefits consisting of medical services or direct cash payments through the department of social services and housing, or benefits from the Supplemental Security Income Program under the Social Security Administration;
- (B) Any licensed physically handicapped driver, including drivers with any auditory limitation.

Each category of driver-owner (A) or (B) may secure no-fault coverage through the plan at the individual's option, provided any previous no-fault policy has expired or has been cancelled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any no-fault policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible, under regulations to be adopted by the commissioner, under subparagraph (B), may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

Any person covered by the plan under subparagraph (A) shall remain eligible for coverage under the plan for a consecutive period of three months following the month in which eligibility for any public assistance benefits terminate.

- (3) Under the joint underwriting plan, all basic no-fault coverages, including the basic no-fault policy, the mandatory \$25,000 public liability and the \$10,000 property damage policies shall be offered by every insurer to each eligible applicant assigned by the bureau. In addition, optional additional coverages shall be offered by every insurer in conformance with section 294-11, for each class except that defined in paragraph (2) (A), as the commissioner shall, by regulation, provide.

**Sec. 294-23 Joint underwriting plan assigned claims, eligibility.** (a)

Each person sustaining accidental harm, or his legal representative, may, except as provided in subsection (b) of this section, obtain the no-fault benefits through the plan whenever:

- (1) No insurance benefits under no-fault policies are applicable to the accidental harm; or
- (2) No such insurance benefits applicable to the accidental harm can be identified; or

- (3) The only identifiable insurance benefits under no-fault policies applicable to the accidental harm will not be paid in full because of financial inability of one or more self-insurers or insurers to fulfill their obligations.
- (b) A person, or his legal representative, shall be disqualified from receiving benefits through the plan, if:
  - (1) Such person is disqualified for criminal conduct under section 294-5(c) from receiving the no-fault benefits, or
  - (2) Such person was:
    - (A) The owner or registrant of an uninsured motor vehicle at the time of its involvement in the accident out of which such person's accidental harm arose, or
    - (B) The operator of such a vehicle at such time with reason to believe that such vehicle was an uninsured motor vehicle.
- (c) Any person eligible for benefits under this section, or who becomes eligible to file a claim or an action against the mandatory public liability or property damage policies, shall, upon the bureau's determination of such eligibility, be entitled to:
  - (1) The full no-fault benefits as if such victim had been covered as an insured at the time of the accident producing the accidental harm.
  - (2) The rights of claim and action against the insurer, assigned under section 294-20(b), with reference to the mandatory public liability policy for accidental harm, and with reference to the mandatory property damage policy for property damage sustained.

Any claims of an eligible assigned claimant against either mandatory public liability or property damage policies, or the basic no-fault policy, shall be filed with the insurer assigned and shall be subject to all applicable conditions and provisions of parts I and III of this chapter, except that the date of notification of the assignment shall, where applicable, be substituted for the date of the accident for purposes of section 294-36.

(d) By regulation, promulgated by the commissioner, each self-insurer shall be assessed its equitable proration of all costs and claims paid under this section, annually. No claim shall be assigned to any self-insurer for servicing. Proration for insurers and self-insurers shall be founded upon a pro rata distribution for each premium dollar actually or theoretically received. Self-insurers shall be assessed that prorated amount based upon the total premium cost for the coverage and vehicles stated in its certificate of self-insurance, as if the self-insurer had sold such coverage at the premium rates applicable under section 294-24.

**Sec. 294-24 Joint underwriting plan rates.** (a) The rating rules, refinement of classifications, rates, rating plans, territories, and policy forms for use under the joint underwriting plan shall be established by the commissioner after consultation with the board. All rating rules, classification standards and rules, rates, rating plans, territories, and policy forms for use in the provision of all motor vehicle insurance issued under the joint underwriting plan shall be made and promulgated by the commissioner in accordance with the following provisions:

- (1) Consideration shall be given to the plan's past and prospective loss experience within the State; contingencies in the administration of motor vehicle insurance sold; past and prospective expenses in the sale and administration of motor vehicle insurance; income from investments of premiums and other proceeds received on account of joint underwriting plan motor vehicle insurance sold; and all other factors demonstrated to be relevant by a current actuarially sound study of the definable risks involved, provided, that no premium rate shall exceed the comparable rate not under the plan by a factor of more than two.
- (2) Rating territories may be established and risks may be grouped by classifications for the establishing of rates and minimum premiums. The commissioner may by regulation provide for a uniform classification of risks and rating territories for the various coverages. Classification rates may be modified to produce rates in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks including vehicles, occupations, past traffic convictions, and involvement in past accidents, provided they are established to have a demonstrable effect upon losses or expense. No standard or rating plan shall be based, in whole or in part, directly or indirectly, upon race, creed, ethnic extraction, age, sex, length of driving experience, credit bureau rating, or marital status.
- (3) Rates shall not be excessive, inadequate, or unfairly discriminatory.
  - (b) The commissioner shall periodically set rate schedules, but not less frequently than annually, for all classes, in accordance with this part and the following criteria, so that the total premium income, from all plan motor vehicle insurance, when combined with the investment income, shall annually fund the costs of all joint underwriting plan classes, the joint underwriting assigned claims plan, and the administration of the plans. The commissioner shall establish rates for the following classes within the restrictions stated:
    - (1) Motorcycles and motor scooters shall be assessed a premium rate not in excess of that assessed the same driver for automobile coverage; with provisions for deductible no-fault policies of \$250, \$500, and \$1,000;
    - (2) For the licensed public assistance driver, as defined at section 294-22(b) (2) (A), no premium shall be assessed for the basic no-fault, the mandatory public liability or the mandatory property damage policies; and all policies shall conform to the provisions of section 294-22(b) (2); and
    - (3) For the physically limited driver defined at section 294-22(b) (2) (B), no rate shall be set higher than that assessed a comparable driver without limitation, except that a higher rate may be surcharged under any applicable standard conforming with section 294-24(a) (2).

The commissioner shall set various systems and schedules of rates based upon the risks involved, the experience with various exposures, uses, and drivers, and may include the establishment of surcharges for specific risks, drivers, and uses, for each of the enumerated classes except the classes limited under paragraphs (2) and (3)

(c) The commissioner shall, in the same manner as under subsection (b), set rates for any optional additional coverages the plan shall offer.

(d) During any premium year, or in any subsequent premium year, the commissioner may adjust any rate to reflect any excess premiums charged. He may order a refund to any class.

**Sec. 294-25 Regulations, review, appellate procedure.** The commissioner shall make and promulgate all necessary and appropriate regulations for the execution of his duties under this part. Any final ruling or disposition by the bureau, or by any assigned insurer or by a self-insurer, shall be appealed to the commissioner. Administrative review, and the regulations promulgated therefor by the commissioner, shall conform to chapter 91. Judicial review shall be available to any person aggrieved as provided in chapter 91.

The provisions of all other parts of this chapter apply to the joint underwriting plan, whether direct reference is made or not, unless in conflict with the provisions of this part."

3. Part III is amended to read as follows:

### **"PART III. GENERAL PROVISIONS**

**Sec. 294-30 Claimant's attorney's fees.** (a) A person making a claim for no-fault benefits may be allowed an award of a reasonable sum for attorney's fee, based upon actual time expended, and all reasonable costs of suit in an action brought against an insurer who denies all or part of a claim for benefits under such policy unless the court determines that the claim was fraudulent, excessive, or frivolous.

(b) A person suing in tort, as permitted under this chapter, may enter into any arrangement with an attorney.

**Sec. 294-31 Fraudulent claims.** Within the discretion of the court, an insurer or self-insurer may be allowed an award of a reasonable sum as attorney's fee, based upon actual time expended, and all reasonable costs of suit for its defense against a person making claim against such insurer or self-insurer where such claim was fraudulent, and such attorney's fee and all such reasonable costs of suit so awarded may be treated as an offset against any benefits due or to become due to such person.

**Sec. 294-32 Arbitration.** Any dispute relating to a no-fault policy may be submitted to an arbitrator upon written request filed by a claimant or insurer with the clerk of the circuit court in the circuit where the accident occurred. Any fee or cost of the arbitrator shall be borne equally by the parties unless otherwise allocated by the arbitrator. The administrative judge of each circuit court shall maintain a current list of persons qualified and willing to act as arbitrators and shall, within ten days of the date of filing of a

request for arbitration, appoint an arbitrator from such list to hear and determine the claim. Except as otherwise provided herein, the arbitration shall be in accordance with and governed by the provisions of chapter 658. An appeal may be taken from any judgment of the arbitrator to the circuit court in the manner provided for in Rule 72 of the Hawaii Rules of Civil Procedure.

**Sec. 294-33 Discriminatory practices prohibited.** No insurer shall base any standard or rating plan, in whole or in part, directly or indirectly, upon race, creed, ethnic extraction, age, sex, length of driving experience, credit bureau rating, or marital status.

**Sec. 294-34 Equitable allocation of burdens among insurers.** (a) Insurers and self-insurers paying no-fault or optional additional benefits are entitled to proportionate reimbursement from other insurers and self-insurers to assure that the allocation of the financial burden of losses will be reasonably consistent with the propensities of different vehicles to affect probability and severity of injury to persons because the vehicles are of different weight or have different devices for the protection of occupants, other different characteristics, or different regular uses. Insurers paying no-fault benefits for loss arising from injury to persons, and self-insurers, including those who are natural persons bearing equivalent losses arising from their own injuries, are entitled to proportionate reimbursement from insurers or self-insurers of other involved vehicles.

(b) Insurers shall maintain in accordance with regulations of the commissioner statistical records from which can be determined the propensities of different vehicles to affect probability and severity of injury to persons.

(c) When the commissioner determines that adequate supporting information is available, he may establish by regulation and maintain a system under which rights of reimbursement are determined through pooling, reinsurance, or other form of reallocation procedure in lieu of case-by-case reimbursement. The system may apply to (1) all insurers and self-insurers, or (2) all insurers and self-insurers except those who are parties to an agreement entered into under this subsection and approved by the commissioner. Two or more insurers or self-insurers, with approval of the commissioner, may enter into an agreement for settlement of their rights of proportionate reimbursement through a system of pooling, reinsurance, or other reallocation procedure in lieu of case-by-case reimbursement.

(d) The commissioner may not approve or establish case-by-case proportionate reimbursement on the basis of fault in cases involving only privately owned passenger motor vehicles designed to carry ten or fewer passengers.

(e) All claims for case-by-case proportionate reimbursement between insurers including self-insurers, if not settled by agreement, may be settled through arbitration or litigation.

(f) In order further to reduce the incidence of tort liability arising under this chapter, and to stabilize the numbers and amounts of claims arising under the joint underwriting assigned claims plan, in the event any

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insurer becomes unable fully to meet and fund its obligations under this part, or becomes insolvent, all other no-fault insurers shall guarantee the outstanding policies and claims obligations of the defaulting insurer, in an equitable distribution of such policies and claims based upon the amount of premium revenue or the value of policies written, including both no-fault, mandatory, and optional-additional insurance policies written that year, as the commissioner shall, by regulation, provide. This guaranty shall be effected without increase in any rate for any such policy being guaranteed, and without requiring duplicate payment of any premium by any insured.

**Sec. 294-35 Allocation of burdens until system established.** The commissioner shall within one year after the effective date of this chapter establish a system of proportionate reimbursement as authorized by the provisions on equitable allocation of burdens among insurers and self-insurers under section 294-34(c). Until the commissioner has adopted by regulation other criteria for proportionate reimbursement consistent with those provisions of section 294-34(a):

- (1) In accidents involving motor vehicles with a gross weight of more than ten thousand pounds and a vehicle with a gross weight of less than ten thousand pounds, the insurer of the heavier vehicle shall reimburse seventy-five per cent of the no-fault benefits paid by the insurer of the lighter vehicle;
- (2) In accidents involving motor vehicles with four or more wheels and motor vehicles with less than four wheels, the insurer or self-insurer of the motor vehicle with four or more wheels shall reimburse eighty per cent of the no-fault benefits paid by the insurer or self-insurer of the motor vehicle with less than four wheels.

**Sec. 294-36 Statute of limitations.** (a) No suit shall be brought on any contract providing no-fault benefits or any contract providing optional additional coverage more than:

- (1) Two years from the date of the motor vehicle accident upon which the claim is based; or
  - (2) Two years after the last payment of no-fault or optional additional benefits; or
  - (3) Two years after the entry of a final order in arbitration; whichever is the last to occur.
- (b) No suit arising out of a motor vehicle accident shall be brought in tort more than:
- (1) Two years after the date of the motor vehicle accident upon which the claim is based; or
  - (2) Two years after the date of the last payment of no-fault or optional additional benefits; whichever is the later.

**Sec. 294-37 Administration.** In order to carry out the provisions and fulfill the purpose of this chapter the commissioner shall:

- (1) Consult with representatives of the private insurance business, and such other persons, public and consumer organizations, and agencies of the federal, state, or local governments as he deems necessary;

- (2) Make, promulgate, amend, and repeal such regulations, pursuant to chapter 91, as he deems necessary; and
- (3) Appoint such personnel as necessary for the performance of his functions under this chapter. All personnel appointed under this section shall be subject to chapters 76 and 77.

**Sec. 294-38 Jurisdiction.** Any person may bring suit for breach of any contractual obligation assumed by an insurer under a policy of insurance containing such mandatory or optional provisions in any state court of competent jurisdiction.

**Sec. 294-39 General penalty provision.** (a) Any person subject to the provisions of this chapter in the capacity of the owner or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this chapter, shall be assessed a civil penalty not to exceed \$1,000.

(b) Any person, in the capacity of a licensed or unlicensed motor vehicle insurer, general agent, agent, solicitor, or other representative, who violates any provision of this chapter shall be assessed a civil penalty not to exceed \$5,000 for each violation.

(c) Any person, in the capacity of a licensed or unlicensed motor vehicle insurer, general agent, agent, solicitor, or other representative, who knowingly violates any provision of this chapter shall be assessed a civil penalty of not less than \$3,000 and not to exceed \$10,000 for each violation.

(d) (1) Violations of subsections (b) and (c) shall be subject to the construction that each repetition of such act shall constitute a separate violation.

(2) The imposition of any civil penalty under subsections (a), (b), or (c) shall be in addition to, and shall not in any way limit or affect the application of, any other civil or criminal penalty, or public safety condition or requirement, provided by law.

**Sec. 294-40 Short title.** This chapter shall be known and may be cited as the "Hawaii no-fault law."

**Sec. 294-41 Severability.** (a) Except as provided in subsection (b), if any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional, the remainder of this chapter and the application of such provision to other persons or circumstance shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this chapter without such invalid or unconstitutional provision.

(b) In the event section 294-6(a) is held constitutionally invalid, then it is the intent of the legislature that the following sections only shall be voided: sections 294-3, 294-4, 294-5, 294-8(a) (1), and section 294-12. It shall be conclusively presumed that the legislature would have enacted the remainder of this chapter without such invalid or unconstitutional provision."

SECTION 2. Section 431-31, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-31 Insurance commissioner, commissioner of motor vehicle insurance.** (a) The director of regulatory agencies shall be the insurance commissioner.

(b) Commissioner, where used in this chapter means the insurance commissioner of this State.

(c) There is established in the department of regulatory agencies, for administrative purposes only, the office of state commissioner of motor vehicle insurance, separate from and exclusive of all other state officers. Upon the effective date of this section, the commissioner of motor vehicle insurance shall have and exercise all the powers and duties assigned to the director of regulatory agencies with respect to motor vehicle insurance. No duties shall be assigned the commissioner of motor vehicle insurance other than those arising in the administration of all statutes regulating motor vehicle insurance in this State. The commissioner of motor vehicle insurance shall be appointed by the governor, with the advice and consent of the senate, for a term of six years. Pending the appointment of a person to, or during any vacancy in, the office of the state commissioner of motor vehicle insurance, the director of regulatory agencies shall serve as the commissioner of motor vehicle insurance and shall exercise all the powers and shall perform all necessary and appropriate duties of that office."

SECTION 3. Section 431-33, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-33 Salary.** The insurance commissioner shall not receive any salary in addition to his salary as director of regulatory agencies. The motor vehicle insurance commissioner shall receive an annual salary which shall be ninety-five per cent of the salary of the director of regulatory agencies."

SECTION 4. Chapter 286, Hawaii Revised Statutes, is amended by the addition of a new section, to be appropriately numbered, and to read:

**"Sec. 286- Drivers education fund underwriters' fee.** (a) There is assessed and levied, upon each insurer and self-insurer, as defined in section 294-2, a drivers' education fund underwriters' fee of one dollar per year, on each motor vehicle insured by each insurer or self-insurer, as of the issuance of any policy of insurance covering the motor vehicle. This fee is due and payable in full, within thirty days of the commencement of coverage under the policy, or the date of issuance, whichever is earlier; or in the case of a self-insurer, within thirty days of the date of qualification as a self-insurer under section 294-8(a) (2), or of the date of listing a motor vehicle to be self-insured with the state commissioner of motor vehicle insurance, whichever date is later.

(b) All such fees shall be remitted by each insurer to the commissioner of motor vehicle insurance monthly. The commissioner shall deposit these underwriters' fees into a special drivers education fund account which shall be expended by the commissioner for the operation of the drivers' education program provided for in section 286-128(m).

(c) The commissioner of motor vehicle insurance shall make all necessary rules and regulations for the execution of this section and the equitable distribution of this fund to the several counties."

SECTION 5. Section 3 of Act 203, Session Laws of Hawaii 1973, is amended to read as follows:

**"Sec. 3. Transitional requirement.** (a) During the period between the approval of this Act and September 1, 1974, policies of motor vehicle insurance insuring the insured against liability in tort for bodily injury and property damages arising out of motor vehicle accidents may continue to be issued. Any such policy may be issued for a term expiring beyond August 31, 1974, or for a term expiring on August 31, 1974, provided that if a policy of liability insurance is issued for a term expiring beyond August 31, 1974, on September 1, 1974, such policy of insurance shall provide for compliance with the provisions of this Act.

(b) During the period between the approval of this Act and September 1, 1974, the commissioner shall do all things necessary, for the full implementation of the provisions of this Act on September 1, 1974, including promulgating rules and regulations, approving manuals of classifications, rules, standards, rates, rating territories, and rating plans, and prescribing forms, all in the manner provided in this Act.

(c) After approval of this Act and before September 1, 1974, insurers authorized to transact the business of motor vehicle insurance in this State may sell motor vehicle insurance complying with the provisions of this Act to be effective September 1, 1974, provided that the commissioner has approved all such matters pertaining to such insurance which require his approval under this Act and, for the purpose of securing such approval and effectuating such sale, may take such actions as necessary to formulate plans and determine rates complying with the provisions of this Act."

SECTION 6. Section 4 of Act 203, Session Laws of Hawaii 1973, is amended to read as follows:

**"Sec. 4. Laws repealed.** All other laws relating to motor vehicle insurance which are inconsistent with this Act are repealed as of September 1, 1974.

SECTION 7. Section 5 of Act 203, Session Laws of Hawaii 1973, is amended to read as follows:

**"Sec. 5.** This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before September 1, 1974."

SECTION 8. 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 material or the underscoring.\*

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

(Approved June 6, 1974.)

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\*Edited accordingly..

A Bill for an Act Relating to Fishing.

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

SECTION 1. Section 188-35, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 188-35 Fishing in Waikiki and other waters; penalty.** It shall be unlawful for any person to fish in the waters of the Waikiki reclamation canal, the drainage canal constructed in connection with Kapiolani Boulevard, the Kapalama drainage canal, off Heeia-kea wharf, within that portion of Waialua Bay delineated on the seaward boundary by lines drawn 100 yards seaward of and parallel to the Haleiwa Harbor Breakwater and 100 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 10 yards downstream of and parallel to the Anahulu Bridge and within that portion of Pokai Bay delineated on the seaward boundary by a straight line drawn from Kaneilio Point to the South bank of the mouth of the Kaupuni Drainage Canal on Oahu, or the Kapaa and Waikaena canals on 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.

With a permit obtained from the department of land and natural resources and under such rules and regulations as the department may prescribe, the owner or operator of a fish pond may take pua or other small fish, using nets, for the purpose of stocking such fish pond.

With a permit from the department, commercial fisherman may take nehu or iao, using nets, for bait purposes only.

The department may issue such permits at its discretion and at any time may revoke any or all such permits when, in its judgment, the action is necessary to preserve the stock of fish in the canals or waters.

Any person who violates this section shall be fined not less than \$25 nor more than \$200, or imprisoned not more than six months, or both.

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 6, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to the Establishment of Revolving Funds and Special Funds under the Hawaiian Homes Commission Act, 1920.

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

SECTION 1. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

**"Sec. 213 Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account; Hawaiian home-farm loan fund; Hawaiian home-commercial loan fund; Hawaiian home-repair loan fund; Anahola-Kekaha loan fund; Hawaiian loan guarantee fund; and the Papakolea home-replacement loan fund.** (a) There are hereby established in the treasury of the State seven revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm loan fund, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund, the Anahola-Kekaha loan fund, the Papakolea home-replacement loan fund, and three special funds to be known as the Hawaiian home-development fund, the Hawaiian home-administration account, and the Hawaiian loan guarantee fund.

(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209(l), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(l), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

Thirty percent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts,' shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the

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special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion,' is to be transferred to the Hawaiian home-development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$25,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$25,000 under and in accordance with the provisos of section 215(l), subject, as stated, to the provisions of section 215(3);
- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home-loan fund, Hawaiian home-operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the

- lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department;
- (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;
- (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;
- (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;
- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;
- (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial

institutions made to Hawaiians under this program. 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, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.

(c) Hawaiian home-development fund. Twenty-five per cent of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund. The moneys in said development fund shall be available, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other non-revenue producing improvements.

With respect to the Additional Receipts—Development Fund Portion, fifteen per cent thereof shall be used, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands and for other nonrevenue-producing improvements, and the remaining eighty-five per cent shall be segregated into a special account which 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 after consultation with the University of Hawaii and the 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.

Only so much of the Additional Receipts—Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.

(d) Hawaiian home-operating fund. All moneys received by the department from any other source, except moneys received from the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interest; (2) for payment into the treasury of the State of such amounts as are necessary to meet the following charges for state bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such

serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from said funds or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in said fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, said fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) Match moneys. The department is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, state or county funds available for the same purposes and to that end is authorized to 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 match funds for such projects or works.

(f) Hawaiian home-administration account. The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in said account shall be expended by the department for salaries and all other administrative expenses of the department, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

- (1) The department shall, at such time as the governor may prescribe, but not later than November 15, preceding each (annual) session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next ensuing (fiscal period) in the manner and form and as required by state law of state departments and establishments.
- (2) The department's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
- (3) Upon approval by the legislature of the department's budget estimate of expenditures for the ensuing (fiscal period) the amount thereof shall be available to the department for the (fiscal period) and shall be expendable by the department for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the (fiscal period) or so

made available shall be transferred to the Hawaiian home-development fund, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature or so made available.

- (4) The money in said administration account shall be expended by the department in accordance with state laws, rules, and regulations and practices.

(g) Hawaiian home-farm loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the 'farm loan fund.' The moneys in this fund shall be used to make loans to lessees of agricultural tracts leased under the provisions of section 207 of this Act. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this Act.

(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding leases issued under Section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by said lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(i) Hawaiian home-repair loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the Hawaiian home-repair loan fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$5,000 to lessees for repairs to their existing homes and for necessary additions to such homes due to increase in family size. Such loans may be made for periods not to exceed five years and shall bear interest at two and one-half per cent a year.

(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola and Kekaha on the island of Kauai to construct homes upon homestead lots. Such loans shall be for a period not to exceed 20 years, shall bear interest at two and one-half per cent a year and shall be for sums not to exceed \$20,000.

(k) The Hawaiian loan guarantee fund. The department is authorized to create a fund out of which loans made by governmental agencies or lending institutions to those holding leases or licenses issued under section 207 of this Act may be guaranteed. This guarantee may be for home, farm and commercial loan purposes. The loan guarantees shall be subject to the restrictions imposed by sections 208, 214 and 215 of this Act.

(l) Papakolea home-replacement loan fund. The department shall create a fund of \$200,000 out of moneys heretofore appropriated to it by the legislature to be known as the Papakolea home-replacement loan fund. The moneys in this fund shall be used to make loans to lessees who are residents of Papakolea on the island of Oahu to construct replacement homes upon the leased lots. Such loans shall be made at the interest rate of two and one-half per cent a year and shall not exceed the loan amount specified for a residence lot under section 215 of this Act."

SECTION 2. 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 material or the underscoring.\*

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

(Approved June 7, 1974.)

ACT 171

S.B. NO. 10

A Bill for an Act Relating to Housing.

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

SECTION 1. **Findings and Purpose.** The legislature finds that a critical housing shortage still exists in the State and that a major percentage of our citizens are unable to acquire housing. The legislature has determined that certain technical and substantive amendments to chapters 356 and 359G of the Hawaii Revised Statutes will aid in the production of housing units for low income families. It is the purpose of this Act to provide as effective a mechanism as possible to achieve the goal of shelter for our citizens.

SECTION 2. Section 356-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 356-5 Housing authority to be public corporation; commissioners.** An authority to be known as the Hawaii housing authority is created. The authority shall be a public body and a body corporate and politic with perpetual existence, and shall consist of eight commissioners of whom six shall be public members appointed by the governor with the consent of the senate. Not more than three of the public members shall be members of the same political party. Two of the public members of the commission shall be appointed at large, one shall be appointed from the city and county of Honolulu and one from each of the counties of Hawaii, Maui and Kauai. The director of social services shall be an ex officio voting member of the housing authority as provided for in section 26-14, but shall not be an ex officio chairman. The special assistant for housing appointed pursuant to section 359G-2 shall be an ex officio voting member of the housing authority.

A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. Four commissioners shall constitute a quorum, whose affirmative vote shall be necessary for all actions by the authority. The governor shall file with the lieutenant governor a certificate of the appointment or reappointment of any commissioner and the certificate shall be conclusive evidence of the due and proper appointment of the commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties.

\*Edited accordingly.

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The governor may appoint an acting commissioner to serve as such during the temporary absence from the State or the illness of any regular commissioner appointed as above provided. The governor shall file with the lieutenant governor a certificate of the appointment of any acting commissioner and the certificate shall be conclusive evidence of the due and proper appointment of the acting commissioner. The acting commissioner shall, during his term of service, have the same powers and duties as the regular commissioner, and shall be known as an acting commissioner.

The authority shall select from among its members a chairman and a vice-chairman, and it may employ, subject to chapters 76 and 77, an executive secretary, technical experts and such other officers, agents, and employees, permanent and temporary, as it may require. The authority may call upon the attorney general for such legal services as it may require or it may employ its own counsel and legal staff. The authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper. The staff provided under section 359G-3 shall be in addition to any staff provided for in this chapter."

SECTION 3. Section 359G-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 359G-2 Special assistant for housing.** There shall be in the office of the governor a special assistant for housing to be appointed by the governor without regard to chapters 76, 77, and 78. The special assistant shall be an ex officio member of the Hawaii housing authority with a vote."

SECTION 4. Section 359G-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 359G-3 Housing authority—staff.** The Hawaii housing authority shall administer this chapter. The authority may employ, subject to chapters 76, 77, and 78, a staff consisting of a qualified financial aide, development aide, and attorney, and other individuals on a contractual basis to assist in carrying out the functions and purposes of this chapter. Subject to legislative appropriation, no contract shall be for a period longer than two years, and no individual shall be employed beyond a maximum of six years."

SECTION 5. Section 359G-4(a), Hawaii Revised Statutes, is amended to read as follows:

"(a) Develop fee simple or leasehold property, construct dwelling units thereon, including condominiums and planned units, and sell, lease or rent or cause to be leased or rented the land and the completed units at the lowest possible price to qualified residents of the State, and the authority shall perform such functions in partnership with a qualified partner or partners as hereinafter defined, or shall act in its own behalf.

A qualified resident means a person who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is at least eighteen years of age;

- (3) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this chapter; and
- (4) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase.

Any person whom the authority finds to be within one of the following classes, shall not be eligible to become a purchaser of a dwelling unit, to wit:

- (1) A person who himself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold any lands suitable for dwelling purposes; and
- (2) A person who himself or whose husband or wife (when husband and wife are living together) has pending an unrefused application to purchase a dwelling unit under this chapter from the authority.

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

**SECTION 6.** Section 359G-12(d), Hawaii Revised Statutes, is amended to read as follows:

"(d) To be eligible for loans under this section, a qualified borrower shall be:

- (1) A citizen of the United States or a declarant alien;
- (2) A sound credit risk with ability to repay the money borrowed;
- (3) Meet the standards and regulations as may be promulgated by the authority; and
- (4) Willing to comply with the regulations as may be promulgated by the director of finance.

The authority shall process all applications and determine who is a qualified borrower under this chapter."

**SECTION 7.** Section 359G-17(a), Hawaii Revised Statutes, is amended to read as follows:

- "(a) No person shall be qualified for a downpayment loan, unless he:
- (1) Is a citizen of the United States or a declarant alien;
  - (2) Is at least eighteen years of age;
  - (3) Is a bona fide resident of the State of one year or more;
  - (4) Has a bona fide intent to reside in the residential property to be purchased;

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- (5) Is accepted by a private lender as a person to whom it is willing to lend money for the purchase of the residential property provided the required downpayment is made; and
- (6) Has the financial capacity to repay the downpayment loan.

SECTION 8. Section 359G-23(a), Hawaii Revised Statutes, is amended to read as follows:

“(a) The authority shall not participate in any loan, unless the borrower to whom the private lender is willing to make the loan:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is at least eighteen years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;
- (5) Has the ability to repay the loan; and
- (6) Has a gross income of not more than \$20,000 per annum (the gross income of the borrower's spouse, if the borrower is married, shall be counted, except where the borrower is living separate and apart from his spouse under a decree of a court of competent jurisdiction) or is fifty-five years of age or more, or is a person displaced by government action other than eviction due to his fault.”

SECTION 9. Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 359G- Contractual staff reserve fund.** (a) There is created a contractual staff reserve fund. The fund shall be financed first out of the dwelling unit revolving fund created pursuant to section 359G-10 and then, if necessary, out of the general revenues of the State, and shall be used in accordance with the purposes set forth in section 359G-3.”

SECTION 10. Section 359G-4(c), Hawaii Revised Statutes, is amended to read as follows:

“(c) Acquire, by eminent domain, exchange, or negotiation, land or property required within the foreseeable future for the purposes of this chapter. Land or property includes vacant land or land with site improvements whether partially or entirely finished in accordance with governmental subdivision standards, or with completed dwellings. Whenever land with a completed dwelling or dwellings thereon is acquired by exchange or negotiation, the exchange value or purchase price for each such dwelling, including land, shall not exceed its appraised value.”

SECTION 11. Section 359G-7, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 359G-7 Financing.** The director of finance is hereby authorized to issue both general obligation bonds and short term project notes of the State in the aggregate amount not to exceed \$60,000,000, for the purposes of this chapter. For purposes of this section, “short term project notes” means evidences of indebtedness issued by the State for specified housing projects and secured by such projects, the terms of which call for complete repayment by the

State of the face amount in not less than two nor more than ten years. Pending the receipt of funds from the issuance and sale of such bonds and notes, the amount required for the purposes of this chapter shall be advanced from the general fund of the State. Upon the receipt of the bond or note funds, the general fund shall be reimbursed. The director of finance may sequester and separate the proceeds from sale of the bonds and notes into separate funds. The amounts in either fund may be used for any of the purposes set forth in subsection 359G-4(e), including permanent financing, and the state director of finance shall have the authority to use the moneys in the general obligation bond fund for projects which are receiving no federal assistance in the form of insurance, guarantee, or subsidy. Prior to the issuance and sale of the general obligation bonds, and any short term project notes, interest on any interim money shall be computed at the greater of seven per cent or one per cent more, rounded to the nearest one eighth of one per cent, than that paid by the State on the general obligation bonds most recently issued by it. After the issuance and sale of the general obligation bonds, and short term project notes, interest on any interim money shall be computed at one per cent more, rounded to the nearest one eighth of one per cent, than that paid by the State for the general obligation bonds or short term project notes. Interest so computed shall be a cost of the project to be prorated over the units. In the event the rate of interest on an interim loan made pursuant to the third preceding sentence is higher than the rate ultimately determined in accordance with the second preceding sentence, the authority may refund the difference."

SECTION 12. Section 359G-9, Hawaii Revised Statutes, is repealed.

SECTION 13. Chapter 359G, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 359G- Restrictions on transfer and use of dwelling units.** (a) For a period of ten years after the dwelling unit is purchased from the authority, or an agreement of sale is executed, whether on fee simple or leasehold property the following restrictions shall apply to the use and transfer of the unit and the property:

- (1) Any such dwelling unit shall be owner occupied. Violation of this provision is sufficient for the authority, at its option, to repurchase the dwelling unit as provided for in paragraph (2);
- (2) In the event that the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the authority shall have the right of first refusal, at a price which shall not exceed the amount of the original cost to the purchaser together with the cost of any improvements added by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year; provided, however, that title to a dwelling unit and the property or lease may pass to a family member by devise or through the laws of descent, who would otherwise qualify under the rules and regulations established by the authority.

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- (3) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restriction on transfer and use of the dwelling unit as prescribed in this section.
- (b) For a period from the tenth year until the twentieth after a dwelling unit is purchased or an agreement of sale is executed, whether on fee simple or leasehold property the following restrictions shall apply to the use and transfer of the unit and the property:
  - (1) Any such dwelling unit shall be owner occupied. Violation of this provision is sufficient for the authority, at its option, to repurchase the dwelling unit as provided for in paragraph (2);
  - (2) In the event that the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the authority shall have the right of first refusal, at a price which shall not exceed the greater amount of the original cost to the purchaser together with the cost of any improvements added by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year, or the fair market value of the premises less any amount subsidized by the State, as determined by the authority, and less also interest thereon at the same rate as that paid by the purchaser on his mortgage or other security agreement, provided, that title to a dwelling unit and the property or lease may pass to a family member by devise or through the laws of descent, who would otherwise qualify under the rules and regulations established by the authority.
  - (3) Any deed, lease, agreement of sale, mortgage or other instrument of conveyance issued by the authority shall expressly contain the restriction on transfer and use of the dwelling unit as prescribed in this section.
  - (c) Any time after twenty years have elapsed from the date a dwelling unit is purchased or an agreement of sale is executed, whether on fee simple or leasehold property, the purchaser may sell the unit and sell or assign the property to any person free from any price restrictions; provided that the purchaser shall be required to pay to the authority:
    - (1) The balance of any mortgage note, agreement of sale, or other amount owing to the authority.
    - (2) To the extent that any profit is realized, any subsidy made by the authority or the State not counted as cost under section 359G-8 but charged to the dwelling unit by good accounting practice as determined by the authority whose books shall be prima facie evidence of the correctness of the cost.
    - (3) To the extent that any profit is realized, interest on the amount determined under paragraph (2) above computed from the date of occupancy, at the same rate as that paid by the purchaser on his mortgage or other security agreement.
    - (4) If any proposed sale or transfer would not generate sufficient profit to enable the repayment of all sums under paragraphs (1), (2), and (3)

above, the authority shall have the right of first refusal to repurchase the unit. These provisions of subsection (b) shall be incorporated in any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) above, the authority may at any time consent to the sale or transfer of a unit for such a price and on such terms as the authority may determine, in accordance with adopted rules or regulations, to preserve the intent of those provisions without the necessity for the State to repurchase the unit.

(e) Notwithstanding the provisions of subsections (a), (b), and (c) above, the authority may at any time waive the restrictions of subsections (a) (2), (a) (3), (b) (2), (b) (3), and (c), if the State makes no subsidy in the form of unrecovered land costs or unrecovered development costs, except such tax relief granted under section 359G-15, and except such costs, if any, (1) allocable to the staff of the authority in the administration of the partnership, (2) for training of labor under section 359G-13, and (3) for the development of innovative techniques and research under section 359G-14.

In the event that the United States Department of Housing and Urban Development, through its Federal Housing Administration, the United States Department of Agriculture, through its Farmers Home Administration or any other federal or state agency engaged in housing activity, shall at any time become the owner of a dwelling unit and the land or leasehold interest pursuant to a contract, mortgage, or mortgage insurance, this right to repurchase by the authority shall be suspended and be of no force and effect during the period of such ownership, the right to repurchase being automatically reinstated and fully effective and applicable from and after any period of such ownership. Title to a dwelling unit and the land or leasehold interest may pass to a family member by devise or through the laws of descent, who would otherwise qualify under the rules and regulations established by the authority. The authority may in accordance with chapter 91 adopt rules to effectuate this section and to conform to the requirements of any federal or state program."

SECTION 14. Chapter 359G, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 359G- Housing opportunity allowance program.** (a) Subject to the provisions of this section, the authority may provide funds to assist a prospective home buyer who is ineligible to obtain home purchase assistance under the subsidy programs of the state and federal government, and whose income is insufficient to permit him to obtain a mortgage loan providing for monthly payments within his financial ability from a private lender on either a conventional or a guaranteed or insured, but unsubsidized, basis.

(b) Definitions. As used in this section:

(1) "Allowance" means a housing opportunity allowance to be credited against interest due on qualifying loans as further described in subsection (c).

(2) "Eligible borrower" means a borrower who, at the time of making

application for an allowance and at the time of the closing of a qualified loan:

- (A) Is either spouse of a married couple living together, or both such spouses, or the head of a household with one or more dependents;
- (B) Has an annual aggregate gross family income not in excess of two hundred fifty per cent of the income limits set by the authority for a family of the same size to be admitted to low-rent housing owned by the authority;
- (C) Is a citizen of the United States or a declarant alien who now resides in the State;
- (D) Is at least eighteen years of age;
- (E) Is a bona fide resident of the State for one year or more;
- (F) Has a bona fide intent to reside in the residential property to be purchased;
- (G) Is accepted by a mortgagee as a person to whom it is willing to make a qualifying loan provided an allowance is paid under this section;
- (H) Has assets not in excess of \$10,000 as defined in rules and regulations adopted by the authority.

No person who has any equity in fee simple or in leasehold, in any other residential property within or without the State, or who has or has had a loan made under this program shall be eligible to become a borrower under this section. A person shall be deemed to own a residential property if he, his spouse, or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) owns such residential property.

- (3) "Mortgagee" means any bank or other institution authorized by law to make loans on dwelling units.
- (4) "Qualifying loan" means a loan which:
  - (A) Is for the purpose of financing the purchase of a dwelling unit to be owned and occupied by an eligible borrower as a primary residence;
  - (B) Is secured or is to be secured by a first lien on such dwelling unit;
  - (C) Is in a principal amount (i) not less than an amount equal to seventy per cent of the fair market value of the security property; (ii) not more than the lesser of an amount equal to one hundred per cent of the fair market value of the security property, or the purchase price of the security property.
- (c) Housing opportunity allowance.
  - (1) Any eligible borrower who has obtained a qualifying loan and a commitment from a mortgagee, and who has certified that all information provided in his application for the allowance is accurate at the time of closing, is eligible to receive an allowance from such mortgagee. An allowance in the amount determined by the authority under paragraph (5) of this subsection shall be credited against the

interest charged on each of the first sixty monthly installments paid on the qualifying loan, subject to terms and conditions included in the commitment.

- (2) The borrower may make application for an allowance to the mortgagee to which he has applied for a qualifying loan. The application for an allowance shall be on a form prescribed by the authority.
  - (3) In making such application, the applicant shall sign a statement of intention that, if the qualifying loan is made, the borrower:
    - (A) Will be the title owner of the real estate securing the loan;
    - (B) Will occupy the dwelling unit comprising such real estate as a primary residence; and
    - (C) Will not give or execute any lien or charge in connection with the purchase of such real estate without the approval of the authority.
  - (4) At the time of closing of the qualifying loan, the mortgagee shall furnish to the eligible borrower a commitment, signed by an officer of the mortgagee, stating the terms and conditions under which the eligible borrower shall be entitled to receive an allowance from the mortgagee. The terms and conditions to be included in the commitment shall be prescribed by the authority by rule.
  - (5) The monthly allowance to be provided under this section shall be the lesser of \$50 or the excess of the monthly payment of principal and interest payable on the qualifying loan over twenty per cent of one-twelfth of the eligible borrower's annual aggregate gross family income. For the purposes of computing the amount of the allowance, the authority shall determine the family income of the eligible borrower at the time of closing for the qualifying loan; provided, that the family income shall be redetermined by the authority according to rules and regulations established pursuant to chapter 91 to determine if the allowance should be discontinued.
  - (6) The eligible borrower shall be required to certify annually the fact that he is occupying the dwelling unit and that it is his primary residence.
  - (7) Failure by the borrower to occupy the dwelling unit as his primary residence shall make all allowance funds paid to the mortgagee on the borrower's account immediately due and payable in accordance with subsection (e) and shall terminate his entitlement to future housing opportunity allowances.
- (d) Approval and payment of housing allowances.
- (1) Prior to the closing of the qualifying loan, the mortgagee may request the authority to confirm that allowance funds are available to reimburse the mortgagee for all amounts credited under commitments approved by the authority.
  - (2) The authority shall approve any commitment for payment of an allowance if funds are available and if it finds that the commitment, certifications and all closing documents comply with the conditions of this section and requirements prescribed by the authority by rule.

- (3) The authority shall pay to each mortgagee holding an approved commitment the allowance credited to the qualified borrower under that commitment. The mortgagee shall report the total dollar amounts of allowances so credited on a form prescribed by the authority.
- (e) Repayment of allowance.
  - (1) The eligible borrower shall repay to the authority all allowance funds paid to the mortgagee on the borrower's account plus interest to the date of repayment at the rate defined in section 359G-7.
  - (2) Repayment shall be due at the end of the tenth year after the closing of the qualifying loan or on or before the date of conveyance if the eligible borrower conveys the dwelling unit pursuant to section 359G-.
  - (3) In the event the dwelling unit is not conveyed after the tenth year, the eligible borrower may repay the loan account balance to the authority over a five-year period at an interest rate as defined in section 359G-7. The authority may approve such a loan based on the capacity of the eligible borrower at that time.
  - (4) To secure the indebtedness of the allowance in the event the dwelling unit is not conveyed, the borrower shall execute a promissory note or any other instrument of indebtedness as the authority may require.
- (f) Eligibility of spouse or dependents. Any spouse or dependent of the eligible borrower to whom a dwelling unit approved for allowance descends by devise or by the laws of descent who would qualify as an eligible borrower under rules and regulations established by the authority is eligible to continue to receive the allowance for the remaining term of such allowance, and shall be liable to repay such allowance as provided in subsection (e) upon any subsequent conveyance but not later than the end of the tenth year.
- (g) Financing. For purposes of this section the authority may use funds available from general obligation bonds of the State issued under section 359G-21.
- (h) Rules and regulations. The authority shall adopt and promulgate all rules and regulations necessary to further the policies and provisions of this section pursuant to chapter 91."

SECTION 15. Chapter 359G, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 359G- Independent development of projects.** (a) In any county, the authority may enter into agreements for housing projects with a private developer where a project was initiated by the private developer where a project was initiated by the private developer and in the authority's reasonable judgment is primarily designed for low-income housing. The agreement may provide for the housing to be placed under the control of the authority, or to be sold by the authority or to be sold to the authority as soon as the units are completed and shall contain such terms, conditions, and covenants as the authority, by rules made in conformity with this chapter and chapter 91 deems appropriate, and every agreement shall provide for the developer to furnish a

performance bond, in favor of the authority, assuring the timely and complete performance of the agreement. Sureties on the bond must be satisfactory to the authority.

For the purpose of this section, an eligible developer means any person, partnership, cooperative, firm, or corporation determined by the authority:

- (1) To be qualified by experience and financial responsibility and support to construct housing of the type described in this section and of the magnitude encompassed by the given project;
- (2) To have submitted plans for a project adequately meeting the objectives of this section, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes, and rules;
- (3) To be fully capable, on the basis of experience and reputation to complete all sales of the project in a nondiscriminatory fashion and without encountering complaints under chapters 342, 378, 396, 515, or suits under any applicable state or federal civil or human rights statute;
- (4) To meet all other requisites the authority deems to be just and reasonable, and all requirements stipulated in this section.

(b) Whenever the authority determines a developer to be eligible under this section, it may accept its application for approval of a project provided the plans and specifications for the project and the terms of the agreement to be entered:

- (1) Provide for economically integrated housing by stipulation and design; that not less than sixty per cent of the units shall be sold in price ranges established by the authority under this chapter and chapter 91 as being within the purchasing power of lower income purchasers and the balance of the units to be sold at these or other prices; provided further that, the variously priced units shall not be segregated and shall be randomly dispersed throughout the project horizontally, and if applicable, vertically;
  - (2) Provide for the sale of all units in fee simple or in leasehold either to the authority or to the purchaser and in all cases subject to all of the provisions of section 359G- .
  - (3) Encompass the use of lands adequately suited to the size, design, and types of occupancies designated in subsection (a), properly located for occupancy by the groups for which primarily designed under this section, properly districted for the use intended prior to this application, and appropriately zoned within an urban land use district, or appropriate in its situation and surroundings for more intensive or denser zoning.
- (c) The authority may accept and approve projects independently initiated by private developers which fully comply with subsections (a) and (b). The authority may review the plans, specifications, districting, and zoning of the project for the purpose of exempting the project from all statutes, ordinances, charter provisions, and rules and regulations of any governmental

agency relating to zoning and construction standards for subdivisions, development, and improvement of land and the construction, improvement, and sale of homes thereon; provided that:

- (1) The authority finds the project is (A) consistent with the production of housing under this chapter, and meets minimum requirements of good design, pleasant amenities, health, safety, and coordinated development, and (B) in harmony with the general purpose and intent of this chapter.
- (2) The development of the proposed project does not contravene any state land use district classification, county general plan or zoning designation, or safety standard or tariff approved by the public utilities commission for public utilities.
- (3) The authority shall have first presented the plans and specifications for the the project to the legislative body of the county in which the project is to be situated, and the legislative body has not disapproved the project within forty-five days from date of presentment. On the forty-sixth day after presentment, a project not disapproved shall be deemed approved by the legislative body of the county. The approval shall be based, or deemed to be based, upon a finding that the provisions of the county general plan and zoning and the spirit of any applicable ordinance of the county in maintaining public welfare and safety are not prejudiced by the variance of the proposed project from such ordinances.

The final plans and specifications for the project approved by the legislative body, or in the alternative by the authority, shall constitute the zoning, building, construction, and subdivision standards for that project. No action shall be prosecuted or maintained against any county, its officials, or employees, on account of actions taken by them in reviewing, approving, disapproving such plans and specifications. 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."

**SECTION 16.** Chapter 359G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 359G- Commercial, industrial, and other uses.** (a) In connection with the development of any residential units under this chapter the authority may also develop commercial, industrial, and other properties if it determines that such uses can be an integral part of the development and can help to preserve the life styles of the purchasers of residences in the development. The authority may designate any portions of the developments as for commercial, industrial, or other use and shall have all the powers granted under this chapter with respect thereto including the power to by-pass statutes,

ordinances, charter provisions and rules and regulations of any governmental agency pursuant to section 359G-4(g). For this purpose the authority may use any of the funds authorized under this chapter.

(b) The authority shall establish rules and regulations pursuant to chapter 91 which shall provide the manner of designation of such uses and shall provide that any commercial, industrial, or other properties so developed shall be sold or leased at cost. Sale or lease at cost shall be first to owners of commercial, industrial, or other facilities displaced by the authority; and second to purchasers of residential units developed in the near vicinity under this chapter; and third to any other interested persons.

The regulations may also provide that any commercial property so developed and sold or leased may during the first twenty years after its purchase be resold or assigned only to the authority at the original purchase price plus the cost of any improvements made by the purchaser together with simple interest on all of the purchaser's equity in the property at the rate of seven per cent a year. The regulations may also provide that ownership of the commercial property cannot be separated from ownership of the residential property in connection with which it was sold or leased."

SECTION 17. Section 359G-11.1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 359G-11.1 State financing of projects.** The authority may provide interim construction loans to qualified developers and nonprofit corporations whose projects for the development and construction of dwelling units qualify for any federal or state housing program for low income housing.

Loans secured and made under this section shall bear interest computed at one per cent more, rounded to the nearest one-eighth of one per cent, than that paid by the State for general obligation bonds issued for the project.

The loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest in the land upon which the dwelling units are constructed. The authority may require such other security interests and instruments as it deems necessary to secure the indebtedness and such other conditions consistent with the production and marketing of dwelling units at the lowest possible prices. The authority may also set the conditions of the loan in a building and loan agreement between the borrower and the authority in order to secure the loan and the performance of the borrower to complete the project."

SECTION 18. Section 356-29.5, Hawaii Revised Statutes, is repealed.

SECTION 19. Chapter 359, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 359- Housing developed by State; requirements.** Any law to the contrary notwithstanding, all housing developed by the State or by any agency of the State shall include plans and specifications for meeting the human needs of prospective tenants of such housing. There shall be provision for adequate management services for such housing in order to meet the maintenance and social service needs of tenants. There shall be provision for special need housing, such as for the disabled and the elderly, and for special

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facilities, such as adequate play areas for children. Accessibility to needed services and facilities and adequate recreational areas shall be provided for all residents. Plans and specifications shall provide for preservation of diversity and individuality of living patterns.

**SECTION 20.** Section 359-151, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

“(b) The Hawaii housing authority may make loans, either before or after final subdivision approval, to cover planning, development, and initial costs, including the costs of options, agreements of sale, and down payments, of commencing projects to provide non-profit, low and middle cost housing through the use of federal funds. In managing the fund, the authority may cooperate with other public and private agencies or individuals and may enter into loan agreements with them. The necessity for the extent and nature of security required for a loan shall be determined by the authority. The security may include, but is not limited to, a borrowing resolution of the non-profit entity.

The foregoing powers are subject, however, to the following restrictions and limitations:

- (1) No single loan shall exceed two per cent of the project cost;
- (2) The loan shall be repaid with simple interest in the amount of six per cent per year;
- (3) The monies loaned shall be used only for the planning, development, and initial costs of commencing projects to provide non-profit low and middle cost housing.

The authority may in accord with chapter 91 make rules and regulations to carry out the purposes of this section.”

**SECTION 21.** Notwithstanding the interest rate limitation contained in section 356-29, during the twelve months following the effective date of this Act, bonds issued by the Hawaii housing authority under chapter 356 may bear interest, payable annually or semiannually, at a rate not exceeding eight per cent a year.

**SECTION 22.** All Hawaii housing authority staff employed under the authority of section 359G-2 and 359G-3, Hawaii Revised Statutes, prior to the effective date of this Act and still so employed shall be accorded all the rights, benefits, and privileges thereto retroactive to the date of their appointment. Such rights and privileges shall include seniority, prior service credit for retirement purposes, vacation and sick leave credit, and salary level, and each such employee shall become a civil service employee without necessity of examination.

**SECTION 23.** Section 359-5, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 359G-5 Eminent domain, exchange or use of public property.** The authority may, through exchange, voluntary negotiation or by eminent domain, acquire any private land in the State for the purpose of this chapter. The authority shall exercise the power of eminent domain in the same manner

as provided in chapter 101. The exchange of land shall be in accordance with section 171-50; provided that the public land to be exchanged need not be of like use to that of the private land; and provided further, that if the use of the private land prior to the exchange is intensive agricultural, the authority shall determine the agricultural productivity of the private land and, whenever and wherever possible, exchange so much state land as shall be sufficient to approximate or equal the productivity of the private land so acquired by the State.

Except as hereinafter set forth in this paragraph, the authority may also develop state lands but not federal lands, state monuments or historical sites or parks and subject to the prior approval of the land use commission in the case of agricultural land and the prior approval of the board of land and natural resources in the case of conservation land. Whenever it proposes to develop public lands it shall file with the department of land and natural resources a petition setting forth such purpose and such petition shall be conclusive proof that the use to which the property is sought to be put is a superior public use to that to which it has already been appropriated. The fair market value of the public land may be paid by the authority and computed as cost or subsidized by the State subject to reimbursement under section 359G-9. The authority shall not, however, possess the power to develop, or develop, any public lands where the possession of such power or such development (1) would endanger the receipt of any federal grant or impair the eligibility of any public body for a federal grant or prevent the participation by the federal government in any governmental program or (2) would impair any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department or board."

**SECTION 24. Severability.** If any provision or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 25.** 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 material, or the underscoring.\*

**SECTION 26. Effective date.** This Act shall take effect upon its approval.

(Approved June 7, 1974.)

A Bill for an Act Relating to the Hawaiian Home-Commercial Loan Fund, Established under Section 213(h), Hawaiian Homes Commission Act 1920, As Amended.

\*Edited accordingly.

## ACT 173

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

SECTION 1. Section 213, Hawaiian Homes Commission Act 1920, as amended, is amended by amending subsection (h) to read:

“(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding licenses issued under section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by said lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.”

SECTION 2. 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 material or the underscoring.\*

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

(Approved June 7, 1974.)

## ACT 173

H.B. NO. 2253-74

A Bill for an Act Relating to Conditions of Loans Made by the Department of Hawaiian Home Lands under the Hawaiian Homes Commission Act, 1920, As Amended.

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

SECTION 1. Section 215 of the Hawaiian Homes Commission Act, 1920, as amended, is amended to read:

**“Sec. 215. Conditions of loans.** Except as otherwise provided in section 213(i), 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 of 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 \$25,000, for the development and operation of a farm or a ranch shall not exceed \$25,000, except that when loans are made to an agricultural cooperative association for the purposes stated in paragraph (4) of section 214, 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

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\*Edited accordingly.

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 the State has established 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 said 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 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

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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 2.** The provisions of these legislative amendments are declared to be severable, and if any section, sentence, clause or phrase of these legislative amendments or any of them, or the application thereof to any person or circumstances is held ineffective because the prior consent of the United States is required, then that portion only shall take effect upon or according to the grant of such consent by the United States and the effectiveness of the remainder of these legislative amendments or the application thereof shall not be affected.

**SECTION 3.** 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 material, or the underscoring.\*

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

(Approved June 7, 1974.)

**ACT 174**

H.B. NO. 2255-74

A Bill for an Act Relating to a Revolving Fund, Designated as the Anahola-Kekaha Fund, Established under 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, as amended, is amended by amending subsection (j) to read:

\*Edited accordingly.

"(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola and Kekaha on the island of Kauai to construct homes upon homestead lots. Such loans shall be for a period not to exceed 20 years, shall bear interest at two and one-half per cent a year and shall not exceed the loan amount specified for a residence lot in section 215 of this Act."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 7, 1974.)

### ACT 175

H.B. NO. 2256-74

A Bill for an Act Amending the Hawaiian Homes Commission Act, 1920, As Amended, to Enable Guarantee of Loans Made by Private Lending Institutions.

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

SECTION 1. Section 208 of the Hawaiian Homes Commission Act, 1920, as amended, is amended to read:

**"Sec. 208. Conditions of leases.** Each lease made under the authority granted the department by the provisions of section 207 of this title, 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 or cancelled in accordance with the provisions of succeeding sections.

(2) The lessee shall pay a rental of one dollar 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 within one year after the lease is made. The lessee of agricultural lands shall plant and maintain not less than five, ten, fifteen and twenty trees per acre of land leased and the lessee of pastoral lands shall plant and maintain not less than two, three, four, and five trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the department and at locations specified by the department's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the department free of charge.

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\*Edited accordingly.

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(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 governmental 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 interest 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 title, as the department may stipulate in the lease: provided, however, that an original lessee shall be exempt from all taxes for the first seven years from date of lease.

(8) The department may assure the repayment of loans made by governmental agencies or by private lending institutions, defined as banks, building or savings and loan associations, trustees, guardians, trust companies, insurance companies, fiduciaries, and all other persons or organizations having moneys to invest, to lessees when such loans have been approved by the department, up to the limits prescribed in section 215; provided that the lessee has no indebtedness due the department and the department shall not make any loans to the lessee while such assured loans are outstanding; provided further 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 60 days, cancel the lease and thereupon use its best efforts to dispose of the tract to a qualified and responsible native Hawaiian or Hawaiians as a new lessee who will assume the obligation of the outstanding debt thereby assured, and make payments to the governmental agency or the private lending institution from available funds either for the monthly payments as they become due and payable or for the amount of the debt. In no event shall the aggregate amount assured by the department exceed \$8,000,000."

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (b) to read:

"(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which

have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts', shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion', is to be transferred to the Hawaiian home development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$25,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the department, or the surrender of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in

excess of \$25,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);

- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department, other governmental agencies, or private lending institutions may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies or private lending institutions shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department.
- (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department, other governmental agencies, or private lending institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;
- (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by other governmental agencies or by private lending institutions to native Hawaiians is higher, the department may pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;
- (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and

non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from governmental agencies or private lending institutions and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;

- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities covering loans made by other governmental agencies or by private lending institutions to native Hawaiians or guarantee the repayment of or otherwise underwrite the loans and accept the assignment of any notes and mortgages or other securities in connection therewith;
- (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans made by other governmental agencies or by private lending institutions to native Hawaiians. 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, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.”

SECTION 3. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (k) to read:

“(k) The Hawaiian loan guarantee fund. The department is authorized to create a fund to support, if necessary, its guarantee of repayment of loans made by governmental agencies or by private lending institutions to those holding leases or licenses issued under section 207 of this Act. The loan guarantees shall be subject to the restrictions imposed by section 208, 214, and 215 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.”

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SECTION 4. 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 material, or the underscoring.\*

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

(Approved June 7, 1974.)

## ACT 176

H.B. NO. 2626-74

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. Originally, the Keaukaha-Panaewa Hawaiian home lands were used and intended for residential purposes. However, the land was rezoned, without Hawaiian homes permission, for use as a light industrial area. During the years that it was zoned industrial, nothing was allocated for the repair, renovation, and replacement of homes. Accordingly, many homes deteriorated into barely liveable, substandard structures. The rezoning has since reverted back to residential and no funds are available for the replacement of these homes. Therefore, it is the purpose of this Act to establish a Keaukaha-Waiakea home-replacement loan fund and a construction loan fund under the Hawaiian Homes Commission Act.

SECTION 2. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

**"Sec. 213 Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account; Hawaiian home-farm loan fund; Hawaiian home-commercial loan fund; Hawaiian home-repair loan fund; Anahola-Kekaha loan fund; Hawaiian loan guarantee fund; and the Keaukaha-Waiakea home-replacement loan fund; Keaukaha-Waiakea home construction fund.** (a) There are hereby established in the treasury of the State eight revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm loan fund, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund, the Anahola-Kekaha loan fund, the Keaukaha-Waiakea home-replacement loan fund, and the Keaukaha-Waiakea home construction fund, and three special funds to be known as the Hawaiian home-development fund, the Hawaiian home-administration account, and the Hawaiian loan guarantee fund.

(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in such amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys,

\*Edited accordingly.

there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in section 215(2), or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in the fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in subsections (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called "Additional Receipts," shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the "Additional Receipts-Development Fund Portion," is to be transferred to the Hawaiian home-development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the "Additional Receipts-Loan Fund Portion," shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts-Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

(1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;

(2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$25,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$25,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);

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(3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home-loan fund, Hawaiian home-operating fund or Hawaiian home-loan fund, Hawaiian home-operating fund or Hawaiian home-development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department;

(4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;

(5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts-Loan Fund Portion or the moneys borrowed, the difference in interest rates;

(6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure, or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;

(7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee

the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;

(8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts-Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial institutions made to Hawaiians under this program. 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, protecting of security interest, and after foreclosure, the repairing, renovating, or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts-Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.

(c) Hawaiian home-development fund. Twenty-five per cent of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund. The moneys in such development fund shall be available, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other non-revenue producing improvements.

With respect to the Additional Receipts-Development Fund Portion, fifteen per cent thereof shall be used, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands and for other non-revenue-producing improvements, and the remaining eighty-five per cent shall be segregated into a special account which 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 after consultation with the University of Hawaii and the 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.

Only so much of the Additional Receipts-Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.

(d) Hawaiian home-operating fund. All moneys received by the department from any other source, except moneys received from the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in such fund shall be available (1) for construction and reconstruction of revenue-producing im-

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provements, including acquisition therefor of real property and interests therein, such as water rights or other interests; (2) for payment into the treasury of the State of such amounts as are necessary to meet the following charges for state bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from such funds or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in the fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, the fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund in not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) Match moneys. The department is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, state, or county funds available for the same purposes and to that end is authorized to 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 match funds for such projects or works.

(f) Hawaiian home-administration account. The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in such account shall be expended by the department for salaries and all other administrative expenses of the department, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

(1) The department shall, at such time as the governor may prescribe, 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 ensuing (fiscal period) in the manner and form and as required by state law of state departments and establishments.

(2) The department's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.

(3) Upon approval by the legislature of the department's budget estimate of expenditures for the ensuing (fiscal period) the amount thereof shall be available to the department for the (fiscal period) and shall be expendable by the department for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available

for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the (fiscal period) or so made available shall be transferred to the Hawaiian home-development fund, such transfer to be made immediately after the amount of moneys deposited in the administration account shall equal the amount approved by the legislature or so made available.

(4) The money in the administration account shall be expended by the department in accordance with state laws, rules, and regulations and practices.

(g) Hawaiian home-farm loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the "farm loan fund." The moneys in this fund shall be used to make loans to lessees of agricultural tracts leased under the provisions of section 207 of this Act. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this Act.

(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding leases issued under section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by the lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(i) Hawaiian home-repair loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the Hawaiian home-repair loan fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$5,000 to lessees for repairs to their existing homes and for necessary additions to such homes due to increase in family size. Such loans may be made for periods not to exceed five years and shall bear interest at two and one-half per cent a year.

(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola and Kekaha on the island of Kauai to construct homes upon homestead lots. Such loans shall be for a period not to exceed twenty years, shall bear interest at two and one-half per cent a year, and shall be for sums not to exceed \$20,000.

(k) The Hawaiian loan guarantee fund. The department is authorized to create a fund out of which loans made by governmental agencies or lending institutions to those holding leases or licenses issued under section 207 of this Act may be guaranteed. This guarantee may be for home, farm and commercial loan purposes. The loan guarantees shall be subject to the restrictions imposed by sections 208, 214, and 215 of this Act.

(l) Keaukaha-Waiakea home-replacement loan fund. The department is authorized to create a fund to be known as the Keaukaha-Waiakea home-replacement loan fund. The moneys in this fund shall be used to make loans to lessees who are residents of Keaukaha-Waiakea on the island of Hawaii to construct replacement homes upon the leased lots. Such loans shall be made

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at the interest rate of two and one-half per cent a year and shall not exceed the loan amount specified for a residence lot under section 215 of this Act.

(m) Keaukaha-Waiakea home construction fund. The department is authorized to create a fund to be known as the Keaukaha-Waiakea home construction fund. The moneys in this fund shall be used to make loans to applicants on the waiting list to construct homes upon vacant homestead lots. Such loans shall be for a period not to exceed twenty years, shall bear interest at two and one-half per cent, and shall not exceed the loan amount specified for a residence lot in section 215 of this Act."

SECTION 3. 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 material, or the underscoring.\*

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

(Approved June 7, 1974.)

## ACT 177

H.B. NO. 2841-74

A Bill for an Act Relating to Investment of the Employee's Retirement System in Home Loans Made by the Department of Hawaiian Home Lands.

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

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

**"Sec. 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 non-profit 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 75 per cent of the value of the real estate mortgaged to secure it, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed 80 per cent of the real estate mortgaged to secure it. Real

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\*Edited accordingly.

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 75 per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed 80 per cent of the value of the respective leasehold interest and improvements.

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 extensions 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).

- (F) Obligations for the repayment of home loans guaranteed by the department of Hawaiian home lands pursuant to section 208 of the Hawaiian Homes Commission Act, 1920.
- (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 clause (A) above.
- (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 or 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 corporation shall meet the requirements described in clause (A) above.

As used in this subsection, 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) 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 subsections (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. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 7, 1974.)

**ACT 178**

H.B. NO. 2688-74

A Bill for an Act Relating to Housing and Ancillary Developments.

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

SECTION 1. Section 359G-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 359G-7 Financing.** The director of finance is hereby authorized to issue general obligation bonds of the State in the amount of \$60,000,000, for the purposes of this chapter. Pending the receipt of funds from the issuance and sale of general obligation bonds, the amount required for the purposes of this chapter shall be advanced from the general fund of the State. Upon the receipt of the bond funds, the general fund shall be reimbursed. The proceeds of the bonds may be used for any of the purposes set forth in this chapter including permanent financing. Prior to the issuance and sale of the general obligation bonds, interest on any interim money shall be computed at the greater of seven per cent or one per cent more, rounded to the nearest one eighth of one per cent, than that paid by the State on the general obligation bonds most recently issued by it. After the issuance and sale of the general obligation bonds, interest on any interim money shall be computed at one per cent more, rounded to the nearest one eighth of one per cent, than that paid by the State for the general obligation bonds. Interest so computed shall be a cost of the project to be prorated over the units. In the event the rate of interest on an interim loan made pursuant to the third preceding sentence is higher than the rate ultimately determined in accordance with the second preceding sentence, the authority may refund the difference."

SECTION 2. Section 359G-20, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

## ACT 179

**"Sec. 359G-20 Issuance of additional bonds.** When requested by the authority, the director of finance shall issue from time to time general obligation bonds not exceeding \$20,000,000, the proceeds of which shall be deposited into the dwelling unit revolving fund created by section 359G-10, and which shall be used for the purposes of this chapter.

All moneys received or collected by the authority to repay downpayment loans shall also be deposited into the dwelling unit revolving fund created by section 359G-10."

SECTION 3. Section 359G-29, Hawaii Revised Statutes, is amended to read:

**"Sec. 359G-29 Further issuance of additional bonds.** When requested by the authority, the director of finance shall issue general obligation bonds not exceeding \$10,000,000, the proceeds of which shall be deposited into the dwelling unit revolving fund created by section 359G-10 for the purposes of this chapter.

All income received by the State on the investment of state funds under this program shall be dedicated to the dwelling unit revolving fund created by section 359G-10. Income and all moneys received or collected by the authority under this program shall be deposited into the fund."

SECTION 4. The governor by executive order may establish a housing information, counseling, and referral unit within the Hawaii housing authority. The unit shall be responsible for providing housing information on any private, state, county, or federal housing project, for providing counseling to prospective homeowners seeking to purchase a home, and for providing listing and referral services to tenants seeking to rent homes.

SECTION 5. In establishing the housing information, counseling and referral unit, the governor is authorized to transfer to the Hawaii housing authority for purposes of such unit funds and personnel of existing programs providing similar services; provided that no employee transferred by the governor pursuant to this Act shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges.

SECTION 6. 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 material, or the underscoring.\*

SECTION 7. This Act shall take effect on July 1, 1974.

(Approved June 7, 1974.)

## ACT 179

H.B. NO. 92

A Bill for an Act Relating to Housing and Related Programs of the State.

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

\*Edited accordingly.

**SECTION 1. Findings and determinations; purpose.** The legislature of the State of Hawaii hereby finds and determines that there exists in the State a critical shortage of housing units for lower income residents. The legislature further finds and determines that the recitals, findings, and other determinations of the legislature set forth in section 359G-1 are true and valid as of the adoption of this Act. Said recitals, findings and determinations set forth in section 359G-1 are incorporated in this Act by the foregoing references thereto. The purpose of this Act is to empower the counties to undertake programs for the providing of housing for persons of lower income, thereby assisting the State in solving the housing problems described and discussed in section 359G-1. The purpose of this Act, however, is to supplement but not replace or reduce state efforts through related programs in this area.

**SECTION 2.** Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 46- Housing; county powers.** (a) Any law to the contrary notwithstanding, any county shall have and may exercise the same powers, subject to applicable limitations, as those granted the Hawaii housing authority pursuant to chapter 359G, as amended by any other act passed during the Regular Session of 1974, insofar as such powers may be reasonably construed to be exercisable by a county for the purpose of developing, constructing, and providing low-income housing; provided that no county shall be empowered to cause the State to issue general obligation bonds to finance a project pursuant to this section; provided further that county projects shall be granted an exemption from general excise or receipts taxes in the same manner as projects of the Hawaii housing authority, pursuant to section 359G-15. Such powers shall include the power, subject to applicable limitations, to:

- (1) Develop and construct dwelling units, alone or in partnership with developers;
- (2) Acquire necessary land by lease, purchase, exchange, or eminent domain;
- (3) Provide assistance and aid to a public agency or person in developing and constructing new housing and rehabilitating old housing for the elderly of low income, other persons of low income, and persons displaced by any governmental action, by making long-term mortgage or interim construction loans available;
- (4) Contract with any eligible bidders to provide for construction of urgently needed housing for persons of low income;
- (5) Guarantee the top twenty-five per cent of the principal balance of real property mortgage loans, plus interest thereon, made to qualified borrowers by qualified lenders;
- (6) Enter into mortgage guarantee agreements with appropriate officials of any agency or instrumentality of the United States in order to induce such officials to commit to insure or insure mortgages under the provisions of the National Housing Act, as amended;
- (7) Make a direct loan to any qualified buyer for the downpayment required by a private lender to be made by the borrower as a condi-

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- tion of obtaining a loan from the private lender in the purchase of residential property;
- (8) Provide funds for a share, not to exceed fifty per cent of the principal amount of a loan made to a qualified borrower by a private lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase of residential property; and
- (9) Sell or lease completed dwelling units.

For purposes of this section, a limitation is applicable to the extent that it may reasonably be construed to apply to a county.

- (b) Any law to the contrary notwithstanding, any county may:
- (1) Authorize and issue bonds under chapter 47 and chapter 49 to provide moneys to carry out the purposes of this section, including the satisfaction of any guarantees made by the county pursuant to this section;
- (2) Appropriate moneys of the county to carry out the purposes of this section;
- (3) Obtain insurance and guarantees from the State or the United States, or subsidies from either;
- (4) Apply any lands owned by it to the purposes of this section;
- (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of federal assistance for persons of low income; and
- (6) Adopt such rules pursuant to chapter 91 as are necessary to carry out the purposes of this section.

(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-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 3.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

**SECTION 4.** This Act shall take effect on January 1, 1975.

(Approved June 7, 1974.)

**ACT 180**

H.B. NO. 2888-74

A Bill for an Act Relating to the Residential Landlord-Tenant Code.

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

**SECTION 1.** Section 521-21, Hawaii Revised Statutes, is amended by adding a new subsection to read as follows:

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\*Edited accordingly.

**"Sec. 521-21 Rent.** (a) The landlord and tenant may agree to any consideration, not otherwise prohibited by law, as rent. In the absence of such agreement, and subject to section 521-71(c) in the case of holdover tenants, the tenant shall pay to the landlord the fair rental value for the dwelling unit.

(b) Rents shall be payable at the time and place agreed to by the parties. Unless otherwise agreed, the entire rent shall be payable at the beginning of any term for one month or less, and for longer terms in equal monthly installments payable at the beginning of each month.

(c) Except as otherwise provided in subsection (b), rent shall be uniformly apportionable from day to day.

(d) When the tenancy is from month to month, the amount of rent for such tenancy shall not be increased by the landlord without written notice given twenty-eight days preceding the end of such tenancy."

SECTION 2. Section 521-43, Hawaii Revised Statutes, is amended by adding two new subsections to read as follows:

**"Sec. 521-43 Rental Agreement, disclosure.** (a) On each written rental agreement, the landlord shall disclose:

- (1) The name and usual address of each person authorized to manage the premises; and
- (2) The name and usual address of each person who is an owner of the premises or who is authorized to act for and on behalf of the owner for the purposes of service of process and of receiving and receipting rents, notices, and demands.

(b) In the case of an oral rental agreement the landlord shall, on demand, furnish the tenant with a written statement containing the information specified in subsection (a).

(c) Any owner or landlord not dealing directly with the tenant shall be responsible for compliance with this section by an owner or landlord dealing directly with the tenant and shall be estopped from any objection to a failure to serve process upon an owner or landlord in any proceeding arising under this chapter when such failure is due to failure to comply with this section. The owner or landlord who deals directly with the tenant and fails to comply with this section shall be deemed an agent of every other landlord under the rental agreement for performing the obligations of the landlord under this chapter and under the rental agreement.

(d) In the case of a written rental agreement, the landlord shall furnish a copy of the lease or rental agreement to the tenant.

(e) The landlord shall furnish to the tenant a written receipt for rents paid at the time of said payment. Cancelled checks shall also constitute and fulfill the requirement of a written receipt. If rent is paid by check, the landlord shall furnish a receipt therefor, provided such receipt is requested by the tenant.

SECTION 3. Section 521-44, Hawaii revised Statutes, is amended to read as follows:

**"Sec. 521-44 Security deposits.** (a) As used in this section 'security de-

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posit' means money deposited by or for the tenant with the landlord to be held by the landlord to:

- (1) Remedy tenant defaults for accidental or intentional damages resulting from failure to comply with section 521-51, for failure to pay rent due, or for failure to return all the keys furnished by the landlord at the termination of the rental agreement;
  - (2) Clean the dwelling unit or have it cleaned at the termination of the rental agreement so as to place the condition of the dwelling unit in as fit a condition as that which the tenant entered into possession of the dwelling unit; and
  - (3) Compensate for damages caused by a tenant who wrongfully quits the dwelling unit.
- (b) The landlord may require as a condition of a rental agreement a security deposit to be paid by or for the tenant for the items in subsection (a) above and no others, in an amount not in excess of a sum equal to one month's rent. The landlord may not require or receive from or on behalf of a tenant at the beginning of a rental agreement any money other than the money for the first month's rent and a security deposit as provided in this section. The security deposit shall not be construed as payment of the last month's rent by the tenant. Any such security deposit shall be held by the landlord for the tenant and the claim of the tenant to the security deposit shall be prior to the claim of any creditor of the landlord, including a trustee in bankruptcy, even if the security deposits are commingled.
- (c) At the termination of a rental agreement in which the landlord required and received a security deposit if the landlord proposes to retain any amount of the security deposit for any of the purposes specified in subsection (a), he shall so notify the tenant, in writing, unless the tenant had wrongfully quit the dwelling unit, together with the particulars of and grounds for the retention, including written evidence of the costs of remedying tenant defaults, such as estimates or invoices for material and services or of the costs of cleaning, such as receipts for supplies and equipment or charges for cleaning services. The security deposit, or the portion of the security deposit remaining after the landlord has claimed and retained amounts authorized under this section, if any, shall be returned to the tenant not later than fourteen days after the termination of the rental agreement. If the landlord does not furnish the tenant with the written notice and other information required by this subsection, within fourteen days after the termination of the rental agreement, the landlord shall not be entitled to retain the security deposit or any part of it, and he shall return the entire amount of the security deposit to the tenant.
- (d) For the purposes of this section if a tenant is absent from the dwelling unit for a continuous period of thirty days or more without written notice to the landlord the tenant shall be deemed to have wrongfully quit the dwelling unit. In addition to any other right or remedy the landlord has with respect to such a tenant the landlord may retain the entire amount of any security deposit he has received from or on behalf of such tenant.
- (e) The landlord shall not require the delivery of any postdated check or other negotiable instrument to be used for payment of rent.

(f) If the landlord who required and received a security deposit transfers his interest in the dwelling unit, whether by sale, assignment, death, appointment of a receiver, or otherwise, the landlord's successor in interest is bound by this section.

(g) If the landlord and the tenant disagree about the right of the landlord to claim and retain the security deposit or any portion of it, either the landlord or the tenant may commence an action in the small claims division of the district court, as provided in chapter 633 and the rules of court thereunder, to adjudicate the matter.

(h) In any action in the small claims division of the district court pursuant to subsection (g) where the court determines that:

- (1) The landlord wrongfully and wilfully retained a security deposit or part of a security deposit, the court may award the tenant damages in an amount equal to three times the amount of the security deposit, or part thereof, wrongfully and wilfully retained and the cost of suit.
- (2) The landlord wrongfully retained a security deposit or part of a security deposit, the court shall award the tenant damages in an amount equal to the amount of the security deposit, or part thereof, wrongfully retained and the cost of suit.
- (3) The landlord was entitled to retain the security deposit or a part of it, the court shall award the landlord damages in an amount equal to the amount of the security deposit, or part thereof, in dispute and the cost of suit.
- (4) In any such action, neither the landlord nor the tenant may be represented by an attorney, including salaried employees of the landlord or tenant."

SECTION 4. Section 521-64, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 521-64 Tenant's remedy of repair and deduction for minor defects.** (a) If the landlord fails to repair, maintain, keep in sanitary condition, or perform in any other manner required by sections 321-9 to 321-11 and 322-1 to 322-7, or by regulations thereunder, or as agreed to in a rental agreement, or if the landlord is in material noncompliance with Section 521-42(a), and does not remedy the failure or noncompliance within twenty days after being notified in writing by the tenant to do so, or if the cost to the landlord of remedying the failure or noncompliance would exceed \$100, within twenty days after being notified in writing by the department of health that there is a health violation, the tenant may further notify the landlord in writing of his intention to correct the objectionable condition at the landlord's expense and:

- (1) Immediately do or have done the necessary work in a workmanlike manner; or
- (2) The tenant may submit to the landlord, at least twenty days before having the work done, written signed estimate from each of two qualified workmen and proceed to have done the necessary work by the workman who provides the lower estimate; provided the landlord may require by a writing a reasonable substitute workman or

substitute materials; and provided further that if the lower estimate exceeds \$100, the tenant shall not proceed to have done the necessary work until he obtains from the department of health a written statement that the objectionable condition in fact constitutes a violation of a health law or regulation, a copy of which statement shall be mailed by certified or registered mail by the department of health to the landlord.

(b) A tenant may deduct from his rent not more than \$100 for his actual expenditures for work done to correct an objectionable condition pursuant to subsection (a) (1) and may deduct not more than one month's rent for his actual expenditures for work done to correct an objectionable condition pursuant to subsection (a) (2), if he submits to the landlord copies of receipts amounting to at least the sum deducted.

(c) At the time the tenant initially notifies the landlord under subsection (a), the tenant shall list every condition that he knows or should know of non-compliance under subsection (a), in addition to the objectionable condition that the tenant then intends to correct or have corrected at the landlord's expense. Failure by a tenant to list such a condition that he knew of or should have known of shall estop the tenant from requiring the landlord to correct it and from having it corrected at the landlord's expense under this section for a period of six months after the initial notification to the landlord. Total correction and repair work costs under this section chargeable to the landlord's expense during each six-month period shall not exceed an amount equal to three months' rent.

(d) In no event may a tenant repair a dwelling unit at the landlord's expense when the condition complained of was caused by the want of due care by the tenant, a member of his family, or other person on the premises with his consent.

(e) Before correcting a condition affecting facilities shared by more than one dwelling unit, the tenant shall notify all other tenants sharing such facilities of his plans, and shall so arrange the work as to create the least practicable inconvenience to the other tenants."

SECTION 5. Section 521-70, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 521-70 Landlord's remedies for absence, misuse, abandonment and failure to honor tenancy before occupancy.** (a) If the rental agreement provides for notification of the landlord by the tenant of an anticipated extended absence and the tenant fails to make reasonable efforts to comply with such requirement, the tenant shall indemnify the landlord for any damage resulting from such absence.

(b) The landlord may, during any extended absence of the tenant, enter the dwelling unit as reasonably necessary for purposes of inspection, maintenance, and safe-keeping or for the purposes permitted by section 521-53(a).

(c) Unless otherwise provided in the rental agreement, use of the dwelling unit by the tenant for any other purpose than as his abode, or non-use of the dwelling unit, constitutes a breach of the tenant's obligations under section 521-52 and entitles the landlord to proceed as provided in section 521-72.

(d) If the tenant wrongfully quits the dwelling unit and unequivocally indicates by words or deeds his intention not to resume the tenancy, he shall be liable to the landlord for the lesser of the following amounts for such abandonment:

- (1) The entire rent due for the remainder of the term; or
- (2) All rent accrued during the period reasonably necessary to re-rent the dwelling unit at the fair rental, plus the difference between such fair rent and the rent agreed to in the prior rental agreement and a reasonable commission for the renting of the dwelling unit. This paragraph applies if the amount calculated hereunder is less than the amount calculated under paragraph (1) whether or not the landlord re-rents the dwelling unit.

(e) If the tenant unequivocally indicates by words or deeds his intention not to honor the tenancy before occupancy, he shall be liable to the landlord for the lesser of the following amounts:

- (1) All monies deposited with the landlord;
- (2) One month's rent at the rate agreed upon in the rental agreement;
- (3) All rent accrued from the agreed date for the commencement of the tenancy until the dwelling unit is re-rented at the fair rental, plus the difference between such fair rent and the rent agreed to in the prior rental agreement, plus reasonable costs, and a reasonable commission for the re-renting of the dwelling unit. This paragraph applies if the amount calculated hereunder is less than the amounts calculated under paragraphs (1) or (2), whether or not the landlord re-rents the dwelling unit."

SECTION 6. Chapter 521, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"Sec. 521-56 Disposition of tenant's abandoned possessions.** (a) When the tenant, within the meaning of section 521-70(a), (b), (c), or (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 shall store such personality at the tenant's expense for a period of not less than thirty days, after which time such personality may be sold at public auction or in any other commercially reasonable manner; provided further that during the said thirty days of storage, during which such personality is in storage, the landlord shall make reasonable efforts to apprise the tenant of the identity and location of such personality by mailing him notice at his forwarding address, or at an address designated by the tenant for the purpose of notification or if none of these be available, at his previous known address.

(b) The proceeds of the sale of personality under subsection (a) shall, after deduction of accrued rent and costs of storage and sale, 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 pursuant to a notice to quit or upon the natural expiration of the term and has abandoned any property

## ACT 181

determined by the landlord to be of no value in or around the premises, such property may be disposed of at the landlord's discretion without liability to the landlord."

SECTION 7. 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 material, or the underscoring.\*

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

(Approved June 7, 1974.)

## ACT 181

S.B. NO. 180

A Bill for an Act Relating to Assistance to Displaced Persons.

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

SECTION 1. Section 111-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 111-2 Definitions.** As used in this chapter, the term:

'Person' means (1) any individual, partnership, or corporation or association which is the owner of a business; (2) any owner, part-owner, tenant, or sharecropper operating a farm; (3) the head of a family; (4) an individual not a member of a family; (5) a nonprofit organization exempted from taxation under section 235-9.

'Family' means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship.

'State agency' means an agency or instrumentality created by the State and includes, for purposes of this chapter, county governmental agencies.

'Displaced person' means any person who is required to move from any real property on or after June 25, 1970, as a result of the acquisition or imminence of acquisition of such real property, in whole or in part, by a state agency or who moves from such real property as a result of the acquisition or imminence of acquisition by such state agency of other real property on which such person is conducting a business or farm operation. 'Displaced person' also includes the foregoing movements from real property by any person as a result of a governmental program of voluntary rehabilitation or building, zoning, and other similar code enforcement activities. 'Displaced person' as defined in this chapter shall not include a tenant upon or occupier of state land under a revocable permit which is issued or renewed on or after the effective date of this Act, provided that those persons who are issued revocable permits on State land which they had previously occupied as tenants or occupiers of private land which is subsequently acquired by the State, by virtue of which acquisition the revocable permits are issued immediately upon acquisi-

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\*Edited accordingly.

tion, shall be entitled to assistance as displaced persons upon displacement at the termination of the revocable permits.

'Business' means any lawful activity conducted (1) primarily for the purchase and resale, manufacture, processing or marketing of products, commodities, or any other personal property; (2) primarily for the sale of services to the public; or (3) by a non-profit organization.

'Farm operation' means any activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support."

SECTION 3. 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 material or the underscoring.\*

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

(Approved June 7, 1974.)

ACT 182

H.B. NO. 2352-74

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. **Findings and declaration of necessity.** The legislature hereby finds and declares that: (a) the firefighter is substantially exposed to the dangers of common forms of heart disease and that he may indeed be the victim of a very unique type of heart disease known as "Smoke Eaters Heart Disease"; (b) the frequent encounters with toxic gases such as carbon monoxide, cyanide gas, sulfur dioxide and nitrogen oxide which are sources of heart and lung disorders represent one of the major hazards to firefighters; (c) the gases may also use the lungs as a portal of entry and produce pathological disorders throughout the body; (d) the emotional stress of hearing the go-alarm can cause chemicals to be discharged into the bloodstream and constrict the arteries and create blood clots while increasing the workload of the heart; (e) the diagnosis and identification of the "Smoke Eaters Heart Disease" is complicated because many of the victims suffer from a combination of the aforementioned problems; (f) the present retirement system has not awarded any disability retirement benefits to firemen suffering from occupationally related diseases; (g) it is necessary to amend the law to activate the idle provisions for disability retirement benefits to firemen; and (h) it is hereby declared as a matter of legislative determination that any impairment of health caused by any respiratory disease to a fireman, shall be presumed to have been suffered in the actual performance of his duty as a result of the inherent

\*Edited accordingly.

occupational hazard of exposure to and inhalation of smoke and toxic gases unless contrary evidence is produced.

The legislature hereby further finds and declares that: (a) the sewer worker is substantially exposed to the dangers of common forms of heart disease; (b) the frequent encounters with toxic gases which are sources of heart and lung disorders represent one of the major hazards to sewer workers; (c) the gases may also use the lungs as a portal of entry and produce pathological disorders throughout the body; (d) the present retirement system has not awarded any disability retirement benefits to sewer workers suffering from occupationally related diseases; (e) it is necessary to amend the law to activate the idle provisions for disability retirement benefits to sewer workers; and (f) it is hereby declared as a matter of legislative determination that any impairment of health caused by any respiratory disease to a sewer worker shall be presumed to have been suffered in the actual performance of his duty as a result of the inherent occupational hazard of exposure to and inhalation of toxic gases unless contrary evidence is produced.

SECTION 2. Section 88-77, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-77 Service-connected total disability retirement.** (a) Upon application of a member, or of the head of his department, any member who has been permanently incapacitated as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard, through no wilful negligence on his part, may be retired by the board of trustees for service-connected total disability provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer's report of the accident submitted to the bureau of workmen's compensation;
- (2) An application for retirement is filed with the board within two years of the date of the accident or the date upon which workmen's compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place and conditions of the service performed by the member resulting in his disability and that the disability was not the result of wilful negligence on the part of the member;
- (4) The medical board certifies that the member is incapacitated for gainful employment and that his incapacity is likely to be permanent.

(b) In the case of firemen and sewer workers, the effect of the inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors on the heart, lungs, and respiratory system shall be construed as an injury received or disease contracted while in the performance of their duty and as the result of some occupational hazard for the purpose of determining total disability retirement under this section.

Notwithstanding any other law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system,

resulting in permanent incapacity to a fireman or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no wilful negligence on the firemen's or sewer worker's part and as a result of the inherent occupational hazard of exposure to and inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such fireman or sewer worker shall have passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition.

(c) The board may waive strict compliance with the time limits within which a report of the accident and an application for service-connected disability retirement must be filed with the board if it is satisfied that the failure to file within the time limited by law was due to ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or because the applicant was undergoing treatment for the disability or was receiving vocational rehabilitation services occasioned by the disability.

(d) The board shall have the power to determine whether or not the disability is the result of an accident occurring while in the actual performance of duty at some definite time and place and that the disability was not the result of wilful negligence on the part of the member. The board may accept as conclusive:

- (1) the certification made by the head of the agency in which the member is employed; or
- (2) a finding to this effect by the medical board."

SECTION 3. Section 88-79, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-79 Service-connected occupational disability retirement.** (a) Upon application of a member, or of the head of his department, any member who has been permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, or as the cumulative result of some occupational hazard through no wilful negligence on his part, may be retired by the board of trustees for service-connected occupational disability provided that:

- (1) In the case of an accident occurring after July 1, 1963, the employer shall file with the board a copy of the employer's report of the accident submitted to the bureau of workmen's compensation;
- (2) An application for retirement is filed with the board within two years of the date of the accident, or the date upon which workmen's compensation benefits cease, whichever is later;
- (3) Certification is made by the head of the agency in which the member is employed, stating the time, place and conditions of the service performed by the member resulting in his disability and that the disability was not the result of wilful negligence on the part of the member; and
- (4) The medical board certifies that the member is incapacitated for the further performance of duty and that his incapacity is likely to be permanent.

(b) In the case of firemen and sewer workers, the effect of the inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors on the heart, lungs, and respiratory system shall be construed as an injury received or disease contracted while in the performance of their duty and as the result of some occupational hazard for the purpose of determining occupational disability retirement under this section.

Notwithstanding any other law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system, resulting in permanent incapacity to a fireman or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no wilful negligence on the fireman's or sewer worker's part, and as a result of the inherent occupational hazard of exposure to and inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such fireman or sewer worker shall have passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition."

(c) The board may waive strict compliance with the time limits within which a report of the accident and an application for service-connected disability retirement must be filed with the board if it is satisfied that the failure to file within the time limited by law was due to ignorance of fact or law, inability, or to the fraud, misrepresentation or deceit of any person, or because the applicant was undergoing treatment for the disability or was receiving vocational rehabilitation services occasioned by the disability.

(d) The board shall have the power to determine whether or not the disability is the result of an accident occurring while in the actual performance of duty at some definite time and place and that the disability was not the result of wilful negligence on the part of the member. The board may accept as conclusive:

- (1) the certification made by the head of the agency in which the member is employed; or
- (2) a finding to this effect by the medical board."

SECTION 4. Section 88-85, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-85 Accidental death benefit.** Upon the receipt of proper proofs of a member's death by the board of trustees, there shall be paid to the member's designated beneficiary or to his estate the amount of his accumulated contributions and if, upon the receipt of evidence or proofs that the death was the natural and proximate result of an accident occurring at some definite time and place while the member was in the actual performance of duty, or that the death was due to the result of some occupational hazard, the board shall decide that the death was the result of an accident in the performance of duty and not caused by negligence on the part of the member, there shall be paid in lieu of the ordinary death benefits provided by the contribution of the State or county, a pension of one-half of the average final compensation of the member:

- (1) to his widow to continue during her widowhood; or

- (2) if there be no widow, or if the widow dies or remarries before any child of the deceased member shall have attained the age of eighteen years, then to his child or children under such age, divided in such manner as the board in its discretion shall determine, to continue as a joint and survivor pension of one-half his final compensation until every child dies, or attains such age; or
- (3) if there is no widow or child under the age of eighteen years surviving the deceased member, then to his dependent father or dependent mother, as the deceased member shall have nominated by written designation duly acknowledged and filed with the board, or if there is no such nomination, then to his dependent father or to his dependent mother as the board, in its discretion, shall direct to continue for life.

Notwithstanding any other law to the contrary, any condition of impairment of health caused by any disease of the heart, lungs, or respiratory system, resulting in death to a fireman or sewer worker, shall be presumed to have been suffered in the actual performance of duty at some definite time and place through no wilful negligence on the fireman's or sewer worker's part, and as a result of the inherent occupational hazard of exposure to and inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors, unless the contrary be shown by competent evidence; provided that such fireman or sewer worker shall have passed a physical examination on entry into such service or subsequent to such entry, which examination failed to reveal any evidence of such condition."

**SECTION 5.** 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 material or the underscoring.\*

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

(Approved June 10, 1974.)

### ACT 183

H.B. NO. 3092-74

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, Hawaii Revised Statutes, is amended to read:

**"Sec. 304-8 Appropriations; accounts; reports.** Moneys appropriated by the legislature for the university shall be payable by the director of finance, upon vouchers approved by the board of regents or by any officer elected or appointed by the board under section 304-4 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or in behalf of the board or the university shall be deposited with the director of

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\*Edited accordingly.

## ACT 184

finance, 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 university may be deposited by the university in depositories other than the State treasury. Income from fees for tuition and similar charges against students and income derived from sale of goods or services shall be deposited to the credit of the general fund of the State; provided, that income from university projects as defined and described in sections 306-1 to 306-12, may be credited to special or other funds and provided further that upon the recommendation of the director of finance, the comptroller may establish such other separate accounts or special funds for other designated revenues as may be deemed in the best interests of the university and the State."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 10, 1974.)

## ACT 184

S.B. NO. 1409-74

A Bill for an Act Relating to Hawaii Research Center for Futures Study.

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

SECTION I. Chapter 222, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 222-1 Center established.** There is hereby established a Hawaii research center for futures study. The center is assigned to the University of Hawaii for administrative purposes.

**Sec. 222-2 Duties of the center.** The center shall:

- (1) Serve as a research arm of the commission on the year 2000, the state commission on population and the Hawaiian future, the commission on manpower and full employment, and such other public agencies as may properly require its services and assistance in locating research experts for particular studies and in working out the dimensions and contractual arrangements for such studies, the costs and final decisions of which shall be the responsibility of the requesting agencies.
- (2) Encourage and promote invention and experimentation in futures study, planning, and design.

\*Edited accordingly.

- (3) Maintain an inventory of studies, research, and other information, including groups or persons concerned with futures study, planning, and design applicable to the State.
- (4) Engage in the development and acquisition of models, techniques and other tools, and capability for the effective monitoring, measuring, and forecasting of crucial aspects of Hawaii's socio-economic-environmental system over the immediate, intermediate and long range future, including the design of systems to assist and stabilize the State's construction industry.

**Sec. 222-3 Director; duties.** The center shall be headed by a director, who need not be full-time, depending upon the extent of the requests for research assistance and for carrying out the other specified functions of the center. The director shall not be subject to chapters 76 and 77.

The director shall administer funds allocated for the center; be authorized to accept, disburse, and allocate funds which become available from other governmental and private sources; submit an annual report of the center's operations, including recommendations, to the governor and legislature prior to January 1 of each year."

SECTION 2. 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 material, or the underscoring.\*

SECTION 3. **Appropriation.** 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, to be expended by the university of Hawaii, for the purpose of defraying the expenses of the Hawaii research center for futures study.

**SECTION 4. Effective date.** This Act shall take effect on July 1, 1974.

(Approved June 10, 1974.)

A Bill for an Act Relating to the University.

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

SECTION 1. Section 304-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 304-4 Powers of regents; official name.** The board of regents shall have general management and control of the affairs 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

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\*Edited accordingly.

## **ACT 185**

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 of not less than \$170 per academic year for regular courses of instruction at any University of Hawaii campus that grants baccalaureate degrees and not less than \$30 per academic year for regular courses of instruction at any college in the system of community colleges; provided 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 exceeding 400 in number, which shall be counted as part of the quota of financial aids allocable to the baccalaureate campuses 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. 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 material, or the underscoring.\*

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

(Approved June 10, 1974.)

**ACT 186**

H.B. NO. 390

A Bill for an Act Relating to the Establishment of a Statewide School Security Patrol.

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

SECTION 1. **Purpose.** The purpose of this Act is to establish a statewide school security patrol which shall be charged with the prevention of on-campus vandalism, hi-jacking, drug sales and use, and other activities inimical to academic pursuits in the public schools.

SECTION 2. **Pilot project established.** There is established for a period of one year within the department of education a statewide school security patrol which shall be charged with the prevention of on-campus vandalism, hi-jacking, drug sales and use, and other activities inimical to academic pursuits in the public schools. Officers of the patrol shall be assigned to designated campuses and shall be directed to report to the appropriate police agency any circumstances requiring police action or attention. The board of education shall adopt, in accordance with the provisions of chapter 91, Hawaii Revised Statutes, rules and regulations.

SECTION 3. **Appropriation.** 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 establishment of a statewide school security patrol.

SECTION 4. **Evaluation report.** The department shall prepare and submit an evaluation report on the feasibility of the establishment of a statewide school security patrol to the Legislature twenty days prior to the convening of the next regular session after the completion of the project.

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

(Approved June 10, 1974.)

**ACT 187**

H.B. NO. 498

A Bill for an Act Relating to the Department of Education.

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

SECTION 1. Paragraph (l) of subsection (e) of Section 297-31, Hawaii Revised Statutes, as amended, is amended to read:

\*Edited accordingly.

## **ACT 188**

"(1) Principals and vice-principals shall be further classified on the basis of the number of pupils under their supervision as follows:

	Number of Pupils Under Supervision
Principal I .....	1-219
Principal II .....	220-749
Principal III.....	750-1499
Principal IV.....	1500-2249
Principal V.....	2250-2999
Principal VI.....	3000 and over
Vice Principal I.....	750-1499
Vice Principal II .....	1500 and over

Under special circumstances the department shall appoint a vice-principal to a school which has less than 750 students."

Notwithstanding the classification table above, for the school year 1974-1975 all vice-principal positions which were assigned to a school during the school year 1973-1974 shall remain at said school."

**SECTION 4. Effective date.** This Act shall take effect July 1, 1974.

(Approved June 10, 1974.)

## **ACT 188**

H.B. NO. 1378

A Bill for an Act Relating to Higher Education.

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

**SECTION 1.** The purpose of this bill is to appropriate funds for programs in Higher Education.

**SECTION 2.** There is hereby appropriated the sum of \$159,000 to provide grants to students enrolled at the University of Hawaii. Full-time students enrolled in degree or certificate programs who meet the residency qualifications for state scholarships and who can demonstrate need are eligible for these grants. The Board of Regents shall adopt the necessary rules and regulations defining eligibility for these grants.

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii, the sum of \$25,000, or so much thereof as may be necessary, for research and development of a Filipino Studies Program at the University of Hawaii.

**SECTION 4.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$35,000 for the planning and development of a curriculum of study for legal paraprofessionals.

**SECTION 5.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,000, or so much thereof as may be necessary, for the hiring of one permanent counselor to provide vocational, academic, and personal counseling for students at Hawaii community college, county of Hawaii.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$101,000, or so much thereof as may be necessary, for the purpose of hiring five additional security guards for the University of Hawaii, Manoa campus, and for picking up the salaries of six of the existing security personnel whose federally funded salaries will lapse on June 30, 1974.

SECTION 7. 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 continued growth and expansion of the continuing education for women program of the college of continuing education and community services, University of Hawaii, Manoa campus, and for collaboration in establishing similar services at community colleges. This program shall counsel women into education and action programs; open the services and resources of the university to women; relate to their vocational training needs; inform women of trends in employment; interpret women's needs to employers. It shall help to bring women, educators, employers, unions and government agencies together to develop educational programs and innovative approaches toward women in the community.

SECTION 8. This Act shall take effect on July 1, 1974.

(Approved June 10, 1974.)

**ACT 189**

S.B. NO. 2024-74

A Bill for an Act Relating to Higher Education.

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

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

**“Sec. 304- Research and training revolving fund.** There is hereby established a University of Hawaii research and training revolving fund into which shall be deposited 10 percent of all income up to a maximum of \$200,000 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.”

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

**“Sec. 304- Student health center revolving fund.** There is established a revolving fund for the student health center from which shall be paid the cost of operations of the student health center services and which shall be replenished through charges made for medical services and other related goods and services or through transfers from other accounts or funds.”

SECTION 3. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 304- Transcript and diploma revolving fund.** There is established a revolving fund for transcripts and diplomas which shall be used to defray the cost of transcripts and diplomas and which shall be replenished through charges made for transcripts and diplomas or through transfers from other accounts or funds."

SECTION 4. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 304- Vocational and technical training projects revolving fund.** There is established a revolving fund for the vocational and technical training projects of the community colleges into which shall be deposited the receipts from fees for services and supplies provided by or in connection with these projects. Funds deposited in this account shall be expended for vocational and technical training projects, and supplies and services related thereto."

SECTION 5. Chapter 304, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 304- Animal Research Farm, Waiale, Oahu revolving fund.** There is established a revolving fund for the animal research farm Waiale, Oahu, operated by the college of tropical agriculture, University of Hawaii, into which shall be deposited the receipts from fees realized from the sale of livestock, services and supplies. Funds deposited in this account shall be expended for animal research, and services and supplies related thereto."

SECTION 6. Chapter 304, Hawaii Revised Statutes, is hereby amended by adding a new section to be appropriately numbered and to read as follows:

**"Sec. 304- Educational assistance for senior citizens.** The University of Hawaii shall allow senior citizens who are sixty years of age or older to enroll in regular credit courses at any campus of the University of Hawaii without payment of tuition or fees. Senior citizens who apply to enroll under the authority granted by this section shall be accepted in any credit class to the extent that space is available. No special senior citizen classes or sections may be established under the provisions of this section, and the university shall have the sole authority to determine whether or not a senior citizen has the prerequisites necessary for enrollment in a class.

To be eligible for coverage under this section, an individual must be sixty years of age or older on or before the month of registration for the class or classes in which he wishes to enroll, and must be a resident of the State of Hawaii according to the standard criteria used by the University of Hawaii to determine residency.

The University of Hawaii may pay the fee of any qualifying senior citizen to enroll in any summer session or evening course if funds are made available for such purposes. The board of regents may adopt rules and regulations to determine eligibility for assistance under this section."

SECTION 7. Section 304-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 304-8 Appropriations; accounts; reports.** Moneys appropriated by the legislature for the university shall be payable by the director of finance, upon vouchers approved by the board of regents or by any officer elected or appointed by the board under section 304-4 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or in behalf of the board of the university shall be deposited with the director of finance, 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 university may be deposited in depositories other than the State treasury. Income from fees for tuition and similar charges against students and income derived from sale of goods and services shall be deposited to the credit of the general fund of the State; provided, that income from university projects as defined and described in sections 306-1 to 306-12, may be credited to special or other funds; and provided further that upon the recommendation of the director of finance, the comptroller may establish such other separate accounts or special funds for other designated revenues as may be deemed in the best interests of the university and the State."

SECTION 8. 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 material, or the underscoring.\*

SECTION 9. This Act shall take effect on July 1, 1974.

(Approved June 10, 1974.)

A Bill for an Act Relating to Pornography.

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

SECTION 1. Section 1215 of the Hawaii Penal Code is amended to read:

**"Sec. -1215 Promoting pornography for minors.**

- (1) A person commits the offense of promoting pornography for minors if:
  - (a) Knowing its character and content, he disseminates to a minor material which is pornographic for minors; or

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\*Edited accordingly.

## **ACT 191**

- (b) Knowing the character and content of a motion picture film or other performance which, in whole or in part, is pornographic for minors, he:
  - (i) Exhibits such motion picture film or other performance to a minor; or
  - (ii) Sells to a minor an admission ticket or pass to premises where there is exhibited or to be exhibited such motion picture film or other performance; or
  - (iii) Admits a minor to premises where there is exhibited or to be exhibited such motion picture film or other performance.
- (2) Subsection (1) does not apply to a parent, guardian, or other person in loco parentis to the minor, or to a sibling of the minor, or to a person who commits any act specified therein in his capacity as a member of the staff of any public library.
- (3) Promoting pornography for minors is a misdemeanor."

**SECTION 2.** 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 material or the underscoring.\*

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

(Approved June 10, 1974.)

## **ACT 191**

**H.B. NO. 1387**

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

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

**SECTION 1. Purpose.** The legislature finds that agriculture is a significant part of the economic base of the island of Hawaii; that agriculture contributes immensely to the economic and social strength of the island of Hawaii and the State and will continue to influence the dynamics of the State's economy; that research and education are an integral part of agricultural development; that to strengthen the agricultural sector of the State, it is imperative the University of Hawaii College of Tropical Agriculture emphasize instruction and research relevant to the needs of the State; that the role of the university in agricultural research, education, and development be more clearly defined to reflect local and industry problems and needs; that this can be best accomplished by establishing a program of tropical agriculture at the University of Hawaii-Hilo and offering a four-year baccalaureate program designed to meet these needs; that the program should specialize in industry-related research, and be responsive to the needs of the agricultural community on Hawaii.

\*Edited accordingly.

**SECTION 2. Means.** The board of regents of the University of Hawaii shall establish a program of tropical agriculture at the University of Hawaii-Hilo and offer a baccalaureate program commencing in September 1975.

**SECTION 3. Effective date.** This Act shall take effect on July 1, 1974.

(Approved June 10, 1974.)

**ACT 192**

H.B. NO. 2137-74

A Bill for an Act Relating to the Vocational Education Coordinating Advisory Council.

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

**SECTION 1.** Section 305A-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 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 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 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 2.** 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 material, or the underscoring.\*

\*Edited accordingly.

## **ACT 193**

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

(Approved June 10, 1974.)

## **ACT 193**

**H.B. NO. 1548**

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

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

**SECTION 1. Purpose.** The purpose of this Act is to establish a State Post-Secondary Education Commission. A State Commission broadly and equitably representative of the general public and public and private non-profit and proprietary institutions of post-secondary education in the State is required to qualify the State to receive funds made available under the 1972 Amendments to the Higher Education Act of 1965. In addition, a State Commission or Board is necessary to qualify the State to receive appropriations authorized under the original Higher Education Act of 1965 and its amendments prior to 1972.

**SECTION 2. Establishment of the State Post-Secondary Education Commission—Membership, Administration.** There is established a State Post-Secondary Education Commission for the State of Hawaii. The Commission shall consist of the members of the Board of Regents of the University of Hawaii, the provision of Section 74-4, Hawaii Revised Statutes, notwithstanding, and four (4) other members who shall be broadly and equitably representative of the general public, and public and private non-profit and proprietary institutions of post-secondary education in the State who shall be appointed in accordance with Section 26-34, Hawaii Revised Statutes. The Commission shall be placed within the University of Hawaii for administrative purposes and its Administrative Officer shall be the President of the University of Hawaii. The Commission may appoint necessary staff members in accordance with applicable policies and procedures of the University of Hawaii.

**SECTION 3. Commission's Powers and Authority.** The Commission may cooperate with the United States Department of Health, Education and Welfare 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 Act may not qualify.

**SECTION 4.** Act 9, Session Laws of Hawaii, 1966, providing for the establishment of a Temporary Commission for Higher Education, is hereby repealed in its entirety.

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

(Approved June 10, 1974.)

A Bill for an Act Relating to the Approving and Making of Disbursements for the Research Corporation of the University of Hawaii.

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

SECTION 1. Section 307-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 307-9 Special fund.** Notwithstanding any other law to the contrary, the research corporation shall be authorized to set up a special account for depositing moneys received from either public or private contracts, or from private or public grants, awards, or gifts. All disbursements shall be drawn on such account upon checks prepared and signed as approved by the executive director and some other person authorized by the board of directors."

SECTION 2. 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 material or the underscoring.\*

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

(Approved June 10, 1974.)

A Bill for an Act Relating to Correctional Industries.

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

SECTION 1. The purpose of this Act is to provide general fund support of Correctional Industries when circumstances occur that do not allow the "Correctional Industries Account" established under section 354-12, Hawaii Revised Statutes, to meet the requirements of chapter 354, Hawaii Revised Statutes.

SECTION 2. Section 354-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 354-12 Revenue a special fund in state treasury; expenditures; limitation on amount; transfer of excess; general fund use.**

(1) All moneys collected by the department of social services and housing from the sale or disposition of articles and products manufactured or produced by prison labor in accordance with this chapter shall be forthwith deposited with the state comptroller to be there kept and maintained as a special revolving account designated 'Correctional Industries Account,' and such moneys so collected and deposited shall be used solely for the purchase of supplies, equipment, machinery, and the construction of buildings used to carry out the

\*Edited accordingly.

## ACT 196

purposes of this chapter, as well as for the salaries of the necessary personnel in charge thereof and to otherwise defray the necessary expenses incident thereto, all of which shall be under the direction and subject to the approval of the department of social services and housing; provided, that the 'Correctional Industries Account' shall never be maintained in excess of the amount necessary to efficiently and properly carry out the purposes of this chapter. When, in the opinion of the governor, the 'Correctional Industries Account' has reached a sum in excess of the requirements of this chapter, the excess shall be transferred by the department of social services and housing to the State general fund.

- (2) When, in the opinion of the governor, the 'Correctional Industries Account' has reached a sum that is insufficient to meet the requirements of this chapter, the governor is authorized to transfer general funds to the 'Correctional Industries Account' in such amounts that will allow correctional industries to generate sufficient funds to meet the requirements of this chapter."

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 10, 1974.)

## ACT 196

S.B. NO. 1422-74

A Bill for an Act Relating to Intimidation of Correctional Personnel.

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

SECTION 1. Chapter 10, Title 37, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. Intimidating a correctional worker.** (1) A person commits the offense of intimidation of a correctional worker if he uses force upon or a threat of force directed to a correctional worker, or his immediate family, with intent to influence such worker's conduct, decision, action or abstention from action as a correctional worker.

(2) 'Correctional worker,' as used in this section means any employee of the state or any county who works in a correctional or detention facility, a court, a paroling authority or who by law has jurisdiction over any legally committed offender or any person placed on probation or parole.

(3) 'Threat' as used in this section means any threat prescribed by section 724(1).

(4) Intimidation of a correctional worker is a Class B felony."

\*Edited accordingly.

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 10, 1974.)

**ACT 197**

H.B. NO. 2720-74

A Bill for an Act Relating to the Hawaii Penal Code.

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

SECTION 1. Section 730, chapter 7, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

- “(1) A male commits the offense of rape in the first degree if:
- (a) He intentionally engages in sexual intercourse, by forcible compulsion, with a female and:
    - (i) The female is not, upon the occasion, his voluntary social companion who had within the previous twelve months permitted him sexual intercourse; or
    - (ii) He recklessly inflicts bodily injury upon the female; or
  - (b) He intentionally engages in sexual intercourse with a female who is less than fourteen years old and he recklessly inflicts serious bodily injury upon the female.”

SECTION 2. 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 material or the underscoring.\*

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

(Approved June 10, 1974.)

**ACT 198**

S.B. NO. 1734-74

A Bill for an Act Relating to the Hawaii Penal Code.

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

SECTION 1. Section 709-904, Hawaii Penal Code, is amended to read as follows:

**“Sec. 709-904 Endangering the Welfare of a Minor.** (1) A person commits the offense of endangering the welfare of a minor under 18 years of age if, being a parent, guardian, or other person whether or not charged with the care or custody of such a minor, he knowingly endangers the minor's physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor.

\*Edited accordingly.

## ACT 199

(2) Endangering the welfare of a minor is a misdemeanor."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.\*

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

(Approved June 10, 1974.)

## ACT 199

S.B. NO. 1731-74

A Bill for an Act Relating to the Hawaii Penal Code.

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

SECTION 1. Section 707-724, Hawaii Penal Code, is amended to read as follows:

**"Sec. 707-724 Criminal Coercion.** (1) A person commits the offense of criminal coercion if he intentionally compels or induces another person to engage in conduct from which he has a legal right to abstain or to abstain from conduct in which he has a legal right to engage, by means of instilling in him a fear that, if the demand is not complied with, the defendant or a third person will:

- (a) cause bodily injury to any person; or
  - (b) cause damage to property; or
  - (c) commit a penal offense; or
  - (d) accuse any person of an offense or cause a penal charge to be instituted against any person; or
  - (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute; or
  - (f) reveal any information sought to be concealed by the other person; or
  - (g) testify or provide information or withhold testimony or information with respect to any person's legal claim or defense; or
  - (h) take or withhold action as a public servant or cause a public servant to take or withhold such action; or
  - (i) bring about or continue a strike, boycott, or other similar collective action, to obtain an act or omission which is not demanded for the benefit of the group which the defendant purports to represent.
- (2) Criminal coercion is a class C felony under the above conditions.
- (3) Criminal coercion is a class A felony when firearms or explosives or any dangerous weapon are used to instill fear under this section."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the underscoring.\*

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

(Approved June 10, 1974.)

\*Edited accordingly.

A Bill for an Act Relating to the Hawaii Penal Code.

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

SECTION 1. Section 800, chapter 8, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 800 Definitions of terms in this chapter.** In this chapter, unless a different meaning plainly is required, the following definitions apply:

(1) 'Building' includes any structure, and the term also includes any vehicle, railway, car, aircraft, or watercraft used for lodging of persons therein; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(2) 'Control over the property' means the exercise of dominion over the property and includes, but is not limited to, taking, carrying away, or possessing the property, or selling, conveying, or transferring title to or an interest in the property;

(3) 'Dealer' means a person in the business of buying and selling goods;

(4) 'Deception' occurs when a person knowingly:

(a) creates or confirms another's impression which is false and which the defendant does not believe to be true; or

(b) fails to correct a false impression which he previously has created or confirmed; or

(c) prevents another from acquiring information pertinent to the disposition of the property involved; or

(d) sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of record; or

(e) promises performance which he does not intend to perform or knows will not be performed, but a person's intention not to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

The term 'deception' does not, however, include falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary persons in the group addressed. 'Puffing' means an exaggerated commendation of wares or services in communications addressed to the public or to a class or group.

(5) 'Deprive' means:

(a) To withhold property or cause it to be withheld from a person permanently or for so extended a period or under such circumstance that a significant portion of its economic value, or of the use and benefit thereof, is lost to him; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it; or

(c) To retain the property with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or

## ACT 200

- (d) To sell, give, pledge, or otherwise transfer any interest in the property; or
  - (e) To subject the property to the claim of a person other than the owner.
- (6) 'Dwelling' means a building which is used or usually used by a person for lodging.
- (7) 'Enter or remain unlawfully.' A person 'enters or remains unlawfully' in or upon premises when he is not licensed, invited, or otherwise privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of the premises or some other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.
- (8) 'Extortion' means to obtain, or exert control over, property of another, or to obtain service, by threatening to:
- (a) Cause bodily injury in the future to the person threatened or to any other person; or
  - (b) Cause damage to property; or
  - (c) Subject the person threatened or any other person to physical confinement or restraint; or
  - (d) Commit a penal offense; or
  - (e) Accuse some person of an offense or cause a penal charge to be instituted against some person; or
  - (f) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule, or to impair his credit or business repute; or
  - (g) Reveal any information sought to be concealed by the person threatened or any other person; or
  - (h) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
  - (i) Take or withhold action as a public servant, or cause a public servant to take or withhold such action; or
  - (j) Bring about or continue a strike, boycott, or other similar collective action, to obtain property which is not demanded or received for the benefit of the group which the defendant purports to represent; or
  - (k) Do any other act which would not in itself substantially benefit the defendant but which is calculated to harm substantially some person with respect to his health, safety, business, calling, career, financial condition, reputation, or personal relationships.
- (9) 'Financial institution' means a bank, trust company, insurance company, credit union, safety deposit company, savings and loan association, in-

vestment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(10) 'Government' means the United States, or any state, county, municipality, or other political unit within territory belonging to the United States, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government, or any corporation or agency formed pursuant to interstate compact or international treaty. As used in this definition 'state' includes any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(11) 'Intent to defraud' means:

- (a) An intent to use deception to injure another's interest which has value; or
- (b) Knowledge by the defendant that he is facilitating an injury to another's interest which has value.

(12) 'Obtain' means:

- (a) When used in relation to property, to bring about a transfer of possession or other interest, whether to the obtainor or to another; and
- (b) When used in relation to services, to secure the performance of services.

(13) 'Owner' means a person, other than the defendant, who has possession of or any other interest in, the property involved, even though that possession or interest is unlawful; however, a secured party is not an owner in relation to a defendant who is a debtor with respect to property in which the secured party has only a security interest.

(14) 'Premises' includes any building and any real property.

(15) 'Property' means any money, personal property, real property, thing in action, evidence of debt or contract, or article of value of any kind. Commodities of a public utility nature such as gas, electricity, steam, and water constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment shall be deemed a rendition of a service rather than a sale or delivery of property.

(16) 'Property of another' means property which any person, other than the defendant, has possession of or any other interest in, even though that possession or interest is unlawful; however, a security interest is not an interest in property, even if title is in the secured party pursuant to the security agreement.

(17) 'Receiving' includes but is not limited to acquiring possession, control, or title, and taking a security interest in the property.

(18) 'Services' includes but is not limited to labor, professional services, transportation, telephone or other public services, accommodation in hotels, restaurants or elsewhere, admission to exhibitions, and the supplying of equipment for use.

(19) 'Stolen' means obtained by theft or robbery.

(20) 'Unauthorized control over property' means control over property of another which is not authorized by the owner.

(21) 'Widely dangerous means' includes explosion, fire, flood, avalanche,

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collapse of building, poison gas, radioactive material, or any other material, substance, force, or means capable of causing potential widespread injury or damage."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 10, 1974.)

## ACT 201

H.B. NO. 2075-74

A Bill for an Act Relating to Penalties for Extortion.

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

SECTION 1. Section 831, chapter 8, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Theft in the first degree is a class C felony except in the event of extortion, in which case theft in the first degree is a class B felony."

SECTION 2. Section 832, chapter 8, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) Theft in the second degree is a misdemeanor except in the event of extortion, in which case theft in the second degree is a class C felony."

SECTION 3. 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 material, or the underscoring.\*

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

(Approved June 10, 1974.)

## ACT 202

S.B. NO. 1832-74

A Bill for an Act Relating to Firearms.

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

SECTION 1. Section 134-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 134-7 Ownership or possession by fugitive from justice or by person convicted of certain crimes prohibited; 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. As used in this section the term 'fugitive

\*Edited accordingly.

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 crime of violence or to avoid giving testimony in any criminal proceeding.

(b) No person who has been convicted in this State or elsewhere, of having committed or attempted a crime of violence, or of the illegal use, possession, or sale of narcotics, shall own, or have in his possession, or under his control any firearm or ammunition therefor.

(c) Any person violating this section shall be imprisoned for a term not less than one year nor more than two years without probation."

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

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

(Approved June 10, 1974.)

**ACT 203**

H.B. NO. 2375-74

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 for the purpose of compensating the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set out opposite their respective names:

AKOI, Samuel A. Case No. 72-122	\$1,500.00
ALLEN, Thomas H., Jr. Father of Thomas H. Allen, III, a minor. Case No. 72-76	893.20
ANDERSON, Sandy Case No. 72-93	850.00
BACOS, Pedro Case No. 72-165	292.75
BANZHAF, Patrick M. Case No. 73-37	480.00
BAPTISTA, Antonio Case No. 73-2	1,770.95
BARKER, Jeffrey C. Case No. 73-102	100.00
BAZELL, Claudette D. Case No. 73-90	496.42
BENTO, Rosanne Wife of Kenneth A. Bento. Case No. 72-115	5,847.00

\*Edited accordingly.

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BOTELHO, Mary	\$ 1,080.00
Mother of Tanya Botelho, a minor, Case No. 72-42	
BUGADO, Janice	101.30
Case No. 72-133	
CASILE, Dr. Ruben	125.84
Case No. 72-180 (For medical services)	
CASTILLO, Araceli L.	500.00
Case No. 72-157	
CASTLE MEMORIAL HOSPITAL	45.00
Case No. 73-9 (For medical services)	
CHAMBERLIN, Mark	6,015.00
Case No. 72-174	
CHEONG, Robert	91.00
Case No. 73-1	
CHUN, Dr. K. B.	154.00
Case No. 72-98 (For medical services)	
COELHO, Donald	292.56
Father of Arlene E. Coelho, a minor, Case No. 72-98	
COX, Sally L.	650.00
Case No. 73-82	
CREVELON, Robert M.	150.00
Case No. 72-146	
CROKER, Bruce E.	110.40
Case No. 72-138	
DAHLQUIST, Sally	291.00
Mother of Lamont Dahlquist, Jr., a minor, Case No. 72-99	
de GRACIA, Claudette	350.00
Case No. 72-109	
DOMEN, John, Sr.	1,527.00
Father of Sheila Tavares, Case No. 72-176	
DONAHUE, Carol	450.00
Case No. 73-92	
DORIA, Concepcion	368.00
Case No. 72-131	
EBERLEIN, Helmuth	180.00
Case No. 72-125	
ESTEBAN, Medina Q.	1,141.17
Case No. 72-118	
FUJII, Harold H.	1,000.00
Case No. 73-8	
GARCIA, Max	75.00
Case No. 72-162 (Attorney for Danilo G. Valdez)	
GIBU, Edward S.	733.50
Case No. 73-19	
GIONET, Laurier	175.00
Case No. 72-112	
GOINGS, John A.	2,236.45
Case No. 72-116	
HAKIKAWA, Suya	1,280.45
Case No. 72-158	
HAO, Mildred S.F.	392.60
Mother of Lawrence K. Hao, Jr., a minor, Case No. 73-41	

HAWAII EMERGENCY PHYSICIANS ASSOCIATED	\$ 99.74
Case No. 73-9 (For medical services)	
HILL, Cynthia	297.00
Case No. 72-154	
HILO HOSPITAL	122.95
Case No. 72-180 (For medical services)	
HUXLEY, Steven M.	450.00
Case No. 73-76	
ING, Richard B. W.	25.00
Case No. 72-154 (Attorney for Cynthia Hill)	
INOUE, Kathleen K.	1,400.00
Case No. 73-46	
JOHNSON, Ursula	1,180.00
Case No. 73-7	
KALEO, Albert J., III	568.30
Case No. 73-29	
KASTEN, Merle	360.00
Case No. 72-156	
KEEN, Jon N.	2,746.15
Case No. 73-53	
KEITH, Anita H.	1,200.00
Case No. 73-67	
KEITH, Anita H.	9,495.00
Wife of Jack B. Keith,	
Case No. 73-68	
KEKAHUNA, Valerie J.	90.00
Case No. 73-18	
KIMURA, Audrey M.	365.32
Case No. 72-150	
KOLAR, Richard G.	700.00
Case No. 72-186	
KOMATSU, Minoru	3,165.39
Father of Glen T. Komatsu,	
Case No. 73-28	
KOZAK, Charles	475.00
Case No. 72-174 (Attorney for Mark Chamberlin)	
LANI, Samuel G.	1,741.50
Case No. 73-50	
LAUSTERER, Vernon	175.00
Case No. 72-141	
LEAVITT, James T., Jr.	150.00
Case No. 72-76 (Attorney for Thomas H. Allen, Jr.)	
LEVINSON, Steven	100.00
Case No. 72-140 (Attorney for Edward R. O'Donnell)	
LIVESAY, Beatrice S.	613.85
Case No. 72-170	
LONG, Ambrose J.	326.00
Case No. 72-187	
MADRIAGA, Minnie	366.00
Case No. 73-47	
MAKINSON, Sheila	6,757.92
Case No. 73-59	
MALIGRO, Alfonsa	611.20
Mother of Jonathan Maligro, a minor,	
Case No. 72-135	
MALLETT, Patrick L.	317.75
Case No. 72-68	

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MATTOCH, KEMPER AND BROWN Case No. 73-98 (Attorney for Edgar Waller)	\$ 269.00
MIRIKITANI, Winston Case No. 72-159 (Attorney for Rose L. Tong)	200.00
MIRIKITANI, Winston Case No. 72-42 (Attorney for Mary Botelho)	120.00
MIYAKE, Leighton A. Case No. 73-45	1,654.18
MOORE, Robert T. Case No. 72-164	200.00
MORGAN, Lillian G. Case No. 72-143	249.00
MOTTA, Anna C. Mother of Lillian Richardson, Case No. 73-16	486.00
MURAI, Howard Y. Case No. 72-169	300.00
NIUSULU, Tautua Case No. 73-15	2,226.80
OBA, Roger Case No. 73-30	748.20
O'DONNELL, Edward R. Case No. 72-140	150.00
OGATA, William Y. Case No. 73-51	1,580.00
OSHIRO, Ellen M. Case No. 72-126	904.60
PAHIA, Mary K. Case No. 73-20	1,813.00
PAHIA, Mary K. Grandmother of Gene Robert Barrett, a minor son of Roberta U. Barrett, Case No. 73-20	7,932.00
PERALTA, Adela D. Case No. 72-94	550.00
PITCHFORD, James M. Case No. 73-11	1,922.10
QUELNAN, Esteban Case No. 72-117	517.12
REED, Allan R. Case No. 73-9	125.00
SAKAI, Kenneth K. Case No. 72-96	168.85
SANTOS, Albert Case No. 72-185	7.50
SATO, Shizuka Case No. 73-91	3,098.52
SCHIERENBECK, Thomas P. Case No. 72-177	192.50
SHIMODA, George T. Case No. 72-139	125.00
SHIRAI, Lynn M. Case No. 72-149	528.68
SHOJI, Mitsunori Case No. 72-111	1,448.00
SHOUP, Edna R. Case No. 72-119	1,601.12

SMITH, Donald W., Jr.	\$ 425.00
Case No. 73-38	
SOONE, Steve	1,035.00
Case No. 72-183	
SOUZA, Leo	300.00
Case No. 73-15 (Attorney for Tautua Niusulu)	
SPALLEK, Dr. Gernot	21.84
Case No. 72-164 (For medical services)	
TAKESHITA, Helen	625.00
Mother of Richard M. Takeshita, a minor.	
Case No. 72-171	
THE RADIOLOGY GROUP	13.00
Case No. 73-9 (For medical services)	
TOKO, Sonny	619.32
Case No. 72-153	
TONG, Rose L.	1,272.46
Case No. 72-159	
TRASK, Arthur K.	225.00
Case No. 72-54 (Attorney for William Varnes)	
TUFFORD, Jo Ann K.	197.40
Case No. 72-181	
VALDEZ, Danilo G.	837.73
Case No. 72-162	
VAN THIEL, Dan	200.00
Case No. 72-186 (Attorney for Richard G. Kolar)	
VARNES, William K.	3,320.40
Case No. 72-54	
VICENS, Michael K.	2,700.00
Case No. 71-132	
VIDINHA, Richard R.	2,990.00
Case No. 72-65	
WAHIAWA GENERAL HOSPITAL	104.50
Case No. 72-164 (For medical services)	
WALHOLM, Mildred T.	1,276.80
Case No. 73-54	
WALLER, Edgar	1,527.50
Case No. 73-98	
WHITE, Larry C.	790.13
Case No. 72-144	
WHITE, Patrick E.	385.00
Case No. 73-32	
WONG, Philip N.	10,000.00
Case No. 71-43	
YOON, Kwang Yul	590.85
Case No. 72-175	
YOUNG, Gregg H.	250.00
Case No. 73-59 (Attorney for Sheila Makinson)	
YUE, Robert A.	802.62
Case No. 72-173	
YUN, Myong S.	932.91
Case No. 73-27	

SECTION 2. The sums appropriated in Section 1 of this Act shall be paid upon warrants issued by the comptroller of the State upon vouchers approved by the director of finance.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$4,560.00, or so much thereof as may be necessary,

## ACT 204

to the department of social services and housing, for the purpose of compensating the following named person pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, and the order which has been issued thereunder, in the amount set out opposite the name:

BAGLEY, Robert C.	\$4,560.00
Case No. 73-73	

SECTION 4. If any portion of this Act or its application to any circumstance 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 10, 1974.)

## ACT 204

H.B. NO. 2080-74

A Bill for an Act Relating to Criminal Injuries Compensation.

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

SECTION 1. Section 351-62.5, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 351-62.5 Criminal injuries compensation fund; when payments authorized.** (a) There is established a criminal injuries compensation fund from which the criminal injuries compensation commission may make payments as provided in subsection (b). The director of finance shall be custodian of the fund, and all payments therefrom shall be paid by him upon orders by the commission.

(b) Where the criminal injuries compensation commission has made an award pursuant to this chapter, the commission shall make such payments to or on behalf of the victim, or to or for the benefit of one or more of the dependents of a deceased victim, or to or for the benefit of other persons who have suffered pecuniary loss or incurred expenses on account of hospital, medical, funeral, or burial expenses as a result of the victim's injury or death. Payments made pursuant to this section shall not exceed the total amount of the award.

(c) The amount appropriated under section 351-70 shall be redeposited into the criminal injuries compensation fund established by this section, to be applied to making other payments as authorized by the criminal injuries compensation commission.”

SECTION 2. Section 351-70, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 351-70 Annual report.** The criminal injuries compensation commission shall transmit annually to the governor and to the director of finance, at least thirty days prior to the convening of the legislature a report of its activities under this chapter including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded. The director of finance shall, within five days after the opening of

the legislative session, transmit the report, together with a tabulation of the total amount of compensation awarded, and a legislative bill appropriating funds necessary to replenish the criminal injuries compensation fund for the compensation awarded."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary, for the purpose of establishing the criminal injuries compensation fund. The moneys existing in the criminal injuries compensation emergency payment fund on the effective date of this Act shall be paid into the criminal injuries compensation fund.

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 material, or the underscoring.\*

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

(Approved June 10, 1974.)

## ACT 205

H.B. NO. 2485-74

A Bill for an Act Relating to the Employment and Licensing of Convicted Persons.

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

SECTION 1. **Purpose.** The purpose of this Act is to encourage and contribute to the rehabilitation of convicted persons and to assist those persons in their assumption of the responsibilities of citizenship. To this end, the legislature finds it a well-established principle of American jurisprudence that an occupation and equal access thereto is "property" within the meaning of Article 1, section 4, of the Hawaii Constitution, which guarantees that, "No person shall be deprived of life, liberty or property without due process of law . . ."

SECTION 2. Chapter 731, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 731- Prior convictions; criminal records; noncriminal standards.**

(a) A person shall not be disqualified from employment by the State or any of its political subdivisions or agencies, or be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is required by the State or any of its political subdivisions or agencies, solely by reason of a prior conviction of a crime.

(b) The following criminal records shall not be used, distributed, or disseminated by the State or any of its political subdivisions or agencies in connection with an application for any said employment, permit, license, registration, or certificate:

\*Edited accordingly.

## **ACT 205**

- (1) Records of arrest not followed by a valid conviction;
- (2) Convictions which have been annulled or expunged;
- (3) Convictions of a penal offense for which no jail sentence may be imposed.

Except as provided in paragraphs (1) to (3), the State or any of its political subdivisions or agencies may consider as a possible justification for the refusal, suspension, or revocation of any employment or of any permit, license, registration, or certificate, any conviction of a penal offense when such offense directly relates (a) to the applicant's possible performance in the job applied for, or (b) to the employee's possible performance in the job which he holds, or (c) to the applicant's or holder's possible performance in the occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is applied for or held.

For the purpose of this subsection, such refusal, suspension, or revocation may occur only when the agency determines, after investigation in accordance with chapter 91, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust; provided that discharge from probation or parole supervision, or a period of two years after final discharge or release from any term of imprisonment, without subsequent criminal conviction, shall be deemed rebuttable *prima facie* evidence of sufficient rehabilitation.

(c) When considering noncriminal standards such as good moral character, temperate habits, habitual intemperate use of intoxicants, trustworthiness, and the like, in the granting, renewal, suspension, or revocation of any employment or any such permit, license, registration, or certificate, the agency shall not take into consideration the conviction of any crime except as provided by subsection (b). Nothing in this section shall be construed to otherwise affect a proceeding before any agency which does not involve the conviction of a crime.

(d) This section shall prevail over any other law which purports to govern the denial or issuance of any permit, license, registration, or certificate by the State or any of its political subdivisions or agencies."

1. Section 286-91 is amended by amending subsection (c) to read:

"(c) No driving instructor's license shall be issued to an applicant:

(1) Unless he:

- (A) Has attained the age of majority;
  - (B) Is certified as an instructor in driver education and training by the department of education pursuant to sections 299-1 and 299-2;
  - (C) Is physically able to operate safely a motor vehicle;
  - (D) Is able to train others in the operation of a motor vehicle; and
  - (E) Holds an Hawaii operator's license for the category of vehicle that he shall use in his instruction; or
- (2) If he formerly held a license in the State as driving instructor, which license was revoked or suspended and never reinstated; or
  - (3) If he knowingly makes a false statement or conceals a material fact in his application; and

(4) Unless the applicant pays a fee of \$10."

2. Section 407-35 is amended to read:

**"Sec. 407-35 License for agent.** It shall be unlawful for any building and loan association doing business within the State to employ any agent for the purpose of soliciting the sale of stock, savings certificates, or investment certificates unless he is first licensed by the director of regulatory agencies, and no agent representing any building and loan association doing business within the State shall solicit the sale of stock in the company unless he is first licensed by the director.

No license shall be issued to any applicant for an agent's license until the applicant has first made and filed in the office of the director an application upon a form to be prescribed and furnished by the director, which must show the applicant's name, business and residence address, the name of the company to be represented, present occupation, occupation for the last twelve months, and such other information as the director may require. If the director is satisfied that the applicant is a fit and proper person to engage in the sale of stock he shall issue the license. The director may revoke the license of any agent for misrepresentation or when satisfied that the agent is not a fit and proper person to be engaged in the business of selling building and loan association stock or investment certificates.

Each agent granted a license under this provision shall pay an annual fee to the director of \$2.

Every agent's license shall expire on June 30 next following its issuance. The license shall be renewed annually upon application to the director."

3. Section 431-402 is amended by amending subsection (a) to read:

"(a) The insurance commissioner may suspend, revoke, or refuse to extend any license issued under sections 431-361 to 431-407 or any surplus line broker's license for any cause specified in any other provision of this chapter, or for any of the following causes:

- (1) For any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.
- (2) If the licensee wilfully violates or knowingly participates in the violation of any provision of this chapter.
- (3) If the licensee has obtained or attempted to obtain any such license through wilful misrepresentation or fraud, or has failed to pass any examination required by sections 431-370 to 431-371.
- (4) If the licensee has misappropriated, or converted to his own use, or has illegally withheld moneys required to be held in a fiduciary capacity.
- (5) If the licensee has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract; or has engaged or is about to engage in any fraudulent transaction.
- (6) If the licensee has been guilty of any unfair practice or fraud as defined in sections 431-641 to 431-646.
- (7) If in the conduct of his affairs under the license, the licensee has shown himself to be a source of injury and loss to the public.

## **ACT 205**

(8) If the licensee has dealt with, or attempted to deal with, insurance or to exercise powers relative to insurance outside the scope of his licenses."

4. Section 437-28 is amended by amending subsection (b) to read:

"(b) Grounds for suspension, revocation, or denial of issuance or renewal of a license. The board may, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, suspend, revoke, or deny the renewal of any license, or prior to such notice and hearing deny the issuance of any license if it finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than a ten per cent interest of such applicant or holder:

- (1) Has intentionally made a false statement of a material fact in his application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation; or
- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of motor vehicles or any rule, regulation, or order made pursuant to this chapter; or
- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase such motor vehicles; or
- (4) Has engaged in his business under a past or present license issued pursuant to this chapter, in such a manner as to cause injury to the public or to those with whom he is dealing; or
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem him to be an unfit or improper person to hold a license; or
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or
- (7) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors; or
- (8) In the case of an individual applicant or holder of a license, is not at least eighteen years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least eighteen years of age; or
- (9) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of motor vehicle or any interest therein including an option to purchase; or

- (10) Has violated any of the laws pertaining to false advertising or to retail installment sales in the offering, solicitation, selling, or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein; or
- (11) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (12) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause; or
- (13) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule or regulation adopted thereunder; or
- (14) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor; or
- (15) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed; or
- (16) Being a salesman or dealer:
  - (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer; or
  - (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle; or
  - (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesman clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or
- (17) Being an applicant or holder of a dealer's license:
  - (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for such new vehicles or without providing and maintaining adequate repair facilities and personnel for such new vehicles at either the main licensed premises or at any branch location; or
  - (B) Has employed or proposed to employ any salesman who is not duly licensed under this chapter; or
  - (C) Has sold or proposed to sell new motor vehicles without being franchised therefor; or

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- (18) Being an applicant or holder of an auction's license:
  - (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
  - (B) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
- (19) Being an applicant for a salesman's license:
  - (A) Does not intend to be employed as a salesman for a licensed motor vehicle dealer; or
  - (B) Does not intend to be employed as a salesman as his principal occupation; or
  - (C) Intends to be employed as a salesman for more than one dealer; or
- (20) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or
- (21) Being a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative:
  - (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with such dealer, by threatening to cancel the franchise agreement or by threatening to refuse at the expiration of the current franchise agreement, to enter a new franchise agreement with such dealer; or
  - (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with such dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer; or
  - (C) Has attempted to or has cancelled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon such cancellation or failure to renew the franchise agreement, the party cancelling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the business, goodwill, property and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts and motor vehicles possessed by the dealer in connection with the franchise,

plus reasonable attorney's fees incurred in collecting such compensation; provided such investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for his damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other; or

- (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor, or production difficulty, or other similar cause beyond the reasonable control of the manufacturer; or
- (E) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging such dealer more for a new motor vehicle or services, parts, or accessories therefor or a higher rate of transportation for transporting such vehicle from the manufacturing or assembly plant to such dealer or any portion of such distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories therefor or for similar transportation for such vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon such franchised dealer in this State during the same period is deemed to have so discriminated against such franchised dealer in this

State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of such discriminatory act against the franchised dealer in this State. The intent and purpose of this subparagraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This subparagraph shall be liberally interpreted to effect such intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph (E) shall prohibit establishing delivered prices or destination charges to dealers in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of such products to such dealers, including costs which are related to the geographical distances, modes and costs of transportation involved in shipments to this State, or which meet those lower prices established by competitors; or

- (F) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by such dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of such new motor vehicles and cannot be removed therefrom without substantial expense.

5. Section 438-5 is amended by amending subsection (b) to read:

"(b) The board may suspend or revoke a certificate of a person guilty of fraud in passing the examination or at any time guilty of grossly unprofessional or dishonest conduct, or addicted to liquor or drugs to such a degree as to render him unfit to practice any of the occupations classified under this chapter, or knowingly advertising by means of false or deceptive statements, or failing to display the certificates as provided in section 438-9."

6. Section 439-19 is amended by amending subsection (b) to read:

"(b) The board may revoke or suspend any certificate whether covering the registration of an apprentice, student, operator, instructor, school, or shop, for any of the following causes:

- (1) Professional misconduct, gross carelessness, or manifest incapacity;
- (2) Violation of any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto or any other law which applies to him in the occupation covered by the certificate;
- (3) Making any false representation or promise through advertising or

- otherwise or in any manner dealing fraudulently or dishonestly in the occupation covered by the certificate;
- (4) Habitual intemperance in use of alcoholic beverages or addiction to the use of narcotic drugs; or
- (5) Failing to display the certificate as provided in this chapter. No certificate shall be suspended for longer than two years."

7. Section 441-23 is amended to read:

**"Sec. 441-23 Revocation, suspension, and renewal of authority licenses.**

The cemetery board 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 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 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."

8. Section 441-26 is amended to read:

**"Sec. 441-26 No cemetery or pre-need funeral salesman license issued when.** No cemetery or pre-need funeral salesman license shall be issued:

- (1) To any person unless he has filed an application therefor;
- (2) To any person who does not possess a good character and reputation for honesty, truthfulness, and fair dealing;
- (3) To any person unless the person is of the age of eighteen years or more;
- (4) To any person unless he files with the board a bond as required by section 441-27."

9. Section 441-28 is amended to read:

**"Sec. 441-28 Revocation, suspension and renewal of salesman licenses.**

The cemetery board may revoke any salesman license, or suspend the right of the licensee to use the license, or refuse to renew the license, for any of the following causes:

- (1) Making any misrepresentation concerning any cemetery property, pre-need interment or pre-need funeral services transaction;
- (2) Making any false promises concerning any cemetery property, pre-need interment or pre-need funeral services transaction of a character likely to mislead another;

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- (3) Making repeated misrepresentations or false promises through advertising or otherwise;
- (4) When a salesman acts or attempts to act or represents, or attempts to represent an authority other than his employer;
- (5) Failing, within reasonable time to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (6) Any other conduct constituting fraudulent or dishonest dealings;
- (7) When a salesman fails to file with the board a written statement setting forth the name of the authority by whom he is employed;
- (8) Violation of this chapter or the rules and regulations promulgated pursuant thereto;
- (9) Commingling the money or other property of others with his own;
- (10) Adjudicated insane or incompetent;
- (11) When a salesman sells or offers to sell any cemetery property, pre-need interment 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."

10. Section 442-9 is amended by amending subsection (a) to read:

"(a) The board of chiropractic examiners shall refuse to issue or may order any license issued under this chapter to be revoked or suspended at any time in a proceeding before the board upon any one or more of the following grounds:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing what is popularly known as a "capper" or "steerer;"
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful statement in advertising one's practice or business under this chapter;
- (6) False, fraudulent, or deceptive advertising;
- (7) Advertising directly or indirectly, or in substance upon any card, sign, newspaper advertisement, or other written or printed sign of advertisement that the holder of such license or his employer or employee will treat, cure, or attempt to treat or cure any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, lost manhood, sexual weakness, or sexual disorder or any disease of the sexual organs;
- (8) Being habitually intemperate;
- (9) Habitually using any habit-forming drug, such as opium, or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (10) The advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;
- (11) Procuring a license through fraudulent misrepresentation or deceit;

- (12) Professional misconduct or gross carelessness or manifest incapability in the practice of chiropractic;
- (13) Violating section 453-2."

11. Section 443-25 is amended to read:

**"Sec. 443-25 Grounds for suspension or revocation of licenses.** Failure to comply with this chapter, any lawful order of the collection agency advisory board, or any rule or regulation promulgated by the board, is sufficient cause for suspension or revocation of any license issued pursuant to this chapter."

12. Section 444-17 is amended to read:

**"Sec. 444-17 Revocation, suspension, and renewal of licenses.** The contractors license board may revoke any license issued hereunder, or suspend the right of the licensee to use such licenses, or refuse to renew any such license for any of the following causes:

- (1) Any dishonest or fraudulent or deceitful act as a contractor which causes a substantial damage to another;
- (2) Engaging in any unfair or deceptive act or practice as prohibited by section 480-2;
- (3) Abandonment of any construction project or operation without reasonable or legal excuse;
- (4) Wilful diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and the use thereof for any other purpose;
- (5) Wilful departure from, or wilful disregard of plans or specifications in any material respect without consent of the owner or his duly authorized representative, which is prejudicial to a person entitled to have the construction project or operation completed in accordance with such plans and specifications;
- (6) Wilful violation of any law of the State, or of any political subdivision thereof, relating to building, including any violation of any applicable rule or regulation of the department of health, or of any applicable safety or labor law;
- (7) Failure to make and keep records showing all contracts, documents, records, receipts, and disbursements by a licensee of all his transactions as a contractor for a period of not less than three years after completion of any construction project or operation to which the records refer or to permit inspection of such records by the board;
- (8) When the licensee being a copartnership or a joint venture permits any member or employee of such copartnership or joint venture who does not hold a license to have the direct management of the contracting business thereof;
- (9) When the licensee being a corporation permits any officer or employee of such corporation who does not hold a license to have the direct management of the contracting business thereof;
- (10) Misrepresentation of a material fact by an applicant in obtaining a license;

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- (11) Failure of a licensee to complete in a material respect any construction project or operation for the agreed price if such failure is without legal excuse;
- (12) Wilful failure in any material respect to comply with this chapter or the rules and regulations promulgated pursuant thereto;
- (13) Wilful failure or refusal to prosecute a project or operation to completion with reasonable diligence;
- (14) Wilful failure to pay when due a debt incurred for services or materials rendered or purchased in connection with his operations as a contractor when he has the ability to pay or when he has received sufficient funds therefor as payment for the particular operation for which the services or materials were rendered or purchased;
- (15) The false denial of any debt due or the validity of the claim therefor with intent to secure for licensee, his employer, or other person, any discount of such debt or with intent to hinder, delay, or defraud the person to whom such debt is due;
- (16) Failure to secure or maintain workmen's compensation insurance when not authorized to act as a self-insurer under chapter 386;
- (17) Knowingly entering into a contract with an unlicensed contractor involving work or activity for the performance of which licensing is required under this chapter.

No license shall be suspended for longer than two years and no person whose license is revoked shall be eligible to apply for a new license until the expiration of two years."

13. Section 448-17 is amended to read:

**"Sec. 448-17 Refusal, revocation, suspension, and restoration of licenses.** The board of dental examiners shall refuse to issue a license to any applicant who fails to meet all of the requirements imposed by this chapter and may refuse to issue one to any applicant who has previously done any act which would if done by a licensee authorize the revocation or suspension of his license.

The board may suspend or revoke any license issued under this chapter for any of the following reasons:

- (1) Fraud in procuring license;
- (2) Habitual intoxication or addiction to the use of drugs;
- (3) Wilful or repeated violations of the rules of the department of health;
- (4) Acceptance of a fee for service as a witness, without the knowledge of the court, in addition to the fee allowed by the court;
- (5) Division of fees or agreeing to split or divide the fees received for dental services with any person for bringing or referring a patient;
- (6) Assisting in the care or treatment of a patient, without the knowledge of the patient or his legal representative;
- (7) Employing, procuring, inducing, aiding, or abetting a person not licensed or registered as a dentist to engage in the practice of dentistry;
- (8) Making any misrepresentations or false promises, directly or indirectly, to influence, persuade, or induce dental patronage;

- (9) Professional connection or association with, or lending his name to another for, the illegal practice of dentistry by another, or professional connection or association with any person, firm, or corporation holding himself, themselves, or itself out in any manner contrary to this chapter;
- (10) By false or fraudulent representations, obtaining or seeking to obtain practice or money or any other thing of value;
- (11) Practicing, either in the State or elsewhere, under a name other than his own;
- (12) Any other improper, unprofessional, or dishonorable conduct in the practice of dentistry.

The board may restore any license revoked under this section whenever it determines that such restoration will not endanger the public health and safety or the reputation of the profession."

14. Section 451A-13 is amended to read:

**"Sec. 451A-13 Grounds for disciplinary action.** The board may deny, revoke, or suspend any license, certificate of endorsement, or temporary permit issued under this chapter or otherwise discipline upon proof that a person has:

- (1) Obtained a license, certificate of endorsement or temporary permit by fraud or deceit;
- (2) Obtained a fee or the making of a sale by fraud or misrepresentation;
- (3) Employed with knowledge, directly or indirectly, any suspended or unregistered person to perform any work covered by this chapter;
- (4) Applied, caused or promoted for advertising, the use of any matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation which is misleading, deceptive or untruthful;
- (5) Advertised a particular model or type of hearing aid for sale which in fact is not immediately available and where it is established that the purpose was to obtain prospects for the sale of a different model or type;
- (6) Represented that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or used the words "doctor," "clinic" or similar words, abbreviations or symbols related to the medical profession when it is not accurate;
- (7) Permitted the use of a license by another;
- (8) Advertised a product or used a manufacturer's name or trademark which implies a relationship which in fact does not exist;
- (9) Given or offered to give, directly or indirectly, money or anything of value to any person who advises another in a professional capacity as an inducement to influence him or have him influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dealer or fitter, or influencing persons to refrain from dealing in the products of competitors;

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- (10) Engaged in the fitting and selling of hearing aids under a false name or alias with fraudulent intent;
- (11) Sold a hearing aid to a person who has not been given tests utilizing appropriate established procedures and instrumentation in fitting of hearing aids;
- (12) Committed gross incompetence or negligence in fitting and selling hearing aids;
- (13) Violated any provisions of this chapter and any rules and regulations.”

15. Section 453-8 is amended to read:

**“Sec. 453-8 Revocation or suspension of licenses.** Any license to practice medicine and surgery may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such license:

- (1) Procuring, or aiding or abetting in procuring, a criminal abortion;
- (2) Employing what is popularly known as a “capper” or “steerer”;
- (3) Obtaining a fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful and improbable statement in advertising one's medical or surgical practice or business;
- (6) False, fraudulent, or deceptive advertising;
- (7) Advertising any medicine, or any means, whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;
- (8) Being habitually intemperate;
- (9) Habitually using any habit-forming drug, such as opium or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (10) Procuring a license through fraud, misrepresentation, or deceit;
- (11) Professional misconduct or gross carelessness or manifest incapacity in the practice of medicine or surgery;
- (12) Violation of the conditions or limitations upon which a limited and temporary license is issued.

If any such license is revoked or suspended by the board for any act or condition listed in this section, the holder of the license shall be in writing notified by the board of the revocation or suspension. Any license to practice medicine and surgery which has been revoked under this section may be restored by the board of medical examiners.”

16. Section 455-6 is amended to read:

**“Sec. 455-6 Powers and authority of the board.** The state board of examiners in naturopathy may:

- (1) Adopt and use a seal to be affixed to all official acts of the board;
- (2) Make rules and regulations to determine the means, terms, translations, and definitions relating to the practice of naturopathy in the State;

- (3) Revoke or suspend any license issued to any person to practice naturopathy upon any of the following causes:
- (A) Procuring or aiding or abetting in the procuring of a criminal abortion;
  - (B) Obtaining of or any attempt to obtain a license to practice naturopathy through fraud, misrepresentation, bribery, or deceit;
  - (C) Continued practice by a person knowingly having an infectious or contagious disease;
  - (D) Advertising by means of knowingly false or deceptive statements;
  - (E) Advertising, practicing, or attempting to practice under a name other than one's own;
  - (F) Habitual drunkenness, or addiction to the use of morphine, cocaine, or other habit-forming drugs;
  - (G) Professional misconduct, gross carelessness, neglect, or manifest incapacity; any one or more of the causes having been proved to the satisfaction of the board.

The board may not suspend or revoke a license, however, for any of these causes unless the person accused has been given at least twenty days' notice, in writing, and a public hearing in conformity with chapter 91.

The board may compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before them and the presiding officer of the board may administer the requisite oaths.

In case any license is revoked for any of the causes named in this section, the holder thereof shall be immediately notified of the revocation, in writing, by the board. Licenses to practice naturopathy may be restored by the board."

17. Section 457-12 is amended by amending subsection (a) to read:

"(a) The board shall have the power to deny, revoke, or suspend any license to practice nursing as a registered nurse or as a licensed practical nurse issued by the board or applied for in accordance with this chapter, or otherwise to discipline a licensee upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing as a registered nurse or as a licensed practical nurse; or
- (2) Is guilty of gross immorality; or
- (3) Is unfit or incompetent by reason of negligence, habits, or other causes; or
- (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or
- (5) Is mentally incompetent; or
- (6) Is guilty of unprofessional conduct; or
- (7) Has wilfully or repeatedly violated any of the provisions of this chapter."

18. Section 457-19 is amended to read:

**"Sec. 457-19 Grounds for disciplinary action.** The board of nursing may deny, revoke, or suspend any license to practice nursing issued by the board

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or applied for in accordance with this chapter, or otherwise discipline a licensee upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or
- (2) Is guilty of gross immorality; or
- (3) Is unfit or incompetent by reason of gross negligence, or a communicable disease which endangers others; or
- (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or
- (5) Is mentally incompetent; or
- (6) Is guilty of professional misconduct; or
- (7) Has wilfully or repeatedly violated this chapter."

19. Section 459-9 is amended to read:

**"Sec. 459-9 Refusal to permit examination or issue certificate; grounds for.** The board of examiners in optometry may refuse to admit persons to its examinations or to issue the certificates for any of the following causes:

- (1) Presentation to the board of any certificate or testimony which was illegally or fraudulently obtained, or when fraud or deceit has been practiced in passing an examination;
- (2) Other grossly unprofessional or dishonorable conduct of a character likely to deceive or defraud the public, or habits of intemperance, or drug addiction calculated to destroy the accuracy of the work of an optometrist;
- (3) Advertising in the following manner:
  - (A) At a stipulated price or any variation of such a price or as being free, any of the following: the examination or treatment of the eyes, the furnishing of optometric services; or the furnishing of a lens, lenses, glasses, or the frames or fittings thereof;
  - (B) By any means whatsoever, directly or indirectly, to offer lens, lenses, glasses, or frames or fittings thereof at a discount or as a premium for the purchase of any article of merchandise;
  - (C) By means of false and deceptive statements or by statements which tend to deceive or defraud; or to claim superiority over fellow optometrists; or to publish reports of cases or certificates of same in any public advertising media;
  - (D) In conjunction with any nonlicensed person or groups of individuals by permitting the use of his name, professional title, or profession;
- (4) Directly or indirectly accepting employment to practice optometry from any person not having a valid, unrevoked certificate of registration as an optometrist or from any company or corporation;
- (5) Making of a house-to-house canvass either in person or through solicitors or associates for the purpose of selling, advertising, or soliciting the sale of eyeglasses, spectacles, lenses, frames, mountings, eye examinations, or optometric services; peddling of eyeglasses, spectacles, or lenses from house-to-house or on the streets or highways notwithstanding any law for the licensing of peddlers;

- (6) Renting space, subleasing departments, or otherwise occupying space to practice optometry on the premises of a commercial (mercantile) concern. Optometric practices must be under the registered optometrist's ownership and under his exclusive control. It must not be in conjunction with a scheme or plan with a commercial (mercantile) concern. The prescription files must be the sole property of the optometrist. The office must be definite and apart from the space occupied by any commercial (mercantile) concern so that all signs are separate and distinct from the commercial (mercantile) concern and all entrances to the premises must be separate and definite in character such that there could be no misleading interpretation that his practice is in any way associated with a commercial (mercantile) concern;
- (7) Soliciting or receiving, directly or indirectly, any price differential, rebate, refund, discount, commission, credit, kickback, or other such allowance, whether in the form of money or otherwise, from a dispensing optician for or on account of referring or sending to the dispensing optician of any intended or prospective wearer or user of any article or appliance prepared or furnished by a dispensing optician, or for or on account of any service or article furnished by the dispensing optician to any such intended or prospective wearer or user;
- (8) Using any name in connection with his practice other than the name under which he is licensed to practice, or failing to comply with the following provisions, to wit: all signs, cards, stationery, or other advertising must clearly identify the individual optometrist using or presenting the same and must be free from any ambiguity or possibility of misinterpretation as to such identity;
- (9) Employing or utilizing any unlicensed individual to perform optometric services in connection with refraction or visual training without directly and personally supervising the individuals in the performances of the services;
- (10) Using or displaying cards, public media for advertising, and signs in the following manner:
  - (A) Using professional cards containing other than his name, profession, address, telephone numbers, specialties, office hours, and words indicating examination by appointment. The cards when used shall not be larger in size than two inches by three and one-half inches.
  - (B) Using any public media such as newspaper of general circulation, directory (other than annual listing in directories), magazine, radio, television, slide, or film, for any advertising. Provided, an optometrist may announce in the newspapers only, not to exceed two column width by three inches height, for a period not to exceed three consecutive weeks for any one occasion, the opening, removal, or closing of an office, or resumption

of practice after an absence, or any change in address or telephone number.

- (C) Displaying any sign containing other than his name, profession, address, telephone numbers, specialties, office hours, and the words "eyes examined" or "eye examinations." The signs when used shall not be luminous or illuminated and the letters shall not be more than four inches in height when used at street level and not more than seven inches in height when used above street level."

20. Section 460-12 is amended to read:

**"Sec. 460-12 Refusal and revocation of license.** The board may refuse to issue a license, or may suspend or revoke any license at any time in a proceeding before the board upon any one or more of the following grounds:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing what are popularly known as "cappers" or "steerers";
- (3) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
- (4) Wilfully betraying a professional secret;
- (5) Making any untruthful and improbable statement in advertising one's practice or business under this chapter;
- (6) False, fraudulent, or deceptive advertising;
- (7) Advertising any medicine or any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed;
- (8) Being habitually intemperate;
- (9) Habitual use of any habit-forming drug such as opium, or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (10) Procuring a license through fraud, misrepresentation, or deceit;
- (11) Professional misconduct, gross carelessness and manifest incapacity in the practice of osteopathy."

21. Section 460J-15 is amended by amending subsection (a) to read:

"(a) The board may revoke, suspend, or refuse to renew any license issued hereunder, for any of the following causes:

- (1) Departure from, or disregard of, plans or specifications in the performance of pest control work in any material respect, without consent of the owner or his authorized representative;
- (2) Disregard and violation of any law of the State, or of any political subdivision thereof, relating to building, including any violation of any applicable rule or regulation of the department of health, or of any applicable safety or labor law;
- (3) Misrepresentation of a material fact by the applicant in obtaining a license;
- (4) Failure on the part of a licensee to complete any operation or construction repairs for the price stated in the contract for such operation or construction repairs or in any modification of such contract;
- (5) Failure to comply with this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the

- making of a bona fide inspection of the premises for wood-destroying pests;
- (6) The commission of any grossly negligent or fraudulent act by the licensee as an operator;
  - (7) The negligent handling or use of any poisonous exterminating agent without regard to public safety;
  - (8) Fraud or misrepresentation, after inspection, by any licensee engaged in pest control work or any infestation or infection of wood-destroying pests found in property or structures, or respecting any conditions of the structure that would ordinarily subject structures to attack by wood-destroying pests whether or not a report was made pursuant to sections 460J-19 and 460J-20;
  - (9) Failure of an operator to make and keep all inspection reports, contracts, documents, and records, other than financial records, for a period of not less than two years after completion of any work or operation for the control of wood-destroying pests;
  - (10) Wilful failure to pay when due a debt incurred for services or material rendered or purchased in connection with his operations as an operator when he has the ability to pay or when he has received sufficient funds therefor as payment for the particular operation for which the services or materials were rendered or purchased;
  - (11) The false denial of any debt due or the validity of the claim therefore with intent to secure for the licensee, his employer, or other person, any discount of such debt or with intent to hinder, delay, or defraud the person to whom such debt is due;
  - (12) Failure to secure or maintain workmen's compensation insurance when not authorized to act as a self-insurer under chapter 386;
  - (13) Knowingly entering into a contract with an unlicensed operator involving work or activity for the performance of which licensing is required under this chapter.

No license shall be suspended for longer than two years and no person whose license is revoked shall be eligible to apply for a new license until the expiration of two years."

22. Section 462-11 is amended to read:

**"Sec. 462-11 License revoked when.** The board of photography may revoke any license then in force if the holder thereof is found guilty by the board of fraudulent practices or wilful misrepresentation in the conduct of his business.

No license shall be revoked except after a hearing thereon, at which hearing at least a majority of the board shall be present. The attorney general shall act as the legal adviser of the board. Written notice of the proposed hearing shall be mailed to the holder of such license at his last known address at least twenty days before the date thereof, stating the basis or cause for such proposed action or revocation, and appointing a time and place for the hearing. At the hearing the board may compel the attendance of witnesses, administer oaths, and examine witnesses under oath. The board shall keep

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a complete record of all proceedings with respect to the revocation of any license."

23. Section 463-6 is amended to read:

**"Sec. 463-6 Private detective; qualifications for license.** The board of detectives and guards may grant a private detective license to any suitable citizen of the United States and to any suitable corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal detective of a corporation, shall have been a resident of the State for not less than one year immediately prior to the filing of application for license, shall be not less than twenty-five years of age, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time investigational work. Any licensee may employ as many agents, operatives, and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal detective if a corporation is the employer, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business. Employees shall have an eighth grade education or its equivalent."

24. Section 463-8 is amended to read:

**"Sec. 463-8 Guard; Qualifications for license.** The board of detectives and guards may grant a guard or a guard agency license to any suitable citizen of the United States and to any suitable corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal guard in the case of a corporation, shall have been a resident of the State for not less than one year immediately prior to the filing of application for license, shall be not less than twenty-five years of age, shall have a high school education or its equivalent, and shall have had experience reasonably equivalent to at least four years of full-time guard work. Any licensee may employ as many agents, operatives, and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal guard if the employer is a corporation, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business. Employees shall have an eighth grade education or its equivalent."

25. Section 463E-6 is amended to read:

**"Sec. 463E-6 Revocation and suspension of license.** Any license to practice podiatry may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of the license:

- (1) Employing what is popularly known as a "capper" or "steerer";
- (2) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
- (3) Wilfully betraying a professional secret;
- (4) Advertising one's podiatrist business with any untruthful and improbable statement;
- (5) False or fraudulent advertising;
- (6) Being habitually intemperate;

- (7) Habitually using any habit-forming drug;
- (8) Procuring a license through fraud, misrepresentation, or deceit;
- (9) Violation of section 453-2;
- (10) Professional misconduct or gross carelessness or manifest incapacity in the practice of podiatry;
- (11) Engaging in the practice of podiatry other than as defined in section 463E-1."

26. Section 465-13 is amended to read:

**"Sec. 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) 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;
- (2) Habitual drunkenness;
- (3) Violation of this chapter;
- (4) Any unethical practice of psychology as defined by the board in accordance with its own rules and regulations."

27. Section 466-9 is amended by amending subsection (a) to read:

"(a) Causes. The board may, in accordance with the provisions of chapter 91, (1) cancel, revoke, suspend for a period not exceeding two years, or refuse to renew any certificate of certified public accountant, registration of public accountant or permit to practice issued under this chapter, or it may (2) censure a person holding any such certificate, registration or permit, for any one or a combination of the following causes:

- (A) Dishonesty, deceit or fraud in obtaining any certificate, registration or permit to practice issued under the provisions of this chapter.
- (B) Dishonesty, deceit, fraud or gross negligence in the practice of public accountancy.
- (C) Violation of any of the provisions of section 446-10 or of any rule or regulation of the board relating to professional conduct."

28. Section 467-8 is amended to read:

**"Sec. 467-8 Prerequisites for licensing.** No license hereunder shall be issued to:

- (1) Any person unless he has demonstrated by passing with a grade satisfactory to the real estate commission a written examination given by it and appropriate to the license sought that he has a reasonable knowledge of (A) estates, interests, and rights in real property, (B) the documents or acts or occurrences by which such property is transferred or otherwise affected, (C) the rights and duties of an agent, (D) the laws of the State relating to real estate brokers and salesmen, and (E) such other subjects as the commission determines to be essential for the protection of the general public in its real estate transactions;
- (2) Any person who does not possess a good character and reputation for honesty, truthfulness, and fair dealing;

## ACT 205

- (3) Any copartnership unless every member of the copartnership who actively participates in the real estate brokerage business thereof holds a real estate broker's license;
- (4) Any corporation unless the real estate brokerage business thereof is under the direct management of an officer or employee thereof and unless the officer or employee holds a real estate broker's license."

29. Section 467-14 is amended to read:

**"Sec. 467-14 Revocation and suspension of licenses.** The real estate commission may revoke any license issued hereunder, or suspend the right of the licensee to use the license, for any of the following causes:

- (1) Making any misrepresentation concerning any real estate transaction;
- (2) Making any false promises concerning any real estate transaction of a character likely to mislead another;
- (3) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;
- (4) Without first having obtained the written consent so to do of both parties involved in any real estate transaction, acting for both the parties in connection with the transaction, or collecting or attempting to collect commissions or other compensation for his services from both of such parties;
- (5) When licensee, being a real estate salesman, accepts any commission or other compensation for the performance of any of the acts hereinabove enumerated in the definition of real estate salesman from any person, copartnership, or corporation other than his employer or, being a real estate broker or salesman, employs or compensates one not licensed under this chapter to perform any such act;
- (6) When the licensee, being a real estate salesman, acts or attempts to act as a real estate broker or represents, or attempts to represent, a real estate broker other than his employer;
- (7) Failing, within a reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee;
- (8) Any other conduct constituting fraudulent or dishonest dealings;
- (9) When the licensee, being a copartnership, permits any member of the copartnership who does not hold a real estate broker's license to actively participate in the real estate brokerage business thereof or permits any employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;
- (10) When the licensee, being a corporation, permits any officer or employee of the corporation who does not hold a real estate broker's license to have the direct management of the real estate brokerage business thereof or permits any officer or employee thereof who does not hold a real estate salesman's license to act as a real estate salesman therefor;

- (11) When the licensee, being a real estate salesman, fails to file with the commission a written statement setting forth the name of the real estate broker by whom he is employed;
- (12) Violating this chapter or the rules and regulations promulgated pursuant thereto;
- (13) Splitting fees with or otherwise compensating others not licensed hereunder for referring business; provided, that a licensed broker may pay a commission to a licensed broker of another state if such broker does not conduct in this State any of the negotiations for which a commission is paid;
- (14) Commingling the money or other property of his principal with his own;
- (15) Adjudicated insane or incompetent.

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."

30. Section 471-10 is amended by amending subsection (b) to read:

"(b) Revocation and suspension. The board may revoke or suspend the license of any veterinarian for any of the following causes:

- (1) Professional misconduct, gross negligence or manifest incapacity;
- (2) Violation of this chapter or any other law which applies to him as a practicing veterinarian;
- (3) Making any false representations or promises through advertising or otherwise or in any manner dealing fraudulently or dishonestly in connection with the practice of veterinary medicine;
- (4) Habitual intemperance in the use of alcoholic beverages or addiction to the use of narcotic or dangerous substances;
- (5) Mental incompetence.

No license shall be suspended for longer than two years."

SECTION 4. Section 378-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 378-1 Definitions.** As used herein:

- (1) "Person" means one or more individuals, and includes partnerships, associations, or corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
- (2) "Employment agency" means any person undertaking to procure employees or opportunities to work.
- (3) "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.
- (4) "Employer" means any person having one or more persons in his employment, and includes any person acting as an agent of an employer, directly or indirectly.
- (5) "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.

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(6) "Arrest and court records" include 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.

SECTION 5. All laws and parts of laws heretofore enacted which are in conflict with this Act are amended to conform to this Act. All acts passed during this regular session of 1974, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

SECTION 6. 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 material, or the underscoring.\*

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

(Approved June 10, 1974.)

## ACT 206

H.B. NO. 2378-74

A Bill for an Act Relating to the Licensing of Acupuncture Practitioners.

*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 ACUPUNCTURE PRACTITIONERS

**Sec. -1 Practice of acupuncture defined.** For the purposes of this chapter the practice of acupuncture means insertion of needles into the human body by piercing the skin of the body for the purpose of controlling and regulating the flow and balance of energy in the body.

**Sec. -2 License required.** Except as otherwise provided by law, no person shall practice acupuncture in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, without having a valid license obtained from the board of acupuncture.

**Sec. -3 Qualifications for examination.** No person shall be licensed to practice acupuncture unless he has passed an examination and has been found to be possessed of the necessary qualifications as prescribed in the rules adopted by the board of acupuncture in accordance with chapter 91.

Before any applicant shall be eligible for such examination he shall furnish satisfactory proof to the board that:

\*Edited accordingly.

- (1) He is a resident of the State;
- (2) He is of good moral character; and
- (3) He has completed a course in acupuncture and received a certificate or diploma from an institute or a private tutorship approved by the board of acupuncture. The training received in the art of acupuncture shall be for a period of not less than two years.

**Sec. -4 Board of acupuncture; appointment, removal, qualifications.**

There shall be a board of acupuncture who shall be appointed by the governor in accordance with section 26-34, whose duty it shall be to examine all applicants for license to practice acupuncture.

The board shall consist of five persons; two shall be private citizens and three shall be acupuncturists licensed in accordance with this chapter except those acupuncturists first appointed to the board need not be licensed but shall be persons who would qualify for licensing under this chapter. The members of the board shall serve without pay but shall be reimbursed for actual expenses incurred in the discharge of their duties. A majority of the board shall constitute a quorum.

**Sec. -5 Powers and duties of the board.** The board of acupuncture shall:

- (1) Adopt rules in accordance with chapter 91 to carry out the purposes of this chapter, with special emphasis on the health and safety of the public;
- (2) Develop standards for licensure;
- (3) Prepare and administer examinations;
- (4) Issue, renew, suspend, and revoke licenses;
- (5) Register applicants of holders of a license;
- (6) Investigate and conduct hearings regarding any violation of this chapter and any rules of the board;
- (7) Maintain a record of its proceedings; and
- (8) Do all things necessary to carry out the functions, powers, and duties set forth in this chapter.

**Sec. -6 Fees and expenses.** No applicant shall be examined under this chapter until he has paid to the board of acupuncture a fee of \$60. Every person holding a license under this chapter shall reregister with the board each year, not later than January 31, and for such registration shall pay a fee of \$10. Failure to do so shall constitute a forfeiture of license, which may be restored only upon written application therefor and payment to the board of a fee of \$30. All such fees shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

**Sec. -7 Revocation or suspension of licenses.** Any license to practice acupuncture issued under this chapter may be revoked or suspended by the board of acupuncture at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of such a license:

- (1) Obtaining a fee on the assurance that a manifestly incurable ailment can be permanently cured;

- (2) Making any untruthful and improbable statement in advertising one's acupuncture practice or business;
- (3) False, fraudulent, or deceptive advertising;
- (4) Being convicted, whether on a plea of nolo contendere or otherwise and whether or not sentence or the imposition or execution of sentence has been suspended, of any felony, or of a misdemeanor involving moral turpitude;
- (5) Being habitually intemperate;
- (6) Habitually using any habit-forming drug such as opium or any of its derivatives, morphine, heroin, cocaine, or any other habit-forming drug;
- (7) Procuring a license through fraud, misrepresentation, or deceit;
- (8) Professional misconduct or gross carelessness or manifest incapacity in the practice of acupuncture.

If any license is revoked or suspended by the board for any act or conditions listed in this section, the holder of the license shall be notified in writing by the board of the revocation or suspension. Any license to practice acupuncture may be restored by the board of examiners for the practice of acupuncture as provided by rule.

**Sec. -8 Hearings; procedure.** Any proceeding before the board of acupuncture for the revocation or suspension of a license to practice shall be conducted in accordance with chapter 91.

**Sec. -9 Witnesses; subpoenas issued.** The board shall have the power to subpoena witnesses, administer oaths to, and examine witnesses on any relevant matter in proceedings before the board. The person whose license is sought in such proceedings to be revoked or suspended shall be entitled to require the board to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in such proceedings, and shall be entitled to examine any such witness and any other witness in such proceedings. The circuit court of the circuit in which the proceeding is held may enforce by proper procedure the attendance and testimony of witnesses in such proceedings.

**Sec. -10 Recalcitrant witnesses; contempt.** If any person called before the board as a witness in any proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to him by the board, a member of the board, or the person whose license is sought to be revoked or suspended in such proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which the proceeding is held and such person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court under section 710-1077 of the Hawaii Penal Code.

**Sec. -11 Perjury.** Any person who wilfully and knowingly makes under oath any false statement in connection with any such proceeding before the board shall be guilty of perjury and shall be subject to the penalty pre-

scribed by law for perjury. Whenever the board is satisfied that the witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury.

**Sec. -12 Penalty.** Any person who violates the provisions of this chapter shall be guilty of a petty misdemeanor."

SECTION 2. Any person licensed under chapters 448 and 453, Hawaii Revised Statutes, shall be exempt from the provisions of this Act.

SECTION 3. Any person engaged in the practice of acupuncture in the State at the time of the effective date of this Act shall continue to practice acupuncture; provided such person shall be subject to the licensing requirements of this Act when such requirements are established by the board of acupuncture.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary, for the purposes of this Act including staffing and hiring employees. The sum appropriated shall be expended by the department of regulatory agencies for the purposes of this Act.

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

(Approved June 12, 1974.)

## ACT 207

S.B. NO. 1766-74

A Bill for an Act Relating to Hale Hauoli Day Activity Center for the Retarded.

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

SECTION 1. **Findings and purpose.** The legislature finds that there is urgent need for facilities dedicated to providing diagnostic, treatment, and training services to moderately and severely retarded adults. The Hale Hauoli Day Activity Center of Maui, established and operated by the Maui Association to Help Retarded Children, Inc. provides such services at Kahului, Maui. In recent years, the center has faced operational deficits and since 1969, has required increasing annual financial assistance from the State as a result of diminishing federal grants; the legislature has appropriated \$58,088 for the fiscal year 1974-75, the projected total budget for the center. The board of directors of the Maui Association to Help Retarded Children, Inc. has expressed its desire that the State assume ownership, without compensating therefor, administration and operation of the Hale Hauoli Day Activity Center of Maui.

The purpose of this Act is for the State to ensure the continuing availability of the services currently rendered by the Hale Hauoli Day Activity Center of Maui, by assuming its ownership and incorporating its administration and operation into the state department of health's community programs, and by converting its employees into employees of the State.

## **ACT 207**

**SECTION 2. Definitions.** As used in this Act, unless the context clearly indicates otherwise:

“Department” means the state department of health.

“Center” means the Hale Hauoli Day Activity Center of Maui.

**SECTION 3. Transfer.** The Hale Hauoli Day Activity Center of Maui is to be a state center. The department shall assume responsibility for all matters pertaining to the planning, construction, and improvement of the center and shall operate and manage the center and perform all acts necessary or convenient to such management and control.

The employees of the center on the effective date of this Act shall be transferred to the department and shall thereafter be state employees and enjoy all of the rights, privileges, and benefits of employees of the State, subject, however, to the following conditions:

- (1) The director of personnel services shall determine the applicability of chapters 76 and 77, Hawaii Revised Statutes, to the transferred employees;
- (2) Employees employed by the center at least one full year immediately preceding the date of transfer shall be given status as regular employees of the state civil service without competitive examination; and
- (3) Employees employed less than one full year shall be given initial probationary appointment without competitive examination.

**SECTION 4. Civil service compensation.** Positions held by transferred employees shall be assigned by the director of personnel services to the appropriate class in the position classification plan and the employees shall be paid in accordance with the salary range to which the class is assigned; provided that employees receiving a salary above the minimum rate at the time of their transfer may be paid at a rate higher than the minimum but not exceeding the highest pay rate in the appropriate salary range.

**SECTION 5. Vacation; sick leave.** Upon certification by the center or accumulated and earned vacation and sick leave, the transferred employees shall be credited under chapter 79, Hawaii Revised Statutes, with their accumulated and earned vacation and sick leave to the extent that public employees are allowed to earn and accumulate these credits.

**SECTION 6. Retirement system.** Upon the transfer, the employees shall be admitted to membership in the state pension and retirement systems provided for in chapter 88, Hawaii Revised Statutes. Upon certification of years of service by the department, a transferred employee shall be given prior service credits under chapter 88, Hawaii Revised Statutes, for his years of service at the center for which he agrees to have additional deductions made from his compensation or to make a lump sum payment therefor.

**SECTION 7. Citizenship; residency.** The requirements as to citizenship and residency in section 78-1, Hawaii Revised Statutes, shall not apply to employees transferred from the center to the department.

**SECTION 8. Transfer of property.** (a) All records, equipment, machinery, motor vehicles, files, supplies, contracts, books, papers, documents, maps, and all other personal property of every kind and description belonging to the center shall be transferred to the department without reimbursement to the center. The center shall prepare inventory lists and receipts to account properly for such transfer. Any dispute as to whether particular personal property should be transferred to the department under this Act shall be determined by the director of health.

(b) The center shall transfer to the State all of its respective interest in and to any real property and the improvements thereto. The conveyances shall be without reimbursement to the center.

**SECTION 9. Budgeting and fiscal procedures.** Beginning with the biennial period July 1, 1974 through June 30, 1976, and thereafter, the center shall be subject to such budgeting and fiscal procedures as may be required by the department.

**SECTION 10. 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 11. Effective date.** This Act shall take effect on July 1, 1974.

(Approved June 12, 1974.)

**ACT 208**

S.B. NO. 1829-74

A Bill for an Act Relating to Hale Hauoli Center for the Retarded.

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

**SECTION 1. Findings and purpose.** The legislature finds that there is urgent need for facilities dedicated to providing diagnostic, treatment, and training services to moderately and severely retarded adults. The Hale Hauoli Center of Kauai, established and operated by the Kauai Association to Help Retarded Children, Inc. provides such services at Hanamaulu, Kauai. In recent years, the center has faced operational deficits and since 1969, has required increasing annual financial assistance from the State as a result of diminishing federal grants; the legislature has appropriated \$52,600 for the fiscal year 1974-75, the projected total budget for the center. The board of directors of the Kauai Association to Help Retarded Children, Inc. has expressed its desire that the State assume ownership, without compensating therefor, administration and operation of the Hale Hauoli Center of Kauai.

The purpose of this Act is for the State to ensure the continuing availability of the services currently rendered by the Hale Hauoli Center of Kauai, by assuming its ownership and incorporating its administration and operation into the state department of health's community programs, and by converting its employees into employees of the State.

## **ACT 208**

**SECTION 2. Definitions.** As used in this Act, unless the context clearly indicates otherwise:

“Department” means the state department of health.  
“Center” means the Hale Hauoli Center of Kauai.

**SECTION 3. Transfer.** The Hale Hauoli Center of Kauai is to be a state center. The department shall assume responsibility for all matters pertaining to the planning, construction, and improvement of the center and shall operate and manage the center and perform all acts necessary or convenient to such management and control.

The employees of the center on the effective date of this Act shall be transferred to the department and shall thereafter be state employees and enjoy all of the rights, privileges, and benefits of employees of the State, subject, however, to the following conditions:

- (1) The director of personnel services shall determine the applicability of chapters 76 and 77, Hawaii Revised Statutes, to the transferred employees;
- (2) Employees employed by the center at least one full year immediately preceding the date of transfer shall be given status as regular employees of the state civil service without competitive examination; and
- (3) Employees employed less than one full year shall be given initial probationary appointment without competitive examination.

**SECTION 4. Civil service compensation.** Positions held by transferred employees shall be assigned by the director of personnel services to the appropriate class in the position classification plan and the employees shall be paid in accordance with the salary range to which the class is assigned; provided that employees receiving a salary above the minimum rate at the time of their transfer may be paid at a rate higher than the minimum but not exceeding the highest pay rate in the appropriate salary range.

**SECTION 5. Vacation; sick leave.** Upon certification by the center or accumulated and earned vacation and sick leave, the transferred employees shall be credited under chapter 79, Hawaii Revised Statutes, with their accumulated and earned vacation and sick leave to the extent that public employees are allowed to earn and accumulate these credits.

**SECTION 6. Retirement system.** Upon the transfer, the employees shall be admitted to membership in the state pension and retirement systems provided for in chapter 88, Hawaii Revised Statutes. Upon certification of years of service by the department, a transferred employee shall be given prior service credits under chapter 88, Hawaii Revised Statutes, for his years of service at the center for which he agrees to have additional deductions made from his compensation or to make a lump sum payment therefor.

**SECTION 7. Citizenship; residency.** The requirements as to citizenship and residency in section 78-1, Hawaii Revised Statutes, shall not apply to employees transferred from the center to the department.

**SECTION 8. Transfer of property.** (a) All records, equipment, machinery, motor vehicles, files, supplies, contracts, books, papers, documents, maps, and all other personal property of every kind and description belonging to the center shall be transferred to the department without reimbursement to the center. The center shall prepare inventory lists and receipts to account properly for such transfer. Any dispute as to whether particular personal property should be transferred to the department under this Act shall be determined by the director of health.

(b) The center shall transfer to the State all of its respective interest in and to any real property and the improvements thereto. The conveyances shall be without reimbursement to the center.

**SECTION 9. Budgeting and fiscal procedures.** Beginning with the biennial period July 1, 1974 through June 30, 1976, and thereafter, the center shall be subject to such budgeting and fiscal procedures as may be required by the department.

**SECTION 10. 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 11. Effective date.** This Act shall take effect on July 1, 1974.

(Approved June 12, 1974.)

ACT 209

S.B. NO. 1658-74

A Bill for an Act Relating to Comprehensive Health Planning.

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

SECTION 1. Chapter 323, Hawaii Revised Statutes, is amended by adding a new part to be designated and to read as follows:

### **"PART III.**

### **PLANNING FOR HEALTH CARE FACILITIES AND SERVICES**

**Sec. 323-31 Purpose.** The purpose of this part is to establish the means and procedures for mandatory planning for health care facilities and services in the State, thereby providing for the development of hospitals and certain other health care facilities of a desirable and practicable size, location, and commitment to health care needs of the State and of the several communities in the State, by:

- (1) Providing that the construction, expansion, alteration, or conversion of certain health care facilities and the initiation, expansion, or modification of certain health care services, including acquisition of equipment, will be made in an orderly and economical manner consistent with proper and effective development of such facilities and services to meet the health care needs of the people of the State;

- (2) Instituting procedures for health care providers to apply for and obtain certificates of need as a condition precedent to undertaking construction, expansion, alteration, or conversion of certain health care facilities or initiation, expansion, or modification of certain health care services, including acquisition of equipment, and providing for enforcement, including penalties, of the required certificates of need; and
- (3) Establishing public bodies for the administration of this part.

**Sec. 323-32 Definitions.** As used in this part:

- (1) 'Applicant' means any person, as defined in section 1-19, who applies for a certificate of need under this part.
- (2) 'Certificate of need' means an authorization, when required pursuant to section 323-38, to construct, expand, alter, or convert a health care facility or to initiate, expand, or modify a health care service.
- (3) 'Construct,' 'expand,' 'alter,' 'convert,' 'initiate,' or 'modify' includes the erection, building, reconstruction, modernization, improvement, or establishment of a health care facility or health care service; the purchase or acquisition of equipment attendant to the delivery of health care service and the instruction of supervision therefor; and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary for any such undertaking, which will
  - (A) Result in a total capital expenditure in excess of \$100,000, or
  - (B) Substantially modify, decrease, or increase the scope or type of health service rendered, or
  - (C) Increase, decrease, or change the class of usage of the bed complement of a health care facility.
- (4) 'Health care facility' and 'health care service' include any program, institution, place, building, or agency, or portion thereof, private or public, other than federal facilities or services, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons. The terms include, but are not limited to, health care facilities and health care services commonly referred to as hospitals, extended care and rehabilitation centers, nursing homes, personal care homes, homes for the aged and infirm, intermediate care facilities, outpatient clinics, ambulatory care facilities, emergency care facilities and centers, community mental health and mental retardation centers, home health agencies, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.
- (5) 'Review panel' means the panel designated by the State advisory council to study applications for proposed capital expenditures by health care facilities pursuant to Public Law 92-603, section 221, and applications for certificates of need under this part.
- (6) 'State advisory council' means the State advisory council for comprehensive health planning which is appointed by the governor to

serve in an advisory capacity for the purposes of Public Law 89-749 and which is the designated planning agency for purposes of Public Law 92-603, section 221, or Acts of Congress successor of or amendatory of or supplementary to said public laws, as provided in section 323-34.

- (7) 'State comprehensive health planning agency' means the State agency for comprehensive health planning for purposes of this part and Public Law 89-749 and Public Law 92-603, section 221, or Acts of Congress successor thereof or amendatory thereof or supplementary thereto, as established in section 323-33.
- (8) 'Substantially modify, decrease, or increase the scope or type of health service' refers to the addition of a clinically related (i.e., diagnostic, curative, or rehabilitative) service not previously provided or the termination of such a service which had previously been provided.

**Sec. 323-33 State Comprehensive Health Planning Agency, Chief Administrator, Staff, etc.** There is established within the department of health for administrative purposes only the State comprehensive health planning agency. The governor shall appoint the chief administrator of the State comprehensive health planning agency who shall be subject to chapters 76, 77, and 78. The chief administrator shall appoint necessary staff, subject to the approval of the State advisory council, who shall be subject to chapters 76, 77, and 78. The State comprehensive health planning agency shall administer State health planning activities under this part and in the implementation of planning responsibilities pursuant to Public Law 89-749 and Public Law 92-603, section 221, or Acts of Congress successor thereof or amendatory thereof or supplementary thereto.

**Sec. 323-34 State Advisory Council for Comprehensive Health Planning.** There is established within the State comprehensive health planning agency the State advisory council for comprehensive health planning which shall serve in an advisory capacity on matters of comprehensive health planning, including Public Law 89-749, to the governor, the State comprehensive health planning agency, and the department of health and which shall be responsible as the designated planning agency pursuant to Public Law 92-603, section 221, or Acts of Congress successor of or amendatory of or supplementary to said public laws, and which shall be responsible for prescribed duties under this part, including determinations on the issuance, approval, or denial of certificates of need.

The State advisory council shall consist of not fewer than thirty-eight nor more than forty-five members who shall be appointed by the governor as provided in section 26-34. The membership shall include, ex-officio without voting rights, the director of social services and housing, the director of labor and industrial relations, the director of transportation, the superintendent of education, the administrator in the State of the veterans administration, and the executive director of the regional medical program of Hawaii, or their respective representatives. The remaining members shall be selected on the basis of their interests and knowledge in, and their ability to make

contributions to, matters relating to comprehensive health planning and shall include at least one member from each county. A majority of the members shall be consumers of health care none of whose major occupation is the provision, administration, or financing of any type of health care or teaching or research in health and none of whom has or had a major financial interest in any health activity; provided that a spouse, parent, child, or sibling of a person who does not qualify as a consumer of health care shall not be considered a consumer of health care. The chairman shall be appointed by the governor from the appointive members of the State advisory council. The State advisory council shall meet at least four times each year at times and places agreed upon by the members.

**Sec. 323-35 Review Panel.** A review panel shall be appointed and established by the State advisory council for the purpose of studying and investigating proposals for capital expenditures by health care facilities that are subject to Public Law 92-603, section 221, and applications for certificates of need under this part. The review panel shall submit its recommendation, with findings, to the State advisory council for each proposal and application submitted to the review panel by the State comprehensive health planning agency, including proposals and applications submitted to the review panel for recommendations on the question of whether or not a proposal or application is subject to Public Law 92-603, section 221, or to the certificate of need requirements of this part.

The membership of the review panel shall include at least one member from each county and shall include a majority of members who are consumers of health care none of whose major occupation is the provision, administration, or financing of any type of health care or teaching or research in health and none of whom has or had a major financial interest in any health activity; provided that a spouse, parent, child, or sibling of a person who does not qualify as a consumer of health care shall not be considered a consumer of health care. The members shall be selected by the State advisory council on the basis of expert knowledge and not as representative of particular interest groups.

**Sec. 323-36 State Assisted Area Wide Health Planning Councils.** State assisted area wide health planning councils may be established within defined geographical areas of the State by the State Advisory council. Membership on the State assisted area wide planning councils shall be limited to residents of the respective geographical areas. The State assisted area wide planning councils shall be subject to such requirements and rules as are prescribed by the State advisory council and applicable federal laws and rules and regulations. The State assisted area wide health planning councils shall advise the department of health, the State comprehensive health planning agency, the State advisory council for comprehensive health planning, and the review panel with respect to their respective area health needs as related to comprehensive health planning; implementation of Public Law 89-749 and Public Law 92-603, section 221, or Acts of Congress successor thereto or amendatory thereof or supplementary thereto; and the determinations on the issuance, approval, or denial of certificates of need under this part.

**Sec. 323-37 Powers and Duties of State Comprehensive Health Planning Agency; Information from Certain Regulated Health facilities, etc.** (a) The State comprehensive health planning agency, with the advice and approval of the State advisory council shall:

- (1) Develop a comprehensive State plan designed to meet the quantitative and qualitative health care needs of the people of the State. The State plan shall take into consideration geographic and socio-economic factors as they prevail in the several geographical areas of the State.
- (2) Review the State plan from time to time but not less frequently than annually, and make annual reports to the governor and make such reports and maintain such records as the secretary of health, education and welfare requires for the purposes of Public Law 89-749 and Public Law 92-603, section 221, or Acts of Congress successor thereto or amendatory thereof or supplementary thereto.
- (3) Establish criteria for determining the need for the construction, expansion, alteration, conversion, initiation, or modification of health care facilities and health care services throughout the State and in the several geographical areas of the State.
- (4) Promulgate rules and regulations, in conformity with chapter 91, to carry out the purposes of this part.

(b) Any facility or business subject to regulation under section 321-11(10) or 321-11(12) shall, at the request of the State comprehensive health planning agency following reasonable notice, supply such information to the State comprehensive health planning agency as is necessary to carry out the purposes of subsection (a).

**Sec. 323-38 Certificates of Need.** (a) No person, public or private, non-profit or for profit, shall:

- (1) Construct, expand, alter, convert, initiate, or modify a health care facility or health care service in the State which requires a total capital expenditure in excess of \$100,000; or
- (2) Substantially modify, decrease, or increase the scope or type of health service rendered; or
- (3) Increase, decrease, or change the class of usage of the bed complement of a health care facility unless a certificate of need therefor has first been issued by the State advisory council.

(b) No certificate of need shall be issued unless the State advisory council has first determined that there is a public need for the facility or the service. Each certificate of need issued shall be valid for a period of one year from date of issuance unless the period is extended for good cause by the State advisory council.

(c) The State advisory council shall, after consultation with the State comprehensive health planning agency and the review panel, establish criteria, which shall be reviewed from time to time in order to maintain compliance with applicable federal law and the purposes of this part, which shall be considered by the State advisory council in its determinations on certificates of need, including, but not limited to criteria related to:

- (1) Health care needs,
- (2) The comprehensive State plan prescribed in section 323-37(1) and other State plans,
- (3) Relationships among existing health care facilities and health care services,
- (4) Costs,
- (5) Quality of health care,
- (6) Accessibility of health care,
- (7) Feasibility with respect to financial and personnel resources, and
- (8) Availability of evaluation mechanisms, including mechanisms for supplying information to the comprehensive health planning agency as required in section 323-37(b).

**Sec. 323-39 Applications for Certificates of Need.** (a) An applicant for a certificate of need shall file an application with the State comprehensive health planning agency which shall provide technical assistance to the applicant and, after all necessary information has been supplied by the applicant in the required number of copies, transmit the application to the appropriate individuals and public agencies.

(b) The State advisory council shall either approve or deny an application within ninety days after filing unless, within sixty days after filing, the State advisory council notifies the applicant in writing that the period for considering the application has been extended. The State advisory council may extend the period within which a determination must be made on an application, if necessary for obtaining additional information about the application. If a certificate of need has not been issued or denied in writing within one hundred and fifty days after filing and completion of the application, the failure of the State advisory council to issue or deny the certificate of need is equivalent to approval of the application, and at the request of the applicant, the State advisory council shall issue the certificate of need.

(c) The State advisory council may provide by rules and regulations, promulgated in conformity with chapter 91, for the issuance of certificates of need upon the unanimous approval by the chairman of the State advisory council, the chairman of the review panel, the chairman of the applicable State assisted area wide health planning council, and the head of the hospital and medical facilities branch of the department of health, for those applications for which the procedures set forth in section 323-40 would be infeasible because of emergency or other unusual circumstances.

**Sec. 323-40 Review Panel Recommendations for Issuance or Denial of Certificates of Need.** Except as provided in section 323-39(c), the State advisory council shall refer every application for a certificate of need to the review panel. The review panel in studying each application shall consider all relevant data and information submitted by the State comprehensive health planning agency, the applicable State assisted area wide health planning council, and the head of the hospital and medical facilities branch of the department of health, and may request from them and from the applicant additional data and information. The review panel shall submit its recommendations with

findings to the State advisory council within such time as the State advisory council prescribes.

**Sec. 323-41 Denial of Applications; Judicial Review.** If an application for a certificate of need is denied, the State advisory council shall give notice to the applicant in writing stating the grounds for the denial. An applicant who considers himself aggrieved by the denial may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which he resides or in the circuit in which the health care facility or health care service is or was planned to be located.

**Sec. 323-42 Certificates of Need, Licenses and Permits.** No permits or license shall be issued by any county or state officer for the construction, expansion, alteration, conversion, initiation, or modification of a health care facility or health care service or for the operation of a new health care facility or health care service unless there is submitted in connection with the application for such permit or license a current certificate of need issued by the State advisory council or a statement issued by the State advisory council that said health care facility or health care service is not required to hold a certificate of need under this part.

**Sec. 323-43 Certificates of need, penalties.** Any person who violates any provision of this part, or rules and regulations thereunder, with respect to the requirement for certificates of need shall be guilty of a misdemeanor for each seven-day period or fraction thereof that the violation continues. Each subsequent seven-day period shall constitute a separate offense.

**Sec. 323-44 Exemptions from Certificate of need Requirements.** Nothing in this part or rules and regulations thereunder with respect to the requirement for certificates of need applies to:

- (1) Private offices or clinics of physicians, dentists, or other practitioners of the healing arts or laboratories, as defined for purposes of section 321-11(12), except in any case of purchase or acquisition of equipment attendant to the delivery of health care service and the instruction or supervision therefor for any such private office or clinic or laboratory involving a total expenditure in excess of \$100,000;
- (2) Dispensaries and first aid stations located within business or industrial establishments maintained solely for the use of employees; provided such facilities do not regularly provide inpatient or resident beds for patients or employees on a daily twenty-four hour basis;
- (3) Dwelling establishments, such as hotels, motels, and rooming or boarding houses that do not regularly provide health care facilities or health care services;
- (4) Any home or institution conducted only for those who, pursuant to the teachings, faith, or belief of any group, depend for healing upon prayer or other spiritual means.

**Sec. 323-45 Compensation.** All members of the State advisory council, State assisted area wide health planning councils, and review panel shall serve without pay, but shall be entitled to reimbursement for necessary expenses

while attending meetings and while in the discharge of duties and responsibilities.

**Sec. 323-46 Severability.** If any provision of this part, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable."

SECTION 2. Chapter 323, Hawaii Revised Statutes, is amended in the following respects:

1. Section 323-12 is amended to read as follows:

**"Sec. 323-12 Definitions.** As used in this part:

- (1) 'Department' means the department of health of the State.
- (2) 'The Federal Act' means title VI of the Public Health Service Act (42 U.S.C. section 291 et seq.) with respect to hospitals and medical facilities and other facilities related to each, and the Mental Retardation Facilities and Community Mental Health Centers, Construction Act of 1963 (PL 88-164) with respect to facilities for the mentally retarded and community mental health centers, both as now and hereafter amended, or any other Act of Congress existing or hereafter enacted which relates to the planning, survey, and construction of hospitals and medical facilities and other facilities related to each; except Public Law 89-749 and Public Law 92-603, section 221, and Acts of Congress successor thereto or amendatory thereof or supplementary thereto.
- (3) 'The surgeon general' means the surgeon general of the United States public health service.
- (4) 'Hospital' includes public health centers and general, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' homes, and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.
- (5) 'Public health center' means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.
- (6) 'Nonprofit hospital' and 'nonprofit medical facility' mean any hospital or medical facility owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.
- (7) 'Medical facilities' means diagnostic or diagnostic and treatment centers, rehabilitation facilities, and nursing homes as those terms are defined in the Federal Act, and such other medical facilities for which federal aid may be authorized under the Federal Act.

(8) 'Fund' means the hospital and medical facilities fund established by this part."

2. Section 323-13 is amended to read as follows:

**"Sec. 323-13 Administration.** The department of health shall constitute the sole agency of the State for the purpose of:

(1) Making an inventory of existing hospitals and medical facilities, surveying the need for construction of hospitals and medical facilities, and developing a program of construction as provided in this part; and

(2) Developing and administering a State plan for the construction of public and other nonprofit hospitals and medical facilities as provided in this part; except as provided in part III."

3. Section 323-14 is amended to read as follows:

**"Sec. 323-14 Agency to Implement Federal Act.** The State department of health shall be the sole agency for implementing the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88-164) or any other Act of Congress hereafter enacted, other than Public Law 89-749 and Public Law 92-603, section 221 which relates to the planning, survey, and construction of hospitals and medical facilities and other facilities related to each. The responsibilities and procedures for compliance with Public Law 89-749 and Public Law 92-603, section 221, and Acts of Congress successor thereto or amendatory thereof or supplementary thereto shall be as set forth in part III."

**SECTION 3.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$81,000, or so much thereof as may be necessary, to be expended by the State comprehensive health planning agency for the purposes of this Act.

**SECTION 4.** In section 2, 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 material, or underscoring.\*

**SECTION 5.** This Act shall take effect upon its approval; provided that applications for certificates of need, prescribed in section 323-38 under section 1 shall not be filed or acted upon until July 1, 1974 and thereafter.

(Approved June 12, 1974.)

A Bill for an Act Relating to the Hawaii Health Prepayment Act.

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

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

\*Edited accordingly.

**"CHAPTER  
PREPAID HEALTH CARE ACT  
PART I. SHORT TITLE; PURPOSE; DEFINITIONS**

**Sec. -1 Short title.** This chapter shall be known as the Hawaii Prepaid Health Care Act.

**Sec. -2 Findings and purpose.** The cost of medical care in case of sudden need may consume all or an excessive part of a person's resources. Prepaid health care plans offer a certain measure of protection against such emergencies. It is the purpose of this chapter in view of the spiraling cost of comprehensive medical care to provide this type of protection for the employees in this State. Although a large segment of the labor force in the State already enjoys coverage of this type either by virtue of collective bargaining agreements, employer-sponsored plans, or individual initiative, there is a need to extend that protection to workers who at present do not possess any or possess only inadequate prepayment coverage.

This chapter shall not be construed to interfere with or diminish any protection already provided pursuant to collective bargaining agreements or employer-sponsored plans that is more favorable to the employees benefited thereby than the protection provided by this chapter or at least equivalent thereto.

**Sec. -3 Definitions generally.** As used in this chapter, unless the context clearly requires otherwise:

- (1) "Department" means the department of labor and industrial relations.
- (2) "Director" means the director of labor and industrial relations.
- (3) "Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, a debtor in possession or receiver or trustee in bankruptcy, or the legal representative of a deceased person, who has one or more regular employees in his employment. "Employer" does not include:
  - (A) The State, any of its political subdivisions, or any instrumentality of the State or its political subdivisions;
  - (B) The United States government or any instrumentality of the United States;
  - (C) Any other state or political subdivision thereof or instrumentality of such state or political subdivision;
  - (D) Any foreign government or instrumentality wholly owned by a foreign government, if (i) the service performed in its employ is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof, and (ii) the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemp-

- tion with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof.
- (4) "Employment" means service, including service in interstate commerce, performed for wages under any contract of hire, written or oral, expressed or implied, with an employer, except as otherwise provided in sections -4 and -5.
- (5) "Premium" means the amount payable to a prepaid health care plan contractor as consideration for his obligations under a prepaid health care plan.
- (6) "Prepaid health care plan" means any agreement by which any prepaid health care plan contractor undertakes in consideration of a stipulated premium:
- (A) Either to furnish health care, including hospitalization, surgery, medical or nursing care, drugs or other restorative appliances, subject to, if at all, only a nominal per service charge; or
  - (B) To defray or reimburse, in whole or in part, the expenses of health care.
- (7) "Prepaid health care plan contractor" means:
- (A) Any medical group or organization which undertakes under a prepaid health care plan to provide health care; or
  - (B) Any nonprofit organization which undertakes under a prepaid health care plan to defray or reimburse in whole or in part the expenses of health care; or
  - (C) Any insurer who undertakes under a prepaid health care plan to defray or reimburse in whole or in part the expenses of health care.
- (8) "Regular employee" means a person employed in the employment of any one employer for at least twenty hours per week but does not include a person employed in seasonal employment. "Seasonal employment" for the purposes of this paragraph means employment in a seasonal pursuit as defined in section 387-1 by a seasonal employer during a seasonal period or seasonal periods for the employer in the seasonal pursuit or employment by an employer engaged in the cultivating, harvesting, processing, canning, and warehousing of pineapple during its seasonal periods. The director by rule and regulation may determine the kind of employment that constitutes seasonal employment.
- (9) "Wages" means all cash remuneration for services from whatever source, including commissions, bonuses, and tips and gratuities paid directly to any individual by a customer of his employer.

If the employee does not account to his employer for the tips and gratuities received and is engaged in an occupation in which he customarily and regularly receives more than \$20 a month in tips, the combined amount received by him from his employer and from tips shall be deemed to be at least equal to the wage required by chapter 387 or a greater sum as determined by regulation of the director.

"Wages" does not include the amount of any payment specified in section 383-11 or 392-22 or chapter 386.

**Sec. -4 Place of performance.** "Employment" includes an individual's entire service, performed within or both within and without this State if:

- (1) The service is localized in this State; or
- (2) The service is not localized in any state but some of the service is performed in this State and
  - (A) the individual's base of operation, or, if there is no base of operation, the place from which such service is directed or controlled, is in the State; or
  - (B) the individual's base of operation or place from which the service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this State.

**Sec. -5 Excluded services.** "Employment" as defined in section -3 does not include the following services:

- (1) Service performed by an individual in the employ of an employer who, by the laws of the United States, is responsible for care and cost in connection with such service.
- (2) Service performed by an individual in the employ of his spouse, son, or daughter, and service performed by an individual under the age of twenty-one in the employ of his father or mother.
- (3) Service performed in the employ of a voluntary employee's beneficiary association providing for the payment of life, sick, accident, or other benefits to the members of the association or their dependents or their designated beneficiaries, if
  - (A) admission to membership in the association is limited to individuals who are officers or employees of the United States government, and
  - (B) no part of the net earnings of the association inures (other than through such payments) to the benefits of any private shareholder or individual.
- (4) Service performed by an individual for an employer as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission.
- (5) Service performed by an individual for an employer as a real estate salesman or as a real estate broker, if all such service performed by the individual for the employer is performed for remuneration solely by way of commission.
- (6) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the provisions of law relating to federal employment, including unemployment compensation.

**Sec. -6 Principal and secondary employer defined; coercion, interference, etc. prohibited.** If an individual is concurrently a regular employee of two or more employers as defined in this chapter, the employee shall deter-

mine which of the employers shall be his principal employer. His other employers are secondary employers. The determination by the employee of his principal employer is binding for one year or until change of employment, whichever is earlier.

If an individual is concurrently a regular employee of a public entity which is not an employer as defined in section -3 and of an employer as defined in section -3 the latter shall be deemed to be a secondary employer.

An employer who, directly or indirectly, interferes with or coerces or attempts to coerce an employee in making a determination under this section shall be subject to the penalty provided under subsection -33(b).

**Sec. -7 Required health care benefits.** (a) A prepaid health care plan shall qualify as a plan providing the mandatory health care benefits required under this chapter if it provides for health care benefits equal to, or medically reasonably substitutable for, the benefits provided by prepaid health plans of the same type, as specified in section -12(a) (1) or (2), which have the largest numbers of subscribers in the State. This applies to the types and quantity of benefits as well as to limitations on reimbursability, including deductibles, and to required amounts of co-insurance.

The director, after advice by the prepaid health care advisory council, shall determine whether benefits provided in a plan, other than the plan of the respective type having the largest numbers of subscribers in the State, comply with the standards specified in this subsection.

(b) A prepaid group health care plan shall also qualify for the mandatory health care benefits required under this chapter if it is demonstrated by the health care plan contractor offering such coverage to the satisfaction of the director after advice by the prepaid health care advisory council that the plan provides for sound basic hospital, surgical, medical, and other health care benefits at a premium commensurate with the benefits included taking proper account of the limitations, co-insurance features, and deductibles specified in such plan. Coverage under a plan which provides aggregate benefits that are more limited than those provided by plans qualifying under subsection (a) shall be in compliance with section -11 only if the employer contributes at least half of the cost of the coverage of dependents under such plan.

(c) Subject to the provisions of subsections (a) and (b) without limiting the development of medically more desirable combinations and the inclusion of new types of benefits, a prepaid health care plan qualifying under this chapter shall include at least the following benefit types:

(1) Hospital benefits:

- (A) In-patient care for a period of at least one hundred twenty days of confinement in each calendar year covering:
- (i) Room accommodations;
  - (ii) Regular and special diets;
  - (iii) General nursing services;
  - (iv) Use of operating room, surgical supplies, anesthesia services, and supplies;
  - (v) Drugs, dressings, oxygen, antibiotics, and blood transfusion services.

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- (B) Out-patient care:
  - (i) Covering use of out-patient hospital;
  - (ii) Facilities for surgical procedures or medical care of an emergency and urgent nature.
- (2) Surgical benefits:
  - (A) Surgical services performed by a licensed physician, as determined by plans meeting the standards of subsections (a) and (b);
  - (B) After-care visits for a reasonable period;
  - (C) Anesthesiologist services.
- (3) Medical benefits:
  - (A) Necessary home, office, and hospital visits by a licensed physician;
  - (B) Intensive medical care while hospitalized;
  - (C) Medical or surgical consultations while confined.
- (4) Diagnostic laboratory services, x-ray films, and radio-therapeutic services, necessary for diagnosis or treatment of injuries or diseases.
- (5) Maternity benefits, at least if the employee has been covered by the prepaid health care plan for nine consecutive months prior to the delivery.
- (d) The prepaid health care advisory council shall be appointed by the director and shall include representatives of the medical and public health professions, representatives of consumer interests, and persons experienced in prepaid health care protection. The membership of the council shall not exceed seven individuals.

## **PART II. MANDATORY COVERAGE**

**Sec. -11 Coverage of regular employees by group prepaid health care plan.** Every employer who pays to a regular employee monthly wages in an amount of at least 86.67 times the minimum hourly wage, specified in chapter 387, as rounded off by regulation of the director, shall provide coverage of such employee by a prepaid group health care plan qualifying under section

-7 with a prepaid health care plan contractor in accordance with the provisions of this chapter.

**Sec. -12 Choice of plan type and of contractor.** (a) Every employer required to provide coverage for his employees by a prepaid group health care plan under this chapter shall elect whether coverage shall be provided by:

- (1) A plan which obligates the prepaid health care plan contractor to furnish the required health care benefits; or
- (2) A plan which obligates the prepaid health care plan contractor to defray or reimburse the expenses of health care.

His election is binding for one year.

(b) Whether the employer elects a plan type described in subsection (a) (1) or in subsection (a) (2), the employer may elect the particular contractor but the employee shall not be obligated to contribute a greater amount to the premium than he would have to contribute had the employer elected coverage with the contractor providing the prevailing coverage of the respective type in the State.

Subject to the provision of section -20, the employer shall provide coverage with the prepaid health care plan contractor selected pursuant to this subsection for all his employees in the State electing this type of coverage who are covered by the provisions of this chapter, except for employees covered by the health care provisions of an applicable collective bargaining agreement as provided in section -19(b) first sentence.

**Sec. -13 Liability for payment of premium; withholding.** Unless an applicable collective bargaining agreement specifies differently every employer shall contribute at least one-half of the premium for the coverage required by this chapter and the employee shall contribute the balance; provided that in no case shall the employee contribute more than 1.5 per cent of his wages; and provided that if the amount of the employee's contribution is less than one-half of the premium, the employer shall be liable for the whole remaining portion of the premium.

The employer shall withhold the employee's share from his wages with respect to pay periods as specified by the director.

**Sec. -14 Commencement of coverage.** The employer shall provide the coverage required by this chapter for any regular employee, who has been in his employ for four consecutive weeks, at the earliest time thereafter at which coverage may be provided with the prepaid health care plan contractor selected pursuant to this chapter.

**Sec. -15 Continuation of coverage in case of inability to earn wages.** If an employee is hospitalized or otherwise prevented by sickness from working, the employer shall enable the employee to continue his coverage by contributing to the premium the amounts paid by the employer toward such premium prior to the employee's sickness for the period that such employee is hospitalized or prevented by sickness from working. This obligation shall not exceed a period of three months following the month during which the employee became hospitalized or disabled from working, or the period for which the employer has undertaken the payment of his regular wages in such case, whichever is longer.

**Sec. -16 Liability of secondary employer.** An employer who has been notified by an employee, in the form prescribed by the director, that he is not the principal employer as defined in section -6 shall be relieved of the duty of providing the coverage required by this chapter until he is notified by the employee pursuant to section -18 that he has become the principal employer. He shall notify the director, in the form prescribed by the director, that he is relieved from the duty of providing coverage or of any change in that status.

**Sec. -17 Exemption of certain employees.** (a) In addition to the exemption specified in section -16, an employer shall be relieved of his duty under section -11 with respect to any employee who has notified him, in the form specified by the director, that the employee is:

- (1) Protected by health insurance or any prepaid health care plan established under any law of the United States;

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- (2) Covered as a dependent under a prepaid health care plan, entitling him to the health benefits required by this chapter;
  - (3) A recipient of public assistance or covered by a prepaid health care plan established under the laws of the State governing medical assistance.
- (b) Employers receiving notice of a claim of exemption under this section shall notify the director of such claim in the form prescribed by the director.

**Sec. -18 Termination of exemption.** (a) If an exemption which has been claimed by an employee pursuant to section -17 terminates because of any change in the circumstances entitling the employee to claim such exemption, the employee shall promptly notify the principal employer of the termination of the exemption and the employer thereupon shall provide coverage as required by this chapter.

(b) If because of a change in the employment situation of an employee or a redetermination by an employee as provided in section -6, a principal employer becomes a secondary employer or a secondary employer becomes the principal employer, the employee shall promptly notify the employers affected of such change and the new principal employer shall provide coverage as required by this chapter.

**Sec. -19 Freedom of collective bargaining.** (a) In addition to the policy stated in section -2, nothing in this chapter shall be construed to limit the freedom of employees to bargain collectively for different prepaid health care plan coverage or for a different allocation of the costs thereof. A collective bargaining agreement may provide that the employer himself undertakes to provide the health care specified in the agreement.

(b) If the employees rendering particular types of services are not covered by the health care provisions of the applicable collective bargaining agreements to which their employer is a party, the provisions of this chapter shall be applicable with respect to them. An employer or group of employers shall be deemed to have complied with the provisions of this chapter if they undertake to provide health care services pursuant to a collective bargaining agreement and the services are available to all other employees not covered by such agreement.

**Sec. -20 Adjustment of employer-sponsored plans.** Where employees subject to the coverage of this chapter are included in the coverage provisions of an employer-sponsored prepaid health care plan covering similar employees employed outside the State and the majority of such employees are not subject to this chapter, the benefits applicable to the employees covered by this chapter shall be adjusted within one year after the effective date of this chapter so as to meet the requirements of this chapter.

**Sec. -21 Individual waivers prohibited; additional withholding for dependents.** An employee may not waive individually all or part of the required health care benefits or agree to pay a greater share of the premium for such benefits than is required by this chapter.

Subject to section -7(b), an employee may consent to pay a greater

share of his wages and to a withholding of such share by the employer for the purpose of providing prepaid health care benefits of his dependents under the plan providing such benefits for himself.

**Sec. -22 Exemption of followers of certain teachings or beliefs.** This chapter shall not apply to any individual who pursuant to the teachings, faith, or belief of any group, depends for healing upon prayer or other spiritual means.

**Sec. -23 Joint provision of coverage.** Employers may form associations for the purpose of jointly providing prepaid health care protection under this chapter for their employees with the contractors authorized to provide such coverage in the State.

### PART III. ADMINISTRATION AND ENFORCEMENT

**Sec. -31 Enforcement by the director.** Except as otherwise provided in section -7 the director shall administer and enforce this chapter. The director may appoint such assistants and such clerical, stenographic, and other help as may be necessary for the proper administration and enforcement of this chapter subject to any civil service act relating to state employees.

**Sec. -32 Rule making and other powers of the director.** The director may adopt, amend, or repeal, pursuant to chapter 91, such rules and regulations as he deems necessary or suitable for the proper administration and enforcement of this chapter.

The director may round off the amounts specified in this chapter for the purpose of eliminating payments from the premium supplementation fund in other than even dollar amounts or other purposes.

The director may prescribe the filing of reports by prepaid health care plan contractors and prescribe the form and content of requests by employers for premium supplementation and the period for the payment thereof.

**Sec. -33 Penalties.** (a) If an employer fails to comply with sections -11, -12, -13, or -15 he shall pay a penalty of not less than \$25 or of \$1 for each employee for every day during which such failure continues, whichever sum is greater. The penalty shall be assessed under rules and regulations promulgated pursuant to chapter 91 and shall be collected by the director and paid into the special fund for premium supplementation established by section -41. The director may, for good cause shown, remit all or any part of the penalty.

(b) Any employer, employee, or prepaid health care plan contractor who wilfully fails to comply with any other provision of this chapter or any rule or regulation thereunder may be fined not more than \$200 for each such violation.

### PART IV. PREMIUM SUPPLEMENTATION

**Sec. -41 Establishment of special premium supplementation fund.** There is established in the treasury of the State, separate and apart from all public moneys or funds of the State, a special fund for premium supplementation which shall be administered exclusively for the purposes of this chapter. All premium supplementations payable under this part shall be paid from the

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fund. The fund shall consist of (1) all money appropriated by the State for the purposes of premium supplementation under this part and (2) all fines and penalties collected pursuant to this chapter.

**Sec. -42 Management of the fund.** The director of finance shall be the treasurer and custodian of the premium supplementation fund and shall administer the fund in accordance with the directions of the director of labor and industrial relations. All moneys in the fund shall be held in trust for the purposes of this part only and shall not be expended, released, or appropriated or otherwise disposed of for any other purpose. Moneys in the fund may be deposited in any depositary bank in which general funds of the State may be deposited but such moneys shall not be commingled with other state funds and shall be maintained in separate accounts on the books of the depositary bank. Such moneys shall be secured by the depositary bank to the same extent and in the same manner as required by the general depositary law of the State; and collateral pledged for this purpose shall be kept separate and distinct from any other collateral pledged to secure other funds of the State. The director of finance shall be liable for the performance of his duties under this section as provided in chapter 37.

**Sec. -43 Disbursements from the fund.** Expenditures of moneys in the premium supplementation fund shall not be subject to any provisions of law requiring specific appropriations or other formal release by the state officers of money in their custody. All payments from the fund shall be made upon warrants drawn upon the director of finance by the comptroller of the State supported by vouchers approved by the director.

**Sec. -44 Investment of moneys.** With the approval of the department the director of finance may, from time to time, invest such moneys in the premium supplementation fund as are in excess of the amount deemed necessary for the payment of benefits for a reasonable future period. Such moneys may be invested in bonds of any political or municipal corporation or subdivision of the State, or any of the outstanding bonds of the State, or invested in bonds or interest-bearing notes or obligations of the State (including state director of finance's warrant notes issued pursuant to chapter 40), or of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds. The investments shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The director of finance shall dispose of securities or other properties belonging to the fund only under the direction of the director of labor and industrial relations.

**Sec. -45 Entitlement to premium supplementation.** (a) An employer who employs less than eight employees entitled to coverage under this chapter and who provides coverage to such employees pursuant to section -7(a) shall be entitled to premium supplementation from the fund if the employer's share of the cost of providing such coverage as determined by sections -13 and -15 exceeds 1.5 per cent of the total wages payable to such employees and if the amount of such excess is greater than five per cent of the employer's

income before taxes directly attributable to the business in which such employees are employed.

(b) The amount of the supplementation shall be that part of the employer's share of the premium cost which exceeds the limits specified in subsection (a).

- **Sec. -46 Income directly attributable to the business.** (a) "Income directly attributable to the business" means gross profits from the business minus deductions for:

- (1) Compensation of officers;
- (2) Salaries and wages, except wages paid by an individual proprietor to himself;
- (3) Repairs;
- (4) Taxes on business and business property;
- (5) Business advertising;
- (6) Amounts contributed to employee benefit plans;
- (7) Interest on business indebtedness;
- (8) Rent on business property; and
- (9) Other expenses necessary for the current conduct of business.

(b) Deductions shall not include:

- (1) Bad debts;
- (2) Contributions or gifts, other than those listed under subsection (a) (6);
- (3) Amortization and depreciation; or
- (4) Losses by fire, storm, casualty, or theft.

(c) The director may promulgate rules and regulations necessary to define income directly attributable to business for the purpose of section -45.

**Sec. -47 Claim of premium supplementation.** An employer entitled to premium supplementation shall file a claim therefor in the manner provided by regulation of the director. The employer shall have the burden of proof of establishing his entitlement."

SECTION 2. This Act shall take effect upon its approval, except that the coverage by group prepaid health care plans required by this Act and the payment of premiums for such coverage shall commence January 1, 1975; provided that this Act shall terminate upon the effective date of federal legislation that provides for voluntary prepaid health care for the people of Hawaii in a manner at least as favorable as the health care provided by this Act, or upon the effective date of federal legislation that provides for mandatory prepaid health care for the people of Hawaii.

(Approved June 12, 1974.)

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

**"PART XV. MENTAL HEALTH SERVICES  
FOR CHILDREN AND YOUTH**

**Sec. 321- Children's mental health services; department responsibility.** It shall be the responsibility of the department of health to:

- (1) Provide preventative health services for children and youth;
- (2) Provide diagnostic and treatment services for emotionally disturbed children and youth; and
- (3) Provide treatment and rehabilitative services for mentally ill children and youth.

Such services shall be delivered at the earliest possible moment after the need for such services is established. All eligible children and youth between the ages of birth and seventeen shall receive the necessary mental health services to insure their proper and full development.

**Sec. 321- Children's mental health services branch.** There is established within the department of health, mental health division, a children's mental health services branch which shall be responsible for the implementation of centralized and highly specialized programs for children and youth.

The children's mental health services branch shall include the following sections:

- (1) Preschool section. The preschool section shall provide services for early identification, prevention, and highly specialized treatment for children between the ages of birth and four years to community mental health centers, headstart and day care programs, and any other agency or organization, public or private, dealing with children between the ages of birth and four years. In addition, the preschool section shall provide appropriate training and consultation to community mental health center staffs relating to the treatment of children between the ages of birth and four years.
- (2) Elementary section. The elementary section shall provide highly specialized and centralized back-up clinical programs for children between the ages of five and eleven to community mental health centers, the department of education, and any other agency or organization, public or private, dealing with children between the ages of five and eleven. Programs shall focus on secondary prevention and all levels of highly specialized direct treatment. In addition, the elementary section shall provide training and consultation to community mental health center staffs relating to treatment of children between the ages of five and eleven.
- (3) Intermediate section. The intermediate section shall provide specialized and centralized back-up clinical programs for children between the ages of twelve and thirteen to community mental health centers, the department of education, and any other agency or organization, public or private, requesting such services. Programs shall focus on secondary prevention and all levels of highly specialized direct treat-

ment for children between the ages of twelve and thirteen years. In addition, the intermediate section shall provide training and consultation to community mental health center staffs relating to the treatment of children ages twelve and thirteen.

- (4) Adolescent section. The adolescent section shall provide closed, semi-closed, and open residential clinical treatment capabilities for highly disturbed adolescents between the ages of twelve and seventeen. In addition, the adolescent section shall provide training and consultation to community mental health center staffs relating to the treatment of adolescents between the ages of twelve and seventeen.

**Sec. 321- Community mental health services for children and youth.**

There is established within each community mental health center a children's mental health services team which, in conjunction with other public and private agencies, shall develop and provide a network of general, preventative, treatment, and rehabilitative services for children and youth based on the needs of each geographic region in which the community mental health center is located. The children's mental health services teams shall cooperate with and coordinate the activities of local public and private agencies servicing children and youth in their particular geographic area. In addition, where treatment of the child or youth requires more specialized and intensive services, and such services are not available within the geographic region of the community mental health center, the children's mental health services team shall refer the child or youth to the children's mental health services branch.

**Sec. 321- Coordination of services with department of education.** The children's mental health services team shall cooperate with the schools located in their particular geographic region in identifying and referring for treatment such children or youths in need of mental health services. In addition, the children's mental health services team shall:

- (1) Accept referrals from the school counselors and diagnostic teams for evaluation and direct treatment of children and youth suffering from mental and emotional disorders which interfere with their learning ability; and
- (2) Provide consultation to enable teachers and other school personnel to aid in the identification and screening of children in need of professional mental health services. The children's mental health services team of the community mental health centers may refer such consultation and training matters to the children's mental health services branch.

**Sec. 321- Statewide children's mental health services plan.** (a) On or before September 1, 1974, the children's mental health services branch shall develop and present to the governor and the legislature, as well as release for public inspection and comment, a statewide children's mental health services plan which shall include:

- (1) A census of the children and youth in the State who are in need of community mental health services showing the total number of such children and youth and their geographic distribution;

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- (2) An inventory of the personnel and facilities available to provide mental health services to children and youth;
  - (3) Identification of the criteria for determining how emotionally disturbed or mentally ill children and youth are to be treated;
  - (4) Standards for the treatment to be received by emotionally disturbed or mentally ill children and youth;
  - (5) A program for the recruitment, preparation, and inservice training of personnel in community mental health services to children and youth, and to allied fields, including participation, as appropriate, by institutions of higher learning, state and local agencies, and any other public and private agencies having relevant expertise;
  - (6) Provision for early identification, diagnosis, screening, and treatment of children and youth in need of mental health services;
  - (7) A full description of the state plan for providing its appropriate portion of mental health services to all children and youth in this State in each of the above mentioned areas; and
  - (8) Any additional matters which may be necessary or appropriate, including recommendations for amendment of laws, changes in administrative practices and patterns of organization, and changes in levels and patterns of financial support relating to children's mental health services.
- (b) Prior to the submission of the statewide children's mental health services plan under subsection (a) to the governor and the legislature, the department of health shall hold hearings on the plan in accordance with chapter 91. There shall be at least one hearing in each county; provided the city and county of Honolulu shall have three hearings in strategic geographic locations to provide the widest exposure of the plan to the population.
- (c) Any amendments to the statewide children's mental health services plan shall be in accordance with chapter 91.

**Sec. 321- Annual review.** Before January 1 of each year, the department of health shall submit to the legislature and the governor:

- (1) A detailed account of the progress made toward fulfilling the statewide children's mental health services plan developed under section 321-
- (2) A revised census of the children and youth in the State who are in need of mental health services showing the total number of such children and their geographic distribution and the total number of such children and youth who are receiving mental health services by geographic distribution.
- (3) Any other additional matters which are necessary or appropriate, including recommendations for any amendment to any law, any changes in the administrative practices and patterns of organization, and any changes in the levels and patterns of financial support."

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

(Approved June 12, 1974.)

A Bill for an Act Relating to Health Insurance for Newborn Children.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be numbered as section 431-454 and to read as follows:

**"Sec. 431-454 Newborn children coverage.** (a) All individual and group health insurance policies providing coverage on an expense incurred basis which provide coverage for a family member of the insured shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured from the moment of birth; provided that the coverage for newly born children shall be limited to the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for a child, the policy may require that notification of birth of a newly born child and payment of the required premium must be furnished to the insurer within thirty-one days after the date of birth in order to have the coverage continue beyond such thirty-one day period. The requirements of this section shall apply to all policies delivered or issued for delivery in this State more than one hundred twenty days after the effective date of this section.

(b) No provision in subsection (a) shall be construed to provide or include coverages for routine well-baby services."

SECTION 2. Chapter 433, Hawaii Revised Statutes, is amended by adding a new section to be numbered as section 433-23 and to read as follows:

**"Sec. 433-23 Newborn children coverage.** (a) All individual and group hospital and medical service corporation contracts which provide coverage for a family member of the subscriber shall, as to such family members' coverage, also provide that the benefits applicable for children shall be payable or provided with respect to a newly born child of the subscriber from the moment of birth; provided that the coverage for newly born children shall be limited to the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific subscription fee or premium is required to provide coverage for the child, the contract may require that notification of birth of a newly born child and payment of the required fee or premium must be furnished to the service corporation within thirty-one days after the date of birth in order to have coverage continue beyond such thirty-one day period. The requirements of this section shall apply to all subscriber contracts delivered or issued for delivery in this State more than one hundred twenty days after the effective date of this section.

(b) No provision in subsection (a) shall be construed to provide or include coverage for routine well-baby services."

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

(Approved June 12, 1974.)

A Bill for an Act Relating to the Hospital Administrators of County General Hospitals.

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

SECTION 1. Section 27-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 27-22 County hospital managing committees.** There shall be for each county general hospital a management advisory committee to consist of seven members to be appointed as hereinafter provided.

- (1) Powers and duties of management advisory committee: The committee shall be responsible to and under the director of health for advising and assisting in the carrying out of all policies of the department of health. The committee shall select its own chairman and vice chairman and may adopt such rules and regulations as it may consider necessary for the conduct of its business. The appointment of the hospital administrator shall be made pursuant to chapters 76 and 77, on or after the effective date of this Act. Hospital administrators appointed prior to the effective date of this Act shall receive permanent civil service status as provided in chapters 76 and 77 without the necessity of examination and shall be accorded all rights, benefits, and privileges attributable thereto. Such rights and privileges shall include seniority, prior service credit, vacation and sick leave credits, and other benefits and privileges accorded a hospital administrator with civil service status. Such hospital administrators shall not suffer a reduction in their pay rate.
- (2) Appointment and tenure: The members of the management advisory committee shall be appointed by the governor. The members shall serve for a term of four years; provided, that upon the initial appointment of the members, one shall be appointed for a term of one year, two for a term of two years, two for a term of three years and two for a term of four years.

Each committee shall sit in an advisory capacity to the director of health on matters concerning the planning, construction, improvement, maintenance, and operation of public hospitals and other public health and medical facilities within their respective jurisdictions; but nothing herein shall be construed as precluding or preventing the committees from coordinating their efforts and activities with the hospital administrators within their counties.

The members of the committees shall serve without compensation, but shall be reimbursed for travelling expenses incurred in the performance of their duties. The department of health shall provide for the necessary expenses of the committees; provided that no expenses may be incurred without prior authorization by the director of health."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 12, 1974.)

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H.B. NO.2843-74

A Bill for an Act Relating to Certain Occupations Licensed by the Department of Health.

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

SECTION 1. Section 321-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 321-13 Regulation of certain other occupations.** (a) The department of health with the approval of the governor, may prescribe such rules or regulations as it deems necessary for the public health or safety respecting:

- (1) The occupations or practices of midwives, laboratory directors, laboratory technicians, physical therapists, tattoo artists, sanitarians, and itinerant vendors of medicines or drugs or devices;
- (2) The health, education, training, experience, habits, qualifications or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) The health, habits, character, practices, standards or conduct of persons holding such certificates or permits; or
- (4) The grounds or causes for revoking or suspending such certificates or permits.

Such rules or regulations shall have the force and effect of law.

(b) It shall be unlawful for any person to engage in or to attempt to engage in or to follow any of the occupations or practices referred to in this section, unless he first obtains and holds a valid unrevoked certificate of registration or permit under such rules or regulations as the department shall prescribe.

(c) The department may revoke or suspend any certificate of registration or permit issued under this section or issued prior to April 23, 1941, upon proof to its satisfaction of a violation of any rule or regulation of the department on the part of any person holding a certificate or permit; provided, that no such certificate or permit shall be revoked or suspended except upon due notice to the person holding the same and he shall be given an opportunity to be heard and present evidence in his own defense."

SECTION 2. Section 321-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 321-14 License to practice certain occupations.** It shall be unlawful for any person to practice any of the following listed occupations without a

\*Edited accordingly.

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license so to do; any person wishing to obtain a license to engage in any of the listed occupations shall make application to the department of health, in accordance with such rules or regulations as shall be prescribed by the department under section 321-13, and any such application shall be accompanied by an examination fee for such license in accordance with the following schedule:

(1) Physical therapist .....	\$10
(2) Midwife .....	10
(3) Tattoo artist.....	50
(4) Laboratory director .....	25
(5) Laboratory technician .....	10
(6) Sanitarian.....	10
(7) Itinerant vendor of medicines or drugs or devices .....	25

Where examination materials are purchased from a professional organization or examination service, the department may charge the applicant for the cost of such materials, such charges to be over and above the fees listed above."

SECTION 3. Section 321-15, Hawaii Revised Statutes, is amended to read:

**"Sec. 321-15 Annual registration; fees, failure to register.** Every person holding a license to practice any occupation, listed in section 321-14 shall register with the department of health, in accordance with the rules and regulations of the department, on or before January 31 of each year and shall pay a reregistration fee as provided for in the following schedule:

(1) Physical therapist .....	\$2
(2) Midwife .....	2
(3) Tattoo artist.....	5
(4) Laboratory director .....	5
(5) Laboratory technician .....	2
(6) Sanitarian.....	2
(7) Itinerant vendor of medicines or drugs or devices .....	5

The failure, neglect, or refusal of any person holding such license to reregister or to pay the reregistration fee, after thirty days of delinquency, shall constitute a forfeiture of his license; provided that the license shall be restored upon written application therefor together with a payment of all delinquent fees and a sum equal to the fee for the original license. If the delinquency continues over a period of more than one year, the person shall submit to and successfully pass an examination to be conducted by the department before the license is restored."

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 material, or the underscoring.\*

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

(Approved June 12, 1974.)

\*Edited accordingly.

ACT 215

S.B. NO. 1747-74

A Bill for an Act Relating to Examination for Cancer.

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

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

**"Sec. 321-** . Every hospital licensed by the State shall offer a uterine cytologic examination for cancer to every female in-patient 20 years of age or over unless considered contraindicated by the attending physician or unless it has been performed within the previous year. Every woman for whom the test is applicable will have the right to refuse such test on the counsel of the attending physician or on her own judgment. The hospital will in all cases maintain records to show either the results of the test or that the test was not applicable or that it was refused."

SECTION 2. This Act shall take effect upon approval.

(Approved June 12, 1974.)

ACT 216

H.B. NO. 2062-74

A Bill for an Act Relating to Poison Prevention.

*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  
HAWAII POISON PREVENTION PACKAGING ACT**

**Sec. -1 Short title.** This chapter shall be cited as the "Hawaii Poison Prevention Packaging Act."

**Sec. -2 Purpose.** The dangers arising from accidental ingestion of substances produced or distributed for sale for consumption, use, or storage by individuals in or about the household, particularly by young children necessitates legislation designed to help reduce injuries to, and illnesses of young children ingesting such substances. It is the purpose of this chapter to require household substances which are accessible to young children and which may cause injury or illness to be contained in special packaging that is designed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of such substances within a reasonable time, but not difficult for normal adults to use properly.

**Sec. -3 Definitions.** For the purposes of this chapter:

- (1) "Director" means the director of health.
- (2) "Household substance" means any substance which is customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household and which is:
  - (A) A hazardous substance as defined by this section;

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- (B) A pesticide as defined by this section;
  - (C) A food, drug, or cosmetic as those terms are defined by section 328-1; or
  - (D) A substance intended for use as fuel when stored in a portable container and used in the heating, cooking, or refrigeration system of a house.
- (3) "Hazardous substance" means:
- (A) Any substance or mixture of substances which (i) is toxic, (ii) is corrosive, (iii) is an irritant, (iv) is a strong sensitizer, (v) is flammable or combustible, or (vi) 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.
  - (B) Any substances which the director by rule finds pursuant to section -4(1), meet the requirements of subparagraph (A) of this paragraph.
  - (C) Any radioactive substances, if, with respect to such substances as used in a particular class of article or as packaged, the director determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this chapter in order to protect the public health.
  - (D) The term "hazardous substance" shall not apply to pesticides subject to the Federal Insecticide, Fungicide, and Rodenticide Act, nor to foods, drugs, and cosmetics subject to the Federal Food, Drug, and Cosmetic Act, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a house, but such term shall apply to any article which is not itself an economic poison within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act but which is a hazardous substance within the meaning of subparagraph (A) of this paragraph by reason of bearing or containing such a pesticide.
  - (E) The term "hazardous substance" shall not include any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.
- (4) "Pesticide" means:
- (A) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the board of agriculture or the administrator of the environmental protection agency shall declare to be a pest, and
  - (B) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

- (5) "Package" means the immediate container or wrapping in which any household substance is contained for consumption, use, or storage by individuals in or about the household, and, for purposes of section -5(a) (2), also means any outer container or wrapping used in the retail display of any such substance to consumers. The term does not include:
- (A) Any shipping container or wrapping used solely for the transportation of any household substance in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof, or
  - (B) Any shipping container or outer wrapping used by retailers to ship or deliver any household substance to consumers unless it is the only such container or wrapping.
- (6) "Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.
- (7) "Labeling" means all labels and other written, printed, or graphic matter (A) upon any household substance or its package, or (B) accompanying such substance.
- (8) "Federal Act" means the Poison Prevention Packaging Act of 1970 (Public Law 91-601).

**Sec. -4 Rules; implementation.** The director shall carry out and effectuate the purpose of this chapter by rules adopted under chapter 91 including but not limited to the following:

- (1) The director may establish in accordance with this chapter, by rule, standards for the special packaging of any household substance if he finds that:
  - (A) The degree or nature of the hazard to children in the availability of such substances, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance; and
  - (B) The special packaging to be required by such standard is technically feasible, practicable, and appropriate for such substance.
- (2) In establishing a standard under this section, the director shall consider:
  - (A) The reasonableness of such standard;
  - (B) Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances;
  - (C) The manufacturing practices of industries affected by this chapter; and
  - (D) The nature and use of the household substance.

- (3) In carrying out this chapter, the director shall publish his findings, his reasons therefor, and citation of the sections of statutes which authorize his action.
- (4) Nothing in this chapter shall authorize the director to prescribe specific packaging designs, product content, package quantity, or, with the exception of authority granted in section -5(a) (2), labeling. In the case of a household substance for which special packaging is required pursuant to a rule under this section, the director may in such rule prohibit the packaging of such substance in packages which he determines are unnecessarily attractive to children.
- (5) Compliance with federal regulations prescribing standards issued pursuant to the Federal Act shall be deemed in compliance with this chapter.

**Sec. -5 Conventional packages, marketing, labeling statements.** (a)

For the purposes of making any household substance which is subject to a standard established under section -4 readily available to elderly or handicapped persons unable to use such substance when packaged in compliance with such standard, the manufacturer or packer, as the case may be, may package any household substance, subject to such a standard, in packaging of a single size which does not comply with such standard if:

- (1) The manufacturer or packer also supplies such substance in packages which comply with such standard; and
  - (2) The packages of such substance which do not meet such standard bear conspicuous labeling stating: "This package for households without young children"; except that the director may by rule prescribe a substitute statement to the same effect for packaging too small to accommodate such labeling.
- (b) In the case of a household substance which is subject to such a standard and which is dispensed pursuant to an order of a physician, dentist, or other licensed medical practitioner authorized to prescribe, such substance may be dispensed in noncomplying packages only when directed in such order or when requested by the purchaser.
- (c) In the case of a household substance subject to such a standard which is packaged under subsection (a) in a noncomplying package, if the director determines that such substance is not also being supplied by a manufacturer or packer in popular size packages which comply with such standard, he may, after giving the manufacturer or packer an opportunity to comply with the purposes of this chapter, by order require such substance to be packaged by such manufacturer or packer exclusively in special packaging complying with such standard if he finds, after opportunity for hearing, that such exclusive use of special packaging is necessary to accomplish the purposes of this chapter.

**Sec. -6 Special packaging standards, establishment.** (a) All rules prescribing standards for the special packaging of household substances now or hereafter adopted under authority of the Federal Act shall be the regulatory standards for special packaging of household substances in this State.

- (b) Hearings authorized or required by this chapter shall be conducted

by the director or an officer, agent or employee designated by him pursuant to chapter 91.

(c) The authority to adopt rules for the efficient enforcement of this chapter is vested in the director. The director may make such rules conform, insofar as practicable, with those promulgated under the Federal Act.

(d) A federal regulation adopted pursuant to section -6(a) shall take effect in this State on the date it becomes effective as a federal regulation. No publication or hearing shall be required.

(e) No standard shall be effective as to household substances subject to this chapter packaged prior to the effective date of such final rule.

**Sec. -7 Penalties.** Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor."

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

(Approved June 12, 1974.)

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H.B. NO. 2731-74

A Bill for an Act Relating to Drug Abuse.

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

SECTION 1. Section 329-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 329-14 Schedule I.** (a) The controlled substances listed in this section are included in Schedule I.

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

- (1) Acetylmethadol;
- (2) Allylprodine;
- (3) Alphacetylmethadol;
- (4) Alphameprodine;
- (5) Alphamethadol;
- (6) Benzethidine;
- (7) Betacetylmethadol;
- (8) Betameprodine;
- (9) Betamethadol;
- (10) Betaprodine;
- (11) Clonitazene;
- (12) Dextromoramide;
- (13) Dextrorphan;
- (14) Diamprodime;
- (15) Diethylthiambutene;
- (16) Dimenoxadol;
- (17) Dimepheptanol;
- (18) Dimethylthiambutene;
- (19) Dioxaphetylbutyrate;

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- (20) Dipipanone;
- (21) Ethylemethylthiambutene;
- (22) Etonitazene;
- (23) Etoxeridine;
- (24) Furethidine;
- (25) Hydroxypethidine;
- (26) Ketobemidone;
- (27) Levomoramide;
- (28) Levophenacylmorphan;
- (29) Morpheridine;
- (30) Noracymethadol;
- (31) Norlevorphanol;
- (32) Normethadone;
- (33) Norpipanone;
- (34) Phenadoxone;
- (35) Phenampromide;
- (36) Phenomorphan;
- (37) Phenoperidine;
- (38) Piritramide;
- (39) Proheptazine;
- (40) Properidine;
- (41) Propiram;
- (42) Racemoramide;
- (43) Trimerperidine.

(c) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers, is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine; (except hydrochloride salt)
- (11) Heroin;
- (12) Hydromorphinol;
- (13) Methyldesorophine;
- (14) Methyldihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;

- (20) Nicomorphine;
  - (21) Normorphine;
  - (22) Phoclodine;
  - (23) Thebacon.
- (d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
- (1) 2, 5, dimethoxyamphetamine (2,5-DMA);
  - (2) 3,4-methylenedioxy amphetamine;
  - (3) 5-methoxy-3,4-methylenedioxy amphetamine;
  - (4) 4-bromo-2,5 dimethoxyamphetamine (4-bromo-2,5-DMA);
  - (5) 3,4,5-trimethoxy amphetamine;
  - (6) Bufotenine;
  - (7) 4-methoxyamphetamine (PMA);
  - (8) Diethyltryptamine;
  - (9) Dimethyltryptamine;
  - (10) 4-methyl-2, 5-dimethoxylamphetamine;
  - (11) Ibogaine;
  - (12) Lysergic acid diethylamine;
  - (13) Marijuana;
  - (14) Mescaline;
  - (15) Peyote;
  - (16) N-ethyl-3-piperidyl benzilate;
  - (17) N-methyl-3-piperidyl benzilate;
  - (18) Psilocybin;
  - (19) Psilocyn;
  - (20) Tetrahydrocannabinols."

SECTION 2. Section 329-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 329-16 Schedule II.** (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- (2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation

## ACT 217

thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(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) Bezitramide;
- (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) Methaqualone;
- (15) Moramide—Intermediate, 2-methyl-3-morpholino-1 1-diphenyl-propane—carboxylic acid;
- (16) Pethidine;
- (17) Pethidine—Intermediate—A, 4-cyano-1-methyl-4-phenyl-piperidine;
- (18) Pethidine—Intermediate—B, ethyl-4-phenylpiperidine, 4-carboxylate;
- (19) Pethidine—Intermediate—C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (20) Phenazocine;
- (21) Piminodine;
- (22) Racemethorphan;
- (23) Racemorphan.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system: (1) secobarbital; (2) hexobarbital; (3) pentobarbital; (4) amobarbital.

(e) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a danger or probable danger associated with a stimulant effect on the central nervous system;

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (2) Any substance which contains any quantity of methamphetamine, including its salt, isomers, and salts of isomers;
- (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) Methylphenidate."

SECTION 3. Section 329-18, Hawaii Revised Statutes, is amended to read as follows:

**"Section 329-18 Schedule III.** (a) The controlled substances listed in this section are included in Schedule III.

(b) Unless listed in another schedule, 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 depressant effect on the central nervous system:

- (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other Schedules:
- (2) Benzphetamine;
- (3) Chlorhexadol;
- (4) Chlorphentermine;
- (5) Clortermine;
- (6) Glutethimide;
- (7) Diethylpropion;
- (8) Lysergic acid;
- (9) Lysergic acid amide;
- (10) Mazindol;
- (11) Methyprylon;
- (12) Phencyclidine;
- (13) Phendimetrazine;
- (14) Phentermine;
- (15) Sulfondiethylmethane;
- (16) Sulfonethylmethane;
- (17) Sulfonmethane.

(c) Nalorphine.

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- (1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
- (4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

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- (5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
  - (6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts;
  - (7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
  - (8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- (e) The department may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections (b) and (c) from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system."

SECTION 4. Section 329-20, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 329-20 Schedule IV.** (a) The controlled substances listed in this section are included in Schedule IV.

(b) 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 depressant effect on the central nervous system:

- (1) Barbital;
- (2) Chloral betaine;
- (3) Chloral hydrate;
- (4) Diethylpropion;
- (5) Ethchlorvynol;
- (6) Ethinamate;
- (7) Fenfluramine;
- (8) Methohexital;
- (9) Meprobamate;
- (10) Methylphenobarbital;
- (11) Paraldehyde;
- (12) Petrichloral;
- (13) Phenobarbital.

(c) The department may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this chapter if the compound, mixture or

preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the degree of danger or probable danger of the substances which have a depressant effect on the central nervous system."

SECTION 5. 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 material, or the underscoring.\*

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

(Approved June 12, 1974.)

**ACT 218**

H.B. NO. 2374-74

A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1973, to June 30, 1975, and Authorizing the Issuance of Bonds.

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

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 1974.

SECTION 2. This Act amends Act 218, Session Laws of Hawaii 1973.

SECTION 3. The appropriations and authorizations, as the case may be, set forth opposite the cost categories in section 3, Act 218, Session Laws of Hawaii 1973, for the following programs, are amended to read as follows:

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\*Edited accordingly.

Item No.	Program	Program No.			APPROPRIATIONS						
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium	C O D E	
<b>A. ECONOMIC DEVELOPMENT</b>											
AGRICULTURE											
23	Product Development and Marketing for Agr <b>AGR—Distribution Systems Improvement</b>	AGR	151			32.00*		32.00*			
	Operating			AGR	485,063A		507,977A		993,040A		
				AGR	80,000B		88,000B		168,000B		
				AGR	24,112N		24,429N		48,541N		
				AGR	4,500X		4,500X		9,000X		

Provided, that \$15,000 for the fiscal year 1974-75 shall be expended to provide pavement for the container van shelter at the vacuum cooling plant, Waimea, Hawaii.

## B. EMPLOYMENT

**OVERALL PROGRAM SUPPORT —**  
**EMPLOYMENT**  
Data Gathering, Research, Analysis—Employ  
**23 LBR—Data Gathering, Research & Analysis**      LBR      901

Operating	LBR	61,557A	84,544A	146,101A
		24.10*	24.10*	
	LBR	389,976N	400,965N	790,941N

Provided, that \$21,400 for the fiscal year 1974-75 shall be expended to match federal grants to conduct the Annual Occupational Safety and Health Survey.

## E. HEALTH

## PHYSICAL HEALTH

## **Short Term Care for Oth Acute Ill & Cond Hospital Care—Short Term Acute**

25	<b>Hana Medical Center—Short Term Acute</b>	HTH	222		3.51*	3.51*	
	Operating				88,341A 2.49*	90,683A 2.49*	179,024A
				HTH	37,359B	38,349B	75,708B
34	<b>Long Term Maint Care for Oth Ill &amp; Cond Hospital Care—Long Term Maintenance</b>						
	<b>Kohala Hospital—Long Term Maintenance</b>	HTH	314		2.38*	2.44*	
	Operating			HTH	40,797A 3.56*	40,954A 3.50*	81,751A
				HTH	36,000B	36,000B	72,000B
36	<b>Kula Sanatorium—Long Term Maintenance</b>	HTH	323		20.55*	22.36*	
	Operating			HTH	429,099A 95.85*	445,615A 94.04*	874,714A
				HTH	943,657B	943,317B	1,886,974B
41	<b>Emergent &amp; Moderately Intense Treatmt—M</b>	HTH	430		192.25*	192.65*	
	Operating			HTH	2,712,396A 22.40*	2,757,102A 22.00*	5,469,498A
				HTH	217,298B	217,081B	434,379B
	Investment: Capital			HTH	17,500X	17,800X	35,300X
				AGS	30,000C	C	30,000C

#### I. PUBLIC SAFETY

##### CRIMINAL ACTION

###### Confinement

11	<b>Juvenile Correctional Facilities</b>	SOC	401		68.00*	68.00*	
	Operating			SOC	804,568A	876,852A	1,681,420A

Provided, that the additional sum of \$54,120 for the fiscal year 1974-75 shall be used for meeting the increase cost of operations.

###### Adult Maximum Security Facilities

12	<b>Hawaii State Prison</b>	SOC	402		150.00*	150.00*	
	Operating			SOC	1,863,679A 5.00*	2,277,350A 5.00*	4,141,029A
				SOC	158,759B	158,841B	317,600B

Provided, that the additional sum of \$386,682 for the fiscal year 1974-75 shall be used for meeting the increase cost of operations.

Item No.	Program	Program No.				APPROPRIATIONS				
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E
14	<b>Adult Honor Camps</b>	SOC	403				45.00*		45.00*	
	Operating				SOC		641,925A		698,821A	1,340,746A
Provided, that an additional sum of \$44,556 for the fiscal year 1974-75 shall be used for meeting the increase cost of operations.										
<b>K. GOVERNMENT-WIDE SUPPORT</b>										
	<b>EXEC DIRECTION, COORD, POLICY DEVELOPMENT</b>									
	Executive Direction									
2	<b>Office of the Lieutenant Governor</b>	LTG	100				11.00*		11.00*	
	Operating				LTG		432,866A		968,996A	1,401,862A
Provided, that the sum of \$109,848 for the fiscal year 1974-75 shall be used to meet the operating requirements of the Campaign Spending Commission.										
	<b>Program Planning, Analysis &amp; Budgeting</b>									
3	<b>BUF—Program Planning, Analysis, Budgeting</b>	BUF	101				60.00*		60.00*	
	Operating				BUF		27,989,308A		42,075,073A	70,064,381A
					BUF				708,148N	708,148N
					BUF				1,645,857B	1,645,857B
	<b>General Services</b>									
	<b>Central Purchasing and Warehousing</b>									
48	<b>Federal Surplus Property Management</b>	AGS	242				7.00*		7.00*	
	Operating				AGS		93,220X		94,215X	187,435X
					AGS				25,000A	25,000A

Provided, that \$25,000 for the fiscal year 1974-75 shall be used to augment the Federal Surplus Property Management Program.

SECTION 4. Part III of Act 218, Session Laws of Hawaii 1973, is amended by adding new sections to read:

"SECTION 61A. Provided that of the sum appropriated to Program Planning, Analysis, Budgeting (BUF 101) the sum of \$4,960,145 in general funds for fiscal year 1973-74 and \$13,206,040 in general funds, for fiscal year 1974-75 shall be used to fund the collective bargaining cost items of contracts negotiated with the exclusive representative of units 5 and 6 and for salary increases for officers and employees excluded from the above bargaining units.

"The above noted appropriations shall be allotted by the director of finance to the appropriate state agencies. Increases for officers and employees for whom pay increases are provided by this section and whose compensation is paid, in whole or in part, from federal funds or from special funds of the State, shall be paid from the respective federal funds or special funds to the extent available.

"Disbursements for salary increases for periods prior to the effective date of this Supplemental Appropriations Act shall be made with due consideration to the availability of the State's cash resources but in no event shall payments for such retroactive increase extend beyond December 31, 1974.

"Any provision of law to the contrary notwithstanding the Board of Education is authorized to utilize such sums as are appropriated by this section for salary increases for officers and employees of the department of education who are excluded from units 5 or 6, and whose salaries are set by Chapter 297, Hawaii Revised Statutes; provided that said increases shall not exceed and shall not take effect earlier than increases for members of the respective units.

"Funds appropriated by this section that have not been expended or encumbered by June 30, 1975 shall lapse as of that date."

"SECTION 61B. Provided that of the sums appropriated to Program Planning, Analysis, Budgeting (BUF 101) the sum of \$4,560,728 in general funds, \$1,645,857 in special funds and \$708,148 in federal funds for fiscal year 1974-75 shall be used to fund the collective bargaining cost items of contracts negotiated with the exclusive representative of units 1, 2, 3, 9, and 13 and for salary increases for officers and employees excluded from the above bargaining units.

"The above noted appropriations shall be allotted by the director of finance to the respective department or agency for the purposes of this Act. Increases for officers and employees for whom pay increases are provided by this section and whose compensation is paid, in whole or in part, from federal funds or from special funds of the State, shall be paid from the respective federal funds or special funds to the extent available.

"Any provision of law to the contrary notwithstanding, the Governor is authorized to utilize such sums as provided by this section for salary increases for public officers and employees who are excluded from Units 1, 2, 3, 9 or 13 and whose salaries are set by Sections 77-5 or 77-13, Hawaii Revised Statutes, as amended, provided that said increases shall not exceed and shall not take effect earlier than increases for members of the respective units.

## **ACT 218**

“Funds appropriated by this section that have not been expended or encumbered by June 30, 1975, shall lapse as of that date.”

“SECTION 61C. Provided, that of the general fund appropriation authorized for Legal Services (ATG 101), \$25,000 in each fiscal year shall be used for the payment of tort claims arbitrated, comprised or settled for amounts not in excess of \$2,000.

“Provided, further, that of the general fund appropriation authorized for Legal Services (ATG 101), \$150,000 in each fiscal year shall be used for litigation purposes.”

“SECTION 61D. Provided that fees received for marketing orders or agreements may be used to employ personnel on contract, as may be necessary, for the administration of the marketing orders or agreements (AGR 151).”

“SECTION 61E. Provided that of the sums appropriated to Kula Sanatorium (HTH 223, HTH 323) for the fiscal year 1974-75, the sum of \$39,224 of special fund revenues under Title XIX shall be used for four para-medical assistant positions to be filled upon the transfer of mentally retarded patients to Kula Sanatorium from Waimano Home.”

“SECTION 61F. Provided that of the special fund appropriation authorized for General Administration for Air Transportation Facilities and Services (TRN 293), up to \$75,000 may be expended for the Civil Air Patrol. Provided further, that of the sum appropriated in this section, not less than \$3,000, in cash, shall be allocated to each of the neighbor island Civil Air Patrol Units.”

“SECTION 61G. Provided, that funds appropriated by this Act and by Act 218, Session Laws of Hawaii 1973, may be used by expending agencies for the purpose of funding reclassifications resulting from the review of clerical positions in the civil service to be made by the Department of Personnel Services; provided that funding of the reclassifications shall be limited to service performed after June 30, 1974.”

SECTION 5. Part IV, Act 218, Session Laws of Hawaii 1973, is hereby repealed.

SECTION 6. Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new part IV reading as follows:

### **“PART IV. CAPITAL IMPROVEMENT PROJECTS**

“SECTION 72. The following sums of money or so much thereof as may be necessary are hereby authorized or appropriated, as the case may be, from the source of funding specified for the capital investment projects listed below. The letter symbol in the code column after each project appropriation indicates the source of funding and shall have the meaning set forth in section 2 of Act 218, Session Laws of Hawaii 1973. For projects listed under the program area for which the program identification organization is the department of accounting and general services (AGS), the office of the governor (GOV), the department of hawaiian home lands (HHL), the department of land and

natural resources (LNR), the department of planning and economic development (PED), the judiciary (JUD), or the department of transportation (TRN), such department or office shall be the expending agency. For all other projects unless otherwise specified herein, the department of accounting and general services shall be the expending agency. Several or more 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. In the event of any discrepancy between the provisions of this section and the provisions of part II of Act 218, Session Laws of Hawaii 1973, in amounts authorized or appropriated, source of funding, or expenditure pattern, the provisions of this section shall prevail. (The amount after each cost element and the total funding for each project listed in this section are in thousands of dollars.)

Item No.	Program	Program No.		APPROPRIATIONS						
		Org.	No.	Exp. Agy.	FY 1973-1974	C D E	FY 1974-1975	C D E	Total Biennium 1973-1975	
<b>A. ECONOMIC DEVELOPMENT</b>										
COMMERCE AND INDUSTRY										
	Transportation, Communications & Utility Services Development & Mkt-T,C,&U		LNR		140					
1	Planning, development, improv of water res G42 for statewide planning, design and construction of water facilities for new agricultural enterprises proposed for lands formerly in pineapple and sugar production and concomitant new communities development.									
	Design					200	200			
	Construction					4,800	4,800			
	Total Funding					C	5,000C	5,000C		
Trade and Finance										
	Economic Assistance for Trade & Finance		PED		105					
2	Hawaii International Trade Center	A11								
	The Hawaii International Services Agency's basic objective is to enhance the economy of the State by accelerating opportunities for the maximum in various international activities because HISA's fundamental purpose is to generate economic benefits for the State, most of the agency's activities are business-related, in particular the promotion of Hawaii's business interests relative to the Pacific Basin.									
	Design					185	185			
	Total Funding					C	185C	185C		

**Services Development & Mkt—Trade**

PED 107

3	FTZ Development of Sand Island	FZ1				
	Expand FTZ-9 on 45 acres on Anuenue site, to broaden zone activities to include transshipment, manufacturing, re-export assembly of foreign and domestic goods as well as the storage and warehouse operation conducted at Pier 39. Improvements include utilities, fencing, warehouse, office building construction, and landscaping.					
	Construction			1,265	1,265	
	Total Funding		C	1,265C	1,265C	
4	FTZ Pier 39 Shed V-Yard Roof Improve- ments	FZ2				
	Roof and supply utilities to shed V-yard at Pier 39, purpose is to increase size of shed area to meet customer demand. Fence 300,000 sq ft of open area and alarm same. Purpose is to expand facility to meet customer demand.					
	Construction			459	459	
	Total Funding		C	459C	459C	
	<b>AGRICULTURE</b>					
	Productivity Improvement & Mgt Asst-Agr					
	Production & Mgt Methods Improvement-Agr					
	Farms and Ranches—Methods Improvement					
	Agr-Production & Mgt Methods Improvement		AGR 111			
5	Agricultural Park Subdivision, Statewide	002				
	Plans and construction of on- and off-site improvements for development of agricultural lots, including acquisition of land by purchase fee simple or lease.					
	Land Acquisition			600	600	
	Design			150	150	
	Construction			2,250	2,250	
	Total Funding		C	3,000C	3,000C	

Item No.	Program	Org.	No.	Exp. Agy.	APPROPRIATIONS					
					FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium	C O D E
	<b>Product Development &amp; Marketing for Agr Agr-Distribution Systems Improvement</b>				AGR	151				
6	Product Assembly and Processing Facility	001								
	For planning and design of a radiation and multi-use facility to assemble, package, treat, inspect, process and store fruits, flowers, plant materials, foliage, and vegetables for export by air from Hilo, Hawaii.									
	Design								50	50
	Total Funding					C			50C	50C
	<b>ECONOMIC PLANNING AND COORDINATION</b>									
	General Support for Econ Development									
	<b>Gov-Gen Support for Econ Development</b>				GOV	109				
7	Geothermal Energy Source Project	118								
	Plans and construction for exploration and development of geothermal energy sources. Provided that available federal funds are utilized first.									
	Design								500	500
	Total Funding					C			500C	500C
	<b>B. EMPLOYMENT</b>									
	<b>ASSISTANCE IN WORK RELATED DIFFICULTIES</b>									
	Vocational Rehabilitation									
	<b>Physical Disabilities—Employment</b>				SOC	802				
1	Renovation of Hoopono Phase 2				508					

	To air-condition an area of 8,547 square feet and to install 8,400 square feet of vinyl asbestos floor tile.		
	Design	7	7
	Construction	46	46
	Total Funding	C	53C
2	Renovation of Hoopono Phase 3	509	
	To air condition an area of 13,200 square feet and to sound proof crafts room and wood and metal working shop.		
	Design	13	13
	Construction	86	86
	Total Funding	C	99C

### C. TRANSPORTATION FACILITIES

	AIR TRANSPORTATION FACILITIES & SERVICES		
	Airports Facilities & Services		
	Honolulu International Airport Fac & Svc	TRN	102
	Overseas Facilities & Services for HIA		
1	Construction of Reef Runway	A02	
	Construct dike, dredge and fill, construct runway and taxiways, relocate sewers, construct fire station, install security fencing and construct other related improvements.		
	Design	750	750
	Construction	22,856	22,856
	Total Funding	D	11,803D
		N	11,803N
2	Supplemental HIA Expansion Program	A04	
	Improvements and modifications to baggage claim areas, miscellaneous road, parking lot and drainage improvements, continuation of the landscaping program, refacing of tower building and modification to baggage store-		

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
room, installation of three 747 hardstands, taxiway improvements, addition to maintenance facility, and other improvements.									
	Design				330		2		332
	Construction				6,670		1,180		7,850
	Total Funding				4,453B		30B		4,483B
					2,547E		1,152E		3,699E
3	Construct Interim B747 Gates 5 and 6	A05							
	Construct the ground level portion of B747 gates 5 and 6 as interim holding rooms and other appurtenances.								
	Design					33		33	
	Construction					567		567	
	Total Funding					B	600B		600B
4	Construction of Auto Parking Structure	A06							
	Prepare site, install all civil utilities and electrical utilities underground, and construct multi-level parking structure and appurtenances.								
	Design						3		3
	Construction						567		567
	Total Funding					B	570B		570B
5	Diamond Head Extension to Main Terminal	A07							
	Construction of the Diamond Head extension to the main terminal and appurtenances and the fronting enplaning-deplaning roadways and other miscellaneous improvements.								
	Design						220		220
	Total Funding					B	220B		220B

6	Construction of Central Concourse	A13	TRN 102			
	Construct two-level passenger gates for DC-10 class aircraft & smaller at central concourse. Reconstruct existing apron, taxiway, fuel system & other misc. improvements. Install moving sidewalks, loading bridges, apron transporters, docking systems, furniture & other misc. equipment. Reconstruct existing landscaped gardens.					
	Design			7		
	Construction			14,250		
	Total Funding	E		14,257E	14,250	
7	Aircraft Hardstands for Cargo Center	A14				
	Construct aircraft hardstands, apron, roadways, vehicle parking area and other appurtenances for the air cargo center.					
	Design			2		
	Construction			2,865		
	Total Funding	B		1,700B	2,865	
		E		1,167E	1,700B	
					1,167E	
<b>Inter-Island Facilities &amp; Svcs for HIA</b>						
			TRN 103			
8	New Inter-Island Terminal	A11				
	Construct new passenger terminal and parking structure, 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.					
	Design			4		
	Construction			6,720		
	Total Funding	B		2,000B	6,720	
		E		4,724E	2,000B	
					4,724E	

Item No.	Program	Program No.			APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E
	Waimea-Kohala Airport Fac & Svcs <b>Inter-Island F&amp;S fr Waimea-Kohala Airport</b>		TRN	116						
9	Expand and Improve the Aircraft Apron Expand the aircraft parking apron, improve the taxiway grade at the apron and other miscellaneous airfield improvements.		C51							
	Design								10	10
	Construction								150	150
	Total Funding					D			160D	160D
10	Construct Covered Entryway to Terminal Construct a covered entryway to the passenger terminal and appurtenances.		C52							
	Design								4	4
	Construction								36	36
	Total Funding					D			40D	40D
	Upolu Airport Facilities & Service <b>Inter-Island Fac &amp; Svcs for Upolu Airport</b>		TRN	118						
11	Reconstruction of Runway & Land Acquisition Resurface runway, acquisition of land for runway clear zones and reconstruction of runway.		C80							
	Land Acquisition								75	75
	Construction								125	125
	Total Funding								200N	200N
12	Upolu Airport Passenger & Maint. Shelter Construct new passenger and maintenance shelter, and other miscellaneous improvements.		C81						N	

	Design					
	Construction					
	Total Funding					
					1 19 D	1 19 20D
	Kahului Airport Facilities & Service					
	Inter-Island Fac & Svcs fr Kahului Airport		TRN 131			
13	Improve Access Rd. and Construct Maint.	D03				
	Fac					
	Project to include grading, paving, landscaping and lighting access roadway, installation of underground electrical and communication system, sewer system and other improvements. Construct new maintenance baseyard facilities.					
	Design				40	40
	Construction				620	620
	Total Funding				660D	660D
14	Kahului Airport Terminal Expansion	D04				
	Construct additions and alterations to passenger terminal building, parking lot, roadways and other miscellaneous improvements. Landscape and install furniture and other miscellaneous equipment.					
	Design				400	400
	Construction				4,600	4,600
	Total Funding				5,000D	5,000D
	Molokai Airport Facilities & Service					
	Inter-Island Fac & Svcs fr Molokai Airport		TRN 141			
15	Molokai Airport Prelim Plans & Land	D51				
	Acqui.					
	Preliminary planning and land acquisition for a new Molokai Airport.					
	Design				250	250
	Total Funding				250D	250D

Item No.	Program	Org.	No.	Exp. Agy.	APPROPRIATIONS			
					FY 1973-1974	C O D E	FY 1974-1975	C O D E
<b>Lihue Airport Facilities &amp; Service</b>								
	<b>Inter-Island Fac &amp; Svcs for Lihue Airport</b>				TRN	161		
16	Lihue Airport Terminal & Airfield Im- prove.							
	Terminal additions, expansion of apron, strengthening of the runway, connecting taxi- ways and apron, adjustment of runway and taxiway lights, and other incidental airfield and terminal work. Unexpended funds from Act 155, SLH 1969, Item C-95 and Act 187, SLH 1970, Item C-89, may be used to supple- ment this appropriation.							
	Design					70	70	
	Construction					830	830	
	<b>Total Funding</b>				D	900D	900D	
17	Plans, Land Acquisition & Constr of New Run							
	Plans, land acquisition and construction of a new runway and taxiway. Other miscellane- ous improvements.							
	Land Acquisition					1,400	1,400	
	Design					150	150	
	<b>Total Funding</b>				D	920D	920D	
					N	630N	630N	
<b>Oahu Airport Facilities &amp; Service</b>								
					TRN	175		
18	Oahu Airport (General Aviation)		A70					
	Oahu Airport Construction—Project to in- clude construction of terminal facilities, apron expansion, additional tee hangars and miscel- laneous improvements. Phase II of the air-							

field improvements will consist of constructing the base course, paving, lighting, marking and other improvements.

Land Acquisition	1,300	1,300
Design	95	95
Construction	1,180	115
Total Funding	1,710E 865N	E 115N 980N

**Air Transportation Fac & Serv Support  
Gen Adm for Air Transpion Fac & Svc**

TRN 293

19 Statewide Airport Planning	F01			
Statewide airport planning which provides basic data and information for proper planning and the establishment of development priorities of the State airport system facilities and continue review and updating of master plans.				
Design	150	150	300	
Total Funding	150B	150B	300B	
20 Statewide Airport Certification	F02			
Statewide airport certification which provides procurement of fire and rescue and other required equipment for the statewide system of airports and construction of security fencing, lighting, and other miscellaneous airport improvements.				
Design	50	40	90	
Construction	440	335	775	
Total Funding	490B N	208B 167N	698B 167N	

**WATER TRANS FACILITIES & SERVICES**

Harbors Facilities & Services  
Honolulu Harbor Facilities & Services  
**Overseas Fac & Svcs fr Honolulu Harbor**

TRN 301

Item No.	Program	Org.	No.	Exp. Agy.	FY 1973-1974	C ODE	APPROPRIATIONS		
							FY 1974-1975	C ODE	Total Biennium 1973-1975
21	Add Recon Rel Improv Rec Acq Hon Har J02 Fac						56	56	
	Addition, reconstruction, relocation and improvement of roadways, sheds, parking, lighting, utilities and other facilities in the Pier 18 to 34 area.						266	266	
	Design								
	Construction								
	Total Funding					B	322B	322B	
22	Misc Improv to Exist Pier Fac at Hon Har J03						35	18	53
	Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu Harbor, including improvements to lighting, oil lines, paving, and other facilities. Funds appropriated for this project may be used for Inter-Island facilities also.						165	82	247
	Design								
	Construction								
	Total Funding						200B	100B	300B
23	Container Facilities at Fort Armstrong J04						200	200	
	Improvements and/or modifications to the existing facilities at Fort Armstrong to meet the growing demands of container operations, development of US Army Corps of Engineers area and battery tiernon area and other improvements.						106	106	
	Land Acquisition								
	Design								
	Construction								
	Total Funding					D	610D	610D	

24	Expans Container Fac Dev Transshipment J06 Hon Development of transshipment and container facilities on Sand Island including pier, yard, shed and other improvements.				100	215	315
	Design					1,635	1,635
	Construction					B	100B
	Total Funding				D	1,850D	1,850D
25	Improvements to Piers 15-18 Hon Harbor J08 Development of berthing areas for commercial fishing vessels. Unexpended funds from Act 155/69 Item C-14 may be used to supplement the appropriation for this project.	TRN	301				
	Design					171	171
	Construction					819	819
	Total Funding				D	990D	990D
26	Acquisition and Development of Piers 41- 42 FY 75 Initial payment for acquisition of land, facilities FY 76 Initial development FY 77 Final payment for acquisition of land and facilities succeeding years further development.	J19					
	Land Acquisition					4,810	4,810
	Design					173	173
	Total Funding				D	4,983D	4,983D
27	<b>Inter-Island Fac &amp; Svc fr Honolulu Harbor</b> Improvements to Piers 39-40 complex Improvements to Piers 39-40 complex including renovations, new facilities and other improvements.	J20	TRN	302			
	Design					50	50
	Construction					300	300
	Total Funding				B	50B	50B
					D	300D	300D

Item No.	Program	Org.	No.	Exp. Agy.	APPROPRIATIONS										
					FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium	C O D E					
<b>Hilo Harbor Facilities &amp; Services</b>															
<b>Inter-Island Fac &amp; Svcs for Hilo Harbor</b>															
28	Improv to Inter-Island Fac Hilo Harbor	L02	TRN 312												
	Improvements to Inter-Island facilities at Hilo Harbor including modifications to Pier 1 shed and apron, expansion of container fac. Pier 2 shed extension improvements to facilities at Pier 2-3 area, removal of bag sugar warehouse, and other improv. Unexpended funds from Act 68 SLH 1971 Item No H-19 may be used to supplement the appropriation for this project.														
	Design								243	243					
	Construction					150		1,167	1,317						
	Total Funding					150B		B	150B						
						D		1,410D	1,410D						
<b>Kahului Harbor Facilities &amp; Services</b>															
<b>Inter-Island Fac &amp; Svcs for Kahului Harbor</b>															
29	Impr. to Inter-Is. Fac. at Kahului Harbor	M02	TRN 332												
	Pier 2 shed extension, acquisition of surplus federal and other properties, development of pier and other facilities.														
	Land Acquisition					150		50	200						
	Design							50	50						
	Construction							250	250						
	Total Funding					150B		B	150B						
						D		350D	350D						

Other Water Trans Facilities & Services			TRN	401
30	Inter-Island Displ. Ferry Termrls. Statewide	I02		
	Construction of displacement ferry terminals on the islands of Kauai, Oahu, Maui, and Ha- waii for the Inter-Island displacement ferry system and other improvements.			
	Design			438
	Construction			3,262
	Total Funding		D	3,700D
				438
				3,262
				3,700D
31	Misc. Imprv. to Fac. at Neighbor ls. Ports	I03		
	Improvements to yard areas, sheds, piers, util- ities, water areas and other facilities.			
	Design			4
	Construction			21
	Total Funding			25B
				32
				168
				200B
				36
				189
				225B
32	Statewide Commercial Har. Sewer Sys	I04		
	Imprv.			
	Study and implementation of statewide sew- age system for commercial harbors. Imple- mentation costs are dependent upon study findings and recommendations.			
	Design			95
	Construction			5
	Total Funding			100B
				17
				83
				100B
				112
				88
				200B
Water Trans Facilities & Svcs Support Plnng & Analys fr Water Transptn Fac & Sv			TRN	491
33	Statewide Harbor Planning	I01		
	Continuing harbor studies, research and ad- vance planning of harbor and terminal facilities on all islands.			
	Design			80
	Total Funding			80B
				80
				80B
				160
				160B

Item No.	Program	Org.	No.	Exp. Agy.	Program No.		APPROPRIATIONS					
					FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium	C O D E		
<b>LAND TRANSPORTATION FACILITIES &amp; SERVICE</b>												
	Corridors & Highways & Services											
	Oahu Highways & Services											
	<b>Interstate H-1 Hwy &amp; Services for Oahu</b>				TRN	501						
34	Interstate Route H-1 Middle Street		Q44									
	Separation to old Waialae Road, Honolulu, Oahu—safety improvements along existing Lunalilo Freeway from Middle Street separation to old Waialae Road.											
	Land Acquisition								188	188		
	Design								171	171		
	Construction								5,263	5,263		
	Total Funding					D			616D	616D		
35	Interstate Route H-1, Landscaping		Q49						J	5,006J	5,006J	
	Palailai to Ainakoa, Oahu—Incremental landscaping, including sprinkler systems and other appurtenances necessary for the continual maintenance of the improvements.											
	Design								15	15		
	Construction								85	85		
	Total Funding					D			100D	100D		
36	Interstate Route H-1, East of Kunia I.C.	R10										
	to East of Waiawa Interchange, Oahu—Construction of divided highway, including the Waiawa Interchange, from east of Kunia Interchange to east of Waiawa Interchange.											
	Construction								2,179	2,179		
	Total Funding					D			320D	320D		
						J			1,859J	1,859J		

37	Interstate Route H-1, East of Halawa I.C. R12 to Middle Street separation, Oahu—Incremental construction of eight freeway lanes, including Pearl Harbor, Airport and Keehi Interchanges.					
	Construction				27,471	27,471
	Total Funding		D		3,325D	3,325D
			J		24,146J	24,146J
	<b>Interstate H-2 Hwy &amp; Services for Oahu</b>	TRN	502			
38	Interstate Route H-2, Waiawa Interchange R20 Toward Schofield Barracks, Oahu—Incremental construction of divided highway (including major crossing structures at Waikakalaau and Kipapa Gulches and interchanges in the vicinity of Wahiawa and Mililani Town) from Waiawa I.C. to Schofield Barracks.					
	Construction				10,000	10,000
	Total Funding		D		1,000D	1,000D
			J		9,000J	9,000J
	<b>Interstate H-3 Hwy &amp; Services for Oahu</b>	TRN	503			
39	Interstate Route H-3, Junction at H-1 to R30 Kaneohe Marine Corps Air Station, Oahu—Incremental construction of divided highway from junction at H-1 to Kaneohe Marine Corps Air Station.					
	Land Acquisition				3,000	3,000
	Design				3,000	3,000
	Total Funding		D		1,800D	1,800D
			J		4,200J	4,200J
	<b>Primary Highways &amp; Services for Oahu</b>	TRN	504			
40	Castle Junction Interchange, Koolaupoko, R52 Oahu—Grade separation at the intersection of Kalanianaole, Pali and Kamehameha Highways.					

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
	Land Acquisition								
	Design								
	Total Funding								
41	Kamehameha Highway, Helemano-Waialua Junction on to Haleiwa Beach Park, Oahu—Realignment and improvement of highway from Helemano-Waialua Junction to Haleiwa Beach Park.	R53							
	Land Acquisition								
	Design								
	Total Funding					D	690D		690D
						K	133K		133K
42	Puuloa Road-Kamehameha Highway to Peltier Avenue, Honolulu, Oahu—widening existing two-lane facility.	R63							
	Land Acquisition								
	Total Funding					D	170D		170D
						K	181K		181K
43	Liliha St. Widening, H-1 to King St., Oahu. Widening of Liliha Street from H-1 to King Street. To be supplemented by unexpended funds from Act 38, SLH 1966, Item 11-C-41 for design and construction.	R64							
	Construction								
	Total Funding					D	367		367
						K	168D		168D
							199K		199K
44	Nimitz Hwy, Kakaako St. to Bishop St., Oahu—Divided highway from Kakaako Street to Bishop Street. To be supplemented by un-	R65							

	expended funds from Act 195, SLH 1965, Item D-29 and Act 187, SLH 1970 Item C-24 for design, land & construction.			
	Land Acquisition	227	227	
	Design	25	25	
	Construction	350	350	
	Total Funding	602K	K	602K
45	Likelike Hwy-Kahekili Hwy Interchange, R71 Koolaupoko, Oahu. Construction of interchange to replace the existing at grade intersection.			
	Design	D	65	65
	Total Funding		65D	65D
46	Kamehameha Highway, Kaneohe, Oahu-- R87 Resurfacing and improvement of mauka lanes of Kamehameha Highway between Likelike and Pali Highways.			
	Construction	D	306	306
	Total Funding		306D	306D
47	Kahekili Highway Widening, Kaneohe, S40 Oahu—Widen the existing two-lane Kahekili Highway to a four-lane divided facility.			
	Design	D	288	288
	Total Funding		288D	288D
48	Improvements to Oahu District Baseyard, S42 Honolulu, Oahu—Improvements to motor pool building.			
	Design	D	3	3
	Construction		17	17
	Total Funding		20D	20D
49	Waianae and Wahiawa Baseyards, Waianae and Wahiawa, Oahu—Construction of buildings and improvements. Demolish and remove existing buildings.	S43		

512

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
	Design						6		6
	Construction						35		35
	Total Funding					D	41D		41D
50	Pali Highway Improvement, Waokanaka to Vineyard Boulevard, Oahu. Construction of additional traffic lanes and signals.								
	Design						15		15
	Construction						900		900
	Total Funding					D	330D		330D
						K	585K		585K
51	Emergency Truck Turnouts at Pali & Like-like Highways, Oahu—Construction of emergency truck turnouts.								
	Land Acquisition						12		12
	Design						14		14
	Construction						119		119
	Total Funding					D	87D		87D
						K	58K		58K
52	Intra-Island Marine Mass Transit Plan, design and construct an Intra-Island system for express marine buses, together with terminals at Iroquois Point (Waipahu), Aloha Tower complex, Hawaii Kai and other locations.		S71						
	Design						200		200
	Construction						1,800		1,800
	Total Funding					D	600D		600D
						N	1,400N		1,400N

<b>Secondary Hwys &amp; Services for Oahu</b>			<b>TRN 505</b>
53	Ala Moana Boulevard, Highway Lighting System Ala Wai Canal to Kalakaua Avenue, Honolulu, Oahu—Convert existing highway lighting system from series overhead wire to multiple, underground cable.		
	Design	17	17
	Construction	155	155
	Total Funding	172D	172D
54	Mokapu Boulevard, Median Landscaping and Sprinkler System, Kalaheo Street to Oneawa Street, Kaneohe, Oahu—Installation of landscaping and sprinkler systems.		
	Design	22	22
	Construction	171	171
	Total Funding	193D	193D
55	Fort Weaver Road Realignment and Widening Including Improvements to Kunia Road to Provide for a Connection to H-1, Ewa, Oahu—Incremental realignment and improvement of existing two-lane highway to divided highway, or temporary improvements to the existing two-lane highway.	S70	
	Land Acquisition	1,000	1,000
	Design	750	750
	Construction	9,700	9,700
	Total Funding	9,223D	9,223D
		L	2,227L
<b>Hawaii Highways &amp; Services Primary Hwys &amp; Services for Hawaii</b>			<b>TRN 511</b>
56	Hilo Waterfront Road, Vicinity of Wailuku River to Hilo Wharf, South Hilo, Hawaii. Improvement of Hilo Bayfront Highway from vicinity of Wailuku River to Hilo Wharf includ-	T02	

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
ing replacement of Wailoa River Bridge. To be supplemented by fund from Act 217 SLH 1967, Item C-123.									
	Land Acquisition							100	100
	Design							185	185
	Total Funding					D	100D	100D	
						K	185K	185K	
57	Hawaii Belt Rd: Holualoa to Papa, Hawaii—Incremental construction of two-lane highway from Holualoa to Papa. To be supplemented by unexpended funds from Act 217, SLH 1967, Item C-109 and Act 40, SLH 1968, Item C-63.	T03							
	Design					I	I	I	
	Total Funding					1B	B	1B	
58	Hawaii Belt Road: Mud Lane Towards Kamuela	T07							
	Race track, South Kohala and Hamakua, Hawaii. Realignment of highway between Mud Lane and Kamuela Race Track on an alignment by-passing Waimea.								
	Land Acquisition						370	370	
	Design						176	176	
	Total Funding					D	546D	546D	
59	Hawaii Belt Road, Improvements, Section 19H, Hawaii—Realignment of portion of Hawaii Belt Road including the construction of the Kapehu and Kahue Bridges.	T16							

	Land Acquisition		63	63
	Design		144	144
	Total Funding	D	207D	207D
60	Hawaii Belt Road: Replacement of 5 T27 Bridges			
	Hawaii Belt Road improvement, Hamakua, Hawaii—Replace existing wooden bridges at Kainehe, Kaholalele, Paauilo School and East Paauilo Streams and concrete bridge at Kealakaha Stream.			
	Construction		1,540	1,540
	Total Funding	D	1,540D	1,540D
61	Hawaii Belt Road, Puna, Hawaii—Improvement and realignment of existing two-lane highway to four-lane highway from the vicinity of Slaughter House Road to south of the Keaau-Pahoa Road, including improvement of the Hawaii Belt Road and Keaau-Pahoa Road Intersection. To be supplemented by funds from Act 68, SLH 1971, Item H-60.	T56		
	Design		35	35
	Total Funding	D	35D	35D
62	Kuakini Highway, Truck Climbing Lanes, T60 North Kona, Hawaii—Construction of climbing lanes on Kuakini Highway in North Kona.			
	Land Acquisition		300	300
	Design		100	100
	Total Funding	D	400D	400D
63	Hawaii Belt Road, Truck Climbing Lanes, T61 Pepeekeo, South Hilo, Hawaii—Construction of climbing lanes on Hawaii Belt Road at Pepeekeo.			
	Land Acquisition		80	80
	Design		60	60
	Total Funding	D	140D	140D

**Program No.**

## **APPROPRIATIONS**

Item No.	Program	Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
64	Kona Baseyard Maintenance Building, Hawaii—Construction of baseyard in Kona.				T63				
	Design						10		10
	Construction						90		90
	Total Funding					D	100D		100D
65	Kanolehua Avenue, Kamehameha Avenue to Makalika Street, Hawaii				T70				
	Construction of four-lane highway utilizing the present two-lane highway and constructing an additional two-lane highway on a parallel alignment from Makalika St to Kamehameha Ave.								
	Construction						5,646		5,646
	Total Funding					D	1,888D		1,888D
						K	3,758K		3,758K
66	Kailua-Kawaihae Road: Keahole to Hapuna, Hawaii—Incremental construction of two-lane highway. To supplement prior appropriations.				T71				
	Land Acquisition						508		508
	Construction						3,100		3,100
	Total Funding					D	3,608D		3,608D
	<b>Secondary Hwys &amp; Services for Hawaii</b>				TRN	512			
67	Hawaii Belt Road, Route 190D, Keamuku towards Waimea, South Kohala, Hawaii—Land acquisition, plans and construction of new two-lane highway approximately three miles south of the Saddle Road.				T28				
	Land Acquisition						45		45
	Design						50		50

	Construction		29	29
	Total Funding		124D	124D
68	Palani Road: North Kona, Hawaii Realignment of two-lane highway.	T57	D	
	Design		160	160
	Total Funding		160D	160D
69	Honokaa-Waipio Road: Hamakua, Hawaii Design and construction of two-lane highway from Haina Road intersection to Waipio Look- out.	T72	D	
	Design		50	50
	Total Funding		50D	50D
	Maui Highways & Services			
	<b>Primary Hwys &amp; Services for Maui</b>	TRN 531		
70	Maui Baseyard, Kahului, Maui Design and construction for Maui District Baseyard.	V17	D	
	Design		35	35
	Construction		550	550
	Total Funding		585D	585D
71	Haleakala Highway—Airport to Kula High- way Makawao, Maui—Widen, realign and recon- struct highway from Kahului Airport junction on Hana Highway to Kula Highway junction at Pukalani.	V41	D	
	Construction		214	214
	Total Funding		214K	214K
72	Honoapiilani Highway, Lahaina, Maui Construction of two-lane highway from Hono- kowai to Honokahua.	V42	K	
	Land Acquisition		1,241	1,241
	Design		144	144



	<b>Land Acquisition</b>		61	61
	<b>Design</b>		50	50
	<b>Total Funding</b>		D K	62D 62D 49K 49K
77	Kauai Belt Road-Kapaa Town Section, X08 Kauai Construction of highway from Waiakea Canal to Kawaihau Road including parking strips, curbing, sidewalks and landscaping.			
	<b>Construction</b>		668	668
	<b>Total Funding</b>		D K	668D 668D
78	Kauai Baseyard, Kapaa, Kauai	X10		
	Supplemental appropriation to complete base-yard facilities.			
	<b>Design</b>		10	10
	<b>Construction</b>		300	300
	<b>Total Funding</b>		D	310D 310D
79	Safety Improvements at Various Locations	X38		
	Kauai—Construction of turn arounds at Lumahai and Holoholoku Heiau; scenic stops for Sleeping Giant and Queen Victoria's profile; bus stops along Kuhio Highway and at various locations.			
	<b>Land Acquisition</b>		2	2
	<b>Design</b>		13	13
	<b>Construction</b>		127	127
	<b>Total Funding</b>		D	142D 142D
80	Waikoko Bridge Replacement, Kauai Belt	X39		
	Road, Hanalei, Kauai—Construction of bridge and approaches to replace deteriorating structure.			
	<b>Land Acquisition</b>		20	20
	<b>Design</b>		10	10
	<b>Total Funding</b>		D	30D 30D

Item No.	Program	Org.	Exp. Agy.	Program No.			APPROPRIATIONS		
				FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E
	Land Trans Facilities & Services Support <b>Gen Adm for Land Transportn Fac &amp; Service</b>	TRN	693						
81	Vehicular Ferry System, Statewide Planning for vehicular ferry system which would operate as part of the statewide highway system and design and construction of a prototype vessel.	X95							
	Design							750	750
	Total Funding				D			260D	260D
					N			490N	490N
82	Close-out of Highway Rights-of-Way, State-wide To acquire clear title to real property used for the construction of previous highway projects. Many such parcels of lands were used on the basis of rights-of-entry only, and it would be proper for the State to acquire clear title to such property used for public purposes.	X96							
	Land Acquisition							250	250
	Total Funding				D			250D	250D
83	Miscellaneous Drainage Improvements Statewide—Drainage improvements to existing highway facilities.	X97							
	Design							30	30
	Construction							120	120
	Total Funding				D			150D	150D
84	Miscellaneous Improvements to Existing Intersections and Highway Facilities, State-	X98							

	wide—Miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety.		
	Land Acquisition	100	100
	Design	175	175
	Construction	820	820
	Total Funding	D 450D N 645N	450D 645N
85	Highway Route Planning, Traffic, Finance, X99 Road Use, Road Life and Economic Studies, Statewide—Highway studies including developing of statewide master planning of bikeways and research and advance planning of federal highway projects.		
	Design	1,849	1,849
	Total Funding	D 687D N 1,162N	687D 1,162N

#### **D. ENVIRONMENTAL PROTECTION**

##### **NATURAL PHYSICAL ENVIRONMENT**

###### **Pollution Control**

###### **Sewage, Indus By-Products, Htd Liquids & Silt**

HTH 841

1	Sewerage Construction Grants, Statewide Grants to county or state agencies for eligible water pollution control facilities conforming w/ the State WPC plan as authorized under Sec. 1 of Act 117/1969. State may advance the committed federal share of the costs to alleviate cash flow problems. State may make grants of 15% for projects receiving federal grants & 0-100% for projects not receiving federal grants. (To be expended by the Department of Health)	A01	
	Construction	3,416	3,416
	Total Funding	C 3,416C	3,416C

Item No.	Program	Org.	No.	Exp. Agy.	Program No.			APPROPRIATIONS			Total Biennium 1973-1975	C O D E
					FY 1973-1974	FY 1974-1975	C O D E					
<b>Preservation and Enhancement</b>												
	<b>Inland Waters</b>		LNR	404								
2	Hawaii Water Resources Regional Plan	G01										
	Hawaii Water Resources Regional Plan, State-wide—Formulation of a multi-agency/multi-purpose long-range guide for federal, state, county and private interests to conserve, develop and utilize Hawaii's total water and related land resources in an efficient and timely manner.											
	Design				776			1,262			2,038	
	Total Funding				C			315C			315C	
					776N			947N			1,723N	
<b>Coastal Areas</b>												
3	Ala Moana Beach Restoration	110	TRN	903								
	Restoration of portions of Ala Moana Beach including sand replenishment and other improvements.											
	Design							15			15	
	Construction							50			50	
	Total Funding					C		65C			65C	

## E. HEALTH

### PHYSICAL HEALTH

Communicable Diseases

Tuberculosis

Prevention and Detection of TB

HTH 101

1	<b>Lanakila Health Center</b> Construction of a three story building with parking lot, retaining walls, landscaping, fencing and related work. Facility to house the following branches of the Health Department: tuberculosis, mental health, public health nursing, communicable diseases, dental health and health education.	B01				
	Construction			328	328	
	Total Funding		C	328C	328C	
	<b>Inpatient Treatment of TB</b> <b>Leahi Hospital—TB Inpatient</b>	UOH 800				
2	<b>Acquisition of Leahi Foundation Land</b> Payment of principal and interest to the Leahi Foundation for four parcels of land and improvements taken by eminent domain proceedings by the University of Hawaii.	555				
	Land Acquisition			1,313	1,313	
	Total Funding		C	1,313C	1,313C	
	<b>Short Term Care for Oth Acute Ill &amp; Cond Hospital Care—Short Term Acute</b> <b>Hilo Hospital—Short Term Acute</b>	HTH 211				
3	<b>Hilo Hospital, Hilo, Hawaii</b> Plans and construction for additions, renovations and remodeling of medical and ancillary facilities. Unexpended balances in Item E-19 of Act 68, SLH 1971, and Item H-28 of Act 155, SLH 1969, shall be used for this project.	C01				
	Construction			1	1	
	Total Funding		C	1C	1C	
	<b>Maui Memorial Hospital—Short Term Acute</b>	HTH 221				
4	<b>Maui Memorial Hospital</b> Plans and construction of a new south wing, renovations and modernization of medical, ancillary, and centralized laundry at Maui Memo-	C05				

rial Hospital. Unexpended balances in Items E-15 and E-16 of Act 68/71; Items H-16, H-18, and H-20 of Act 155/69; and Items H-21, H-22, and H-26 of Act 187/70, shall be used for this project.

## **Construction Total Funding**

## Kauai Veterans Hospital—Short Term Acute

HTH 251

5 Kauai Veterans Memorial Hospital, Kauai  
Plans and construction for additions, renovations and remodeling of medical and ancillary facilities. Unexpended balances in Items H-34, H-35, and H-38 of Act 155, SLH 1969, Item H-37 of Act 187, SLH 1970, and Item IV-G-1 of Act 197, SLH 1971, which are unencumbered shall be used for this appropriation.

## Construction Total Funding

Mental Health

#### Routine Treatment & Rehab Services for M

HTH 420

6 Lahaina Health Center, Maui  
Plans and construction for Lahaina Health Center, including emergency medical center. Funds appropriated in Item H-18 of Act 187, SLH 1970, and Item II-F-2 of Act 197, SLH 1971, which are unencumbered shall be used for this project.

## **Construction Total Funding**

**Program No.**

## **APPROPRIATIONS**

Org.	No.	Exp.		FY		C O D		FY		C O D		Total	
		Agy.	1973-1974	E	D	E	D	E	D	E	D	C C C C C C	

$$C \quad \quad \quad \frac{1}{1C} \quad \quad \quad \frac{1}{1C}$$

$$C \quad \frac{1}{|C|} \quad \frac{1}{|C|}$$

$$C \quad \quad \frac{1}{1}C \quad \quad \frac{1}{1}C$$

	<b>Emergent &amp; Moderately Intense Treatmt—M</b>		HTH	430			
7	Sam Mahelona Centralized Laundry Equipment	D15					
	Install one 135 pound staph barrier washer and one 275 pound tumbler to replace existing washer and tumblers at Samuel Mahelona Hospital.						
	Design				1		1
	Construction				29		29
	Total Funding		C		30C		30C
8	Maui Memorial Hsp—Quarterway Home	D7A					
	Plans and construction of new class A quarter-way home to place selected mental patients for independent living prior to community placement. Funds appropriated in Item H-25 of Act 187, SLH 1970, which are unencumbered shall be used for this project.						
	Construction				1		1
	Total Funding		C		1C		1C
	Mental Retardation						
	<b>Waimano Training School and Hospital</b>		HTH	511			
9	WTSH-Sewerage System	F03					
	Connection to City & County of Honolulu sewer system.						
	Design				13		13
	Construction				109		109
	Total Funding		C		122C		122C
	Overall Program Support for Health						
	<b>Laboratory Services for Health</b>		HTH	901			
10	Laboratory Office Bldg Honokaa	I02					
	Plans and construction of laboratory office bldg., service shed, and bldg. to house public health programs. To complete the development of the civic center complex.						

Item No.	Program	Program No.			APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C D E	FY 1974-1975	C D E	Total Biennium 1973-1975	C D E
	Design								11	11
	Construction								151	151
	Total Funding					C			162C	162C
11	New Virology Laboratory		106							
	Laboratory to provide virology surveillance and diagnostic services, office, toilet, locker, incinerator building.									
	Design								13	13
	Construction								136	136
	Total Funding					C			149C	149C
12	Public Health Nursing Services				HTH 902					
	Waipahu Health Bldg Air Conditioning & Park		120							
	Install air conditioning in existing building and additional parking.									
	Design								10	10
	Construction								66	66
	Total Funding					C			76C	76C
13	Wailuku Health Center		124							
	Wailuku Health Center—Air conditioning.									
	Design								11	11
	Construction								91	91
	Total Funding					C			102C	102C

**F. SOCIAL PROBLEMS****ASSURED STANDARD OF LIVING****Housing****Rental Housing Augmentation**

SOC 221

1	Federal Low Income 325 Family Dwellings 2 to 5 bedrooms masonry and or frame (to be expended by the Department of Social Services and Housing).	H01				
	Construction		7,450			7,450
	Total Funding		7,450E	E		7,450E
	 <b>Home Purchase Loans</b>					
	<b>Loans to Hawaiians</b>	HHL 611				
2	Nanakuli Subdivision 320 Units Nanakuli, Oahu to put in roads, curbings, water and electrical lines for 430 residence lots in increments of 110 and 320. To provide loan fund capitalization for construction of 320 homes.	H20				
	Design		256			256
	Construction		2,304			2,304
	Total Funding		2,560C	C		2,560C
3	Panawaena Subdivision 40 Units, Hawaii To put in roads, curbings, water and electrical lines for 40 units at Panawaena, Hawaii to provide a loan capitalization for construction of 40 units.	H21				
	Design		32			32
	Construction		288			288
	Total Funding		320C	C		320C
4	Waianae Subdivision 380 Units Waianae, Oahu to build roads and curbings, install utilities, water tank and stake out for 530 residence lots at Waianae, Oahu in increments of 150 and 383 units.	H23				
	Design		352			352
	Construction		3,170			3,170
	Total Funding		3,522C	C		3,522C



	Design		25	25
	Construction		225	225
	Total Funding		250C	250C
	C			
	<b>G. FORMAL EDUCATION</b>			
	<b>LOWER EDUCATION</b>			
	Intellectual Learning			
	<b>Science</b>	EDN 121		
1	Aliamanu Intermediate, Oahu	D33		
	Renovate 4 cr to 4 science cr.			
	Design		14	14
	Construction		115	115
	Total Funding		129C	129C
C				
2	Kau High and Pahala Elementary School	H91		
	To supplement prior appropriations for the construction of a science classroom building.			
	Construction		64	64
	Total Funding		64C	64C
C				
3	Kealakehe Elem School, North Kona, Hawaii	0D5		
	Plan and construct science classroom facility.			
	Design		10	10
	Construction		107	107
	Total Funding		117C	117C
C				
4	Hilo Second High School, Hilo, Hawaii	1D1		
	Construct 4 science classroom-labs plans.			
	Design		37	37
	Construction		539	539
	Total Funding		576C	576C
C				
5	Molokai High and Inter School, Molokai	2D9		
	Plan and construct 8 cr bldg, drainage improvements, and renovation of existing facilities.			
	Construction		425	425
	Total Funding		425C	425C
C				



	<b>Construction</b>				143	143
	<b>Total Funding</b>				143C	143C
11	Hana High and Elem School, Maui Plan and construct music bldg.	3D3	C			
	<b>Design</b>				14	14
	<b>Construction</b>				143	143
	<b>Total Funding</b>		C		157C	157C
	<b>Art</b>	EDN 221				
12	Kealakehe Elem School, North Kona, Ha-waii Plan and construct art classroom facility.	0D3				
	<b>Design</b>				11	11
	<b>Construction</b>				122	122
	<b>Total Funding</b>		C		133C	133C
13	Kauai Hi and Intermediate Plan and construct 2 art classrooms as part of 12 classroom building.	7D4				
	<b>Construction</b>				135	135
	<b>Total Funding</b>		C		135C	135C
	<b>Physical Education</b>	EDN 231				
14	Kaiser High School Plan & construct PE classrooms and athletic facilities.	D18				
	<b>Construction</b>				299	299
	<b>Total Funding</b>		C		299C	299C
15	King Intermediate and High, Oahu Plan and construct athletic facilities	D93				
	<b>Design</b>				17	17
	<b>Construction</b>				168	168
	<b>Total Funding</b>		C		185C	185C
16	Mililani High, Oahu Construct athletic field with bleachers, lights, Item 111 C 14 Act 68 1971.	E40				



	<b>Design</b>				69		69
	<b>Construction</b>				626		626
	<b>Total Funding</b>				695C		695C
				C			
	<b>Social Studies</b>			EDN	241		
22	Moanalua High, Oahu	D38					
	Plan and construct 12 cr bldg and supplemental funds for the construction of the second increment.						
	<b>Construction</b>					1,241	1,241
	<b>Total Funding</b>			C		1,241C	1,241C
	<b>Economic Learnings</b>						
	<b>Vocational-Technical</b>			EDN	301		
23	Nanakuli High, Oahu	D67					
	Plan and construct industrial education building and site improvement.						
	<b>Construction</b>					242	242
	<b>Total Funding</b>			C		242C	242C
24	Hilo Second High School, Hilo, Hawaii	0D9				39	39
	Plan and construct 2 business educ rooms, wood technology shop, home economics classroom.					563	563
	<b>Design</b>					602C	602C
	<b>Construction</b>			C			
	<b>Total Funding</b>						
25	Kauai High and Inter	7D4				136	136
	Plan and construct 2 home economics classrooms as part of 12 classroom building.					136C	136C
	<b>Construction</b>						
	<b>Total Funding</b>			C			

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium
<b>Practical Arts</b>									
26	Mililani Hi and Int, Oahu	D37	EDN	311					
	Plan and construct practical arts center & supplemental funds for the construction of the second increment.								
	Design						26	26	
	Construction						1,452	1,452	
	Total Funding					C	1,478C	1,478C	
27	Hana High and Elem School, Maui	3D2							
	Plan and construct ind arts cr bldg.								
	Design						17	17	
	Construction						216	216	
	Total Funding					C	233C	233C	
28	Mililani High, Oahu	39D							
	Plan and construct five practical arts classrooms.								
	Design						36	36	
	Total Funding					C	36C	36C	
29	Mililani High, Oahu	40D							
	Plan and construct four practical arts classrooms.								
	Design						43	43	
	Total Funding					C	43C	43C	
30	Kauai High and Inter	7D4							
	Plan and construct 1 typing room and 1 business room as part of 12 classroom building.								
	Construction						136	136	
	Total Funding					C	136C	136C	

## **Administration—Lower Education Staff Services**

EDN 411

31	DOE Storeroom and Custodial Facilities Plan and construct storeroom and custodial facilities to provide storage and distribution of school and custodial supplies.	8D7				
	Design			75		75
	Construction			900		900
	Total Funding		C	975C		975C
32	District/School Administration	EDN	421			
	Relocate and Construct Portable Class- rooms	D01				
	Relocation of approximately 100 portable and construction of approximately 10 portable classrooms to meet temporary and sudden enrollment increases, consolidations, to provide temporary facilities while new schools are planned and to house peak enrollments.					
	Design			160		160
	Construction			975		975
	Total Funding		C	1,135C		1,135C
33	Lump Sum Minor Improvements and Addi- tions	D02				
	Additions, renovations and improvements to buildings and school sites for students' safety and health, protection of property, and to improve the educational programs.					
	Design			160		160
	Construction			1,314		1,314
	Total Funding		C	1,474C		1,474C
34	Lump Sum Minor Land Acquisitions	D03				
	Acquisition of small parcels of land abutting existing school sites which are needed for better location of buildings and to provide better					

access which were not foreseen in the original construction.

	cluding connection to existing covered walkway and site improvement.				
	Construction		300	300	
	Total Funding	C	300C	300C	
39	Waimanalo Elementary and Intermediate, D90 Oahu				
	Construct administration building, demolish old building.				
	Construction		185	185	
	Total Funding	C	185C	185C	
40	Hilo Second High School, Hilo, Hawaii	0D7			
	Plan and construct parking area for 200 vehicles access roadway 1,500 ft custodial shed.				
	Design		44	44	
	Construction		690	690	
	Total Funding	C	734C	734C	
41	New Hanalei School	7D1			
	Complex development report for new Hanalei School at Princeville.				
	Design		50	50	
	Total Funding	C	50C	50C	
	Support—Lower Education				
	Lunch	EDN	501		
42	Kalama Uka Elementary	D21			
	Plan and construct kitchen-multipurpose din- ing room.				
	Design		32	32	
	Total Funding	C	32C	32C	
43	Hoaeae Elementary, Oahu	D65			
	Plan and construct serving kitchen and multi- purpose dining room with compactor system and site improvements.				

Item No.	Program	Program No.			APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E
	Design								25	25
	Total Funding							C	25C	25C
44	Campbell High, Oahu	D66								
	Plan and construct food service center consisting of central kitchen, dining room, lanai, renovation of existing kitchen into dining room, drainage and site improvements.									
	Construction								982	982
	Total Funding							C	982C	982C
45	Kahuku High and Elementary, Oahu	D89								
	Plan and construct manufacturing kitchen and dining room.									
	Design								37	37
	Construction								501	501
	Total Funding							C	538C	538C
46	Enchanted Lake Elementary, Oahu	D96								
	Plan and construct multi-purpose dining room.									
	Design								25	25
	Total Funding							C	25C	25C
47	Pope Elementary, Oahu	F28								
	Plan and construct multi-purpose building.									
	Construction								236	236
	Total Funding							C	236C	236C
48	Pukalani Elementary School, Maui	2D7								
	Plan and construct cafeteria.									
	Design								28	28
	Construction								356	356
	Total Funding							C	384C	384C

49	Hana High and Elem School, Maui Plan and construct cafeteria.	3D4				
	Construction			170	170	
	Total Funding		C	170C	170C	
	Continuing Education					
	<b>Public Library</b>		EDN 601			
50	Kahului Library, Air Conditioning	H69				
	Install temperature humidity and acoustical controls for the preservation of print and non print materials, reduce noise level and curb excessive salt breeze.					
	Construction			102	102	
	Total Funding		C	102C	102C	
51	Aina Haina Library	P01				
	Install temperature and humidity control to curb highway noise and preservation of print and non print materials.					
	Design			25	25	
	Construction			175	175	
	Total Funding		C	200C	200C	
52	New State Library Central Facility Building	01D				
	Plan and construct new State library central facility building to include school libraries and instructional materials branch, Hawaii State library public libraries branch, administrative services branch, teacher assist center office of library services. Supplemental funds for central processing center.					
	Design			380	380	
	Construction			173	173	
	Total Funding		C	553C	553C	
53	Molokai Library, Kaunakakai, Molokai	29H				
	Molokai Library located in Kaunakakai is the only library servicing the entire island. The installation of temperature humidity and acous-					

tical controls will preserve books and media equipment and provide comfort to patrons. The hot and humid weather condition and ocean air prevailing in town also justifies the project. The area to be renovated is approximately 3,700 sq. ft.

Design		15	15
Construction		60	60
Total Funding	C	75C	75C

## 54 Waikiki Kapahulu Library 30H

Waikiki Kapahulu Library is located at 400 Kapahulu Ave. The project includes the installation of temperature and humidity and acoustical controls. The area to be renovated is 11,000 sq. ft. The project is necessary to provide protection and preservation of books and media equipment and patron comfort.

<b>Design</b>	10	10
<b>Construction</b>	88	88
<b>Total Funding</b>	C	98C

55 Kaneohe Regional Library, Oahu 9C5

Planning and installation of temperature and humidity controls and acoustical controls.  
4-E-97.

**Construction** 100 100  
**Total Funding** C 100C 100C

(Multi-Purpose Facilities—Elementary)			EDN	000
56	Kalama Uka Elementary	D12		
	Plan and construct 20 classrooms to include master plan and land acquisition.			
	Land Acquisition		480	480
	Design		74	74
	Construction		1,065	1,065
	Total Funding	C	1,619C	1,619C
57	Jefferson Elementary	D27		
	Plan and construct library building, to include demolition and site work.			
	Construction		250	250
	Total Funding	C	250C	250C
58	Hawaii School for Deaf and Blind	D28		
	Construct library and demolition of old cafe.			
	Design		11	11
	Construction		240	240
	Total Funding	C	251C	251C
59	Waiau Elem, Oahu (Waiau II)	D35		
	Construct 16 cr bldg and site improvements.			
	Design		3	3
	Construction		769	769
	Total Funding	C	772C	772C
60	Pearl Ridge Elem, Oahu	D36		
	Plan and construct library and site improvement and supplemental funds for land acquisition.			
	Land Acquisition		240	240
	Construction		300	300
	Total Funding	C	540C	540C



	Construction		299	299
	Total Funding		299C	299C
67	Salt Lake Elementary, Oahu	D49	C	
	Plans for the construction of an 8-classroom building.			
	Design		43	43
	Total Funding		43C	43C
68	Hoaeae Elem, Oahu	D64	C	
	Plan and construct 24 classrooms, temporary portable serving kitchen, admin, library, and health rm, teacher's workrooms, site improvement and supplementary land acquisition.			
	Design		32	32
	Construction		1,091	1,091
	Total Funding		1,123C	1,123C
69	Kaimiloa Elem, Oahu	D68	C	
	Plan and construct 16 classroom building with teacher's workroom, lanai, toilets and site improvement.			
	Construction		577	577
	Total Funding		577C	577C
70	Nanakuli 2nd Elementary	D69	C	
	Plan and construct 8-classroom building with teacher's workroom and toilets and site improvements.			
	Design		36	36
	Construction		440	440
	Total Funding		476C	476C
71	August Ahrens Elem, Oahu	D74	C	
	Plan and construct 8 classroom building with teacher's workroom, toilets, site improvement and demolition of old admin-library building and supplemental for renovation of kindergarten classrooms to administration.			

Item No.	Program	Program No.			APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E
	Design								32	32
	Construction								401	401
	Total Funding					C			433C	433C
72	Nanakuli II Elem, Oahu (Lualualei)	D82								
	Land acquisition, complex development report and site improvements.									
	Design								55	55
	Construction								235	235
	Total Funding					C			290C	290C
73	Kainali Elem, Oahu	D91								
	Renovate and expand classrooms to library.									
	Design								14	14
	Construction								145	145
	Total Funding					C			159C	159C
74	Iroquois Pt Elem, Oahu	L03								
	Plan and construct 16 classroom bldg with teacher's workroom, toilets, playfield, fencing and site improvements including sprinklers.									
	Design								31	31
	Construction								902	902
	Total Funding					C			933C	933C
75	Ewa Elementary	L28								
	Plan and construct 12 classrooms and teacher's workroom.									
	Design								40	40
	Total Funding					C			40C	40C

76	Honowai Elem School Land Acquisition Payment for 6.085 acres of land used for the school site.	L29				
	Land Acquisition			353	353	
	Total Funding		C	353C	353C	
77	Heeia 2nd Elem, Oahu	W01				
	Site selection, land acquisition, plan and construct 1st increment (16 classrooms).					
	Land Acquisition			575	575	
	Design			25	25	
	Total Funding		C	600C	600C	
78	Kealakehe Elem School, North Kona, Hawaii	0D2				
	Plan and construct 9 classrooms and parking area supplement to prior appropriations.					
	Construction			419	419	
	Total Funding		C	419C	419C	
79	Hilo Union Elem School, Hilo, Hawaii	1D2				
	Construct library administration building and parking supplement to prior appropriation.					
	Design			4	4	
	Construction			284	284	
	Total Funding		C	288C	288C	
80	Wheeler Elementary, Oahu	1E6				
	Plan and construct library replacement					
	Design			25	25	
	Construction			260	260	
	Total Funding		C	285C	285C	
81	Pukalani Elem School, Maui	2D6				
	Plan and construct 16 crs and sitework.					
	Construction			1,167	1,167	
	Total Funding		C	1,167C	1,167C	



	Design				52	52
	Total Funding				52C	52C
88	Mililani Uka Elem	60D	C			
	Land acquisition, complex development report, first increment plans, and construction and site improvement.					
	Land Acquisition			350	350	
	Design			85	85	
	Total Funding		C	435C	435C	
89	Mokapu 2nd Elem or Mokapu Elem	61D				
	Master plan new school or plan addition to existing Mokapu Elementary, land acquisition, plan and construct 1st increment.					
	Land Acquisition			5	5	
	Design			20	20	
	Total Funding		C	25C	25C	
90	New Hanalei Elem School	7D2				
	First increment plan and construct two type III classroom buildings with toilets and teacher work center special class room building to be used as temporary library and administration.					
	Design			61	61	
	Total Funding		C	61C	61C	
91	Mililani Uka Elem	94F				
	Plan and construct 16 classrooms, site work.					
	Design			68	68	
	Total Funding		C	68C	68C	
	(Multi-Purpose Facilities—Secondary)		EDN 001			
92	Kaiser High School	D17				
	Plan and construct library and forecourt including language laboratory and convert temporary library back to science classrooms.					
	Design			9	9	
	Construction			738	738	
	Total Funding		C	747C	747C	

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
93	Moanalua Hi, Oahu Plan and construct library.	D44							
	Construction						743		743
	Total Funding					C	743C		743C
94	Campbell High, Oahu Plan and construct classroom building with 37 classrooms, and laboratories, teachers' workroom, lanais, toilets, site improvement and correction of architectural barriers.	D70							
	Construction						1,825		1,825
	Total Funding					C	1,825C		1,825C
95	Nanakuli High-Inter School Plan and construct 8 classroom building with teacher's workroom, toilets and site improvements.	D73							
	Design						50		50
	Construction						676		676
	Total Funding					C	726C		726C
96	Waipahu High, Oahu Plan and construct library and site improvement.	D75							
	Design						26		26
	Construction						632		632
	Total Funding					C	658C		658C
97	Waipahu High, Oahu Plan and construct 10 classroom building with teacher's workroom, toilets and site improvements.	D76							

		Design	16	16
		Construction	419	419
		Total Funding	435C	435C
98	Ahuimanu Intermediate, Oahu	D88		
	Site selection and land acquisition and master planning.			
	Land Acquisition		65	65
	Total Funding		65C	65C
99	Hilo Intermediate School	H84		
	To supplement prior appropriations for the construction of a twelve classroom building.			
	Construction		218	218
	Total Funding		218C	218C
100	Radford High School	Q08		
	Plan and construct renovations to boys' and girls' restrooms.			
	Design		17	17
	Construction		170	170
	Total Funding		187C	187C
101	Castle High School Classrooms	W06		
	Replacement of fire damaged classrooms and teacher's workroom.			
	Design		16	16
	Construction		200	200
	Total Funding		16A C 200C	A 16A 200C
102	Hilo Second High School, Hilo, Hawaii	1D0		
	Plans, site improvement and construction of 18 classrooms.			
	Construction		373	373
	Total Funding		373C	373C



	Design		20	20
	Construction		262	262
	Total Funding		282C	282C
109	Waiau High and Intermediate	64D		
	Plans for 1st increment, site improvement and land acquisition.			
	Land Acquisition		600	600
	Design		130	130
	Total Funding		C 730C	730C
110	Konawaena High and Intermediate School	8C0		
	To supplement prior appropriations for the construction of a fire protection system.			
	Construction		65	65
	Total Funding		C 65C	65C
	<b>HIGHER EDUCATION</b>			
	University of Hawaii, Manoa			
	<b>Instruction—UOH, Manoa</b>	UOH 101		
111	Agricultural Sciences Facilities, Phase I	002		
	Agricultural Sciences Facilities, Phase I			
	University of Hawaii, Manoa Campus			
	Construction of classrooms, laboratories and offices for the departments of agricultural engineering and entomology of the college of tropical agriculture. Approx. 75,500 gsf; 42,700 asf.			
	Construction		5.085	5.085
	Total Funding		C 5,085C	5,085C
112	Art Facilities	004		
	Art facilities, University of Hawaii, Manoa Campus			
	Construction of a facility to house the art department, accommodate the 1975 enrollment increase and to provide a remedy for the existing deficiencies within the present instructional facilities. Approx. 145,000 gsf; 80,770 asf.			

Item No.	Program	Program No.			APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E
	Construction								340	340
	Total Funding							C	340C	340C
113	Auditorium Building		005							
	New Auditorium Building									
	University of Hawaii, Manoa Campus									
	Construction of a 1,000 seat auditorium. Approx. 36,000 gsf; 18,000 asf.									
	Construction								206	206
	Total Funding							C	206C	206C
114	Improvements to Physical Education Fac		028							
	Improvements to Physical Education Facilities									
	University of Hawaii, Manoa Campus									
	Incremental planning and construction of improvements to provide adequate facilities for the physical education, intramurals, athletic and recreational programs at the rate of approximately 3 acres per year.									
	Design								11	11
	Construction								139	139
	Total Funding							C	150C	150C
115	Medical School Development		039							
	Medical School Development									
	University of Hawaii, Manoa									
	Development of facilities for a 4-year medical school.									
	Design								17	17
	Construction								233	233
	Total Funding							C	250C	250C

116	Law School Development Law School Development University of Hawaii at Manoa Development of facilities for a law school.	044				
	Design		30	30		
	Construction		220	220		
	Total Funding	C	250C	250C		
117	Center for Korean Studies Center for Korean Studies University of Hawaii, Manoa Campus Construction of a Korean style building containing offices, meeting rooms, library, study rooms, and research offices for the center for Korean Studies.	045				
	Design		34	34		
	Construction		466	466		
	Total Funding	R	500R	500R		
	<b>Organized Research—UOH, Manoa</b>	UOH	102			
118	Mauna Kea Summit Access This project being designed and constructed for University of Hawaii. Title change. From Act No. 187/70 \$175,000 are county funds not included in appropriations.	T15				
	Construction		3,100	3,100		
	Total Funding	C	3,100C	3,100C		
119	Astronomy Facilities Astronomy Facilities, Institute for Astronomy University of Hawaii, Manoa Campus Construction of facilities for the Institute of Astronomy. Containing offices, laboratories, workshops, seminar rooms, conference and reading rooms. Approx. 61,300 gsf; 36,200 asf.	101				
	Construction		340	340		
	Total Funding	C	340C	340C		

Item No.	Program	Program No.			APPROPRIATIONS				
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
120	Purchase of Research Ship Kana Keoki Purchase of Research Ship Kana Keoki University of Hawaii, Marine Programs The acquisition of the Kana Keoki is necessary to meet grant and contract requirements of the geology-geophysics research programs as well as other deep-sea programs of the Uni- versity.		117						
	Construction								500
	Total Funding							C	500C
121	Kohala Grain Research Plans and construction of a field laboratory, offices, storage including silos, and other ancil- lary facilities for the Kohala grain research project.		150						
	Design								9
	Construction							C	75
	Total Funding								84C
	<b>Academic Support—UOH, Manoa</b>				UOH	104			
122	Hamilton Library, Phase 2 Hamilton Library, Phase 2 University of Hawaii, Manoa Campus Construction of a core stack building addition to the Hamilton Library to provide space for 3,000 additional readers and 1.5 million volumes. Included is the renovation of a portion of the phase 1 basement area for the graduate school of library studies. Approx. 193,400 gsf; 158,000 asf.		176						

	Construction		7,815	7,815
	Total Funding		7,815C	7,815C
	<b>Student Services—UOH, Manoa</b>	<b>UOH 105</b>		
123	Student Housing Facilities	213		
	Student Housing Facilities			
	University of Hawaii, Manoa Campus			
	Plans and construction of student dormitories with kitchen and dining facilities, including furniture and equipment and landscaping.			
	Design	525	372	897
	Construction	5,924	8,775	14,699
	Total Funding	6,449E	9,147E	15,596E
	<b>Institutional Support—UOH, Manoa</b>	<b>UOH 106</b>		
124	Major CIP Planning			
	Major CIP Planning, University of Hawaii at Manoa	239		
	Continuing studies, research, and advanced planning of major facilities and utilities for the Manoa based programs to enable the preparation of more definitive program plans and cost estimates for budgeting and in seeking federal funds. (To be expended by the University of Hawaii.)			
	Design		100	100
	Total Funding		100C	100C
125	Minor CIP Projects	240		
	Minor CIP Projects, University of Hawaii at Manoa			
	Planning, constructing and equipping of minor improvements, including the construction of new facilities as well as modifications to existing structures of the Manoa based programs. Improvements are necessary to provide more efficient utilization of existing spaces and to create new spaces for changing and expanding programs.			



	Design	33	33
	Construction	467	467
	Total Funding	500E	E
<b>Independent Operations—UOH, Manoa</b>			
129	East-West Center Facility	276	
East-West Center Facility, Manoa			
Administration building containing offices, seminar rooms, conference rooms, library, and research areas. Approx. 84,600 asf; 126,000 gsf.			
	Construction		8,100
	Total Funding	C	8,100C
130	RCUH—Cancer Center of Hawaii	277	8,100C
The center will be built on 20,000 sq ft of land on the Queens Hospital grounds. This 4 story bldg will contain 27,000 net sq ft costing 5.5 million. The federal govt will provide 4.125 mil, Queens Hospital 1.0 mil, and the state .375 mil. The Research Corp of the UH, being the grantee of Nat'l Cancer Institute Support Grant, will be recipient.			
	Construction		375
	Total Funding	C	375C
	University of Hawaii, Hilo		375
<b>Instruction—UOH, Hilo</b>			
131	Phys. Ed., Intramural & Athletic Fac., Ph 1	301	375C
Physical Education, Intramural & Athletic Facilities, Ph. 1			
University of Hawaii at Hilo, Hilo College			
Incremental construction of physical education, athletic and recreational facilities. Approx. 17,400 gsf; 10,000 asf.			
	Construction		938
	Total Funding	C	938C
			938C

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
<b>Academic Support—UOH, Hilo</b>									
132	Auditorium-Theater, Phase 2	UOH	204						
	Auditorium-Theater, Phase 2, University of Hawaii at Hilo		383						
	Hilo College								
	Construction and landscaping to complete the stage, dressing and storage areas of the auditorium-theater. Approx. 4,000 gsf; 2,300 asf.								
	Construction								118
	Total Funding					C		118C	118C
 <b>Student Services—UOH, Hilo</b>									
133	Student Housing, Phase 4	UOH	205						
	Student Housing Facility, Phase 4		405						
	University of Hawaii at Hilo, Hilo College								
	Plans for a student housing facility to accommodate 256 students. Approx. 63,400 gsf; 42,200 asf.								
	Construction								3,754
	Total Funding						3,754E	552	4,306
134	Student Housing, Phase 5		406					552E	4,306E
	Student Dormitories, Phase 5								
	University of Hawaii at Hilo, Hilo College								
	Construction of a student housing facility to accommodate 256 students. Approx. 63,400 gsf; 42,200 asf.								
	Design								338
	Total Funding					E		338E	338E

<b>Institutional Support—UOH, Hilo</b>			<b>UOH</b>	<b>206</b>
135	Faculty Housing Units, Phase 1	428		
	Faculty Housing Units, Phase 1			
	University of Hawaii at Hilo, Hilo College			
	Construction of 32 faculty housing units at Hilo College to be shared by all activities under the Hilo chancellor's office. Approx. 15,000 gsf; 10,000 asf.			
	Design	68		68
	Construction	27	882	909
	Total Funding	95E	882E	977E
136	Minor CIP	432		
	Minor CIP			
	University of Hawaii at Hilo, Hilo College			
	Plans and construction of minor improvements, including construction of new facilities as well as modifications to existing facilities. Modifications are necessary to make possible more efficient use of existing spaces and to create new spaces to accommodate changes in programs.			
	Design	9		9
	Construction	91		91
	Total Funding	100C		100C
137	General Utilities, Roads & Site Improvements	433		
	General Utilities, Roads & Site Improvements			
	University of Hawaii at Hilo, Hilo College			
	Incremental construction of utilities for major projects, removal, demolition, or relocation of structures, connection of roadways to improve circulation and safety, and to improve various areas for maximum utilization of space.			
	Design	12		12
	Construction	138		138
	Total Funding	150C		150C

Item No.	Program	Org.	No.	Exp. Agy.	FY 1973-1974	APPROPRIATIONS			Total Biennium 1973-1975	C O D E
						C O D E	FY 1974-1975	C O D E		
	Honolulu Community College <b>Instruction—Hono Comm College</b>				UOH 301					
138	Honolulu CC—Technology Bldg., Phase I Technology Building, Phase I—Honolulu Comm. Coll. Plans, construction, furniture and equipment of a building, to provide shops, classrooms for construction related program including the apprentice trades. Estimated gross area 57,000 sq. ft. Unexpended balances in Act 68 SLH 1971, Item C-125 for Phase II may be used for Phase I construction.		A07							
	Construction								450	450
	Total Funding							C	450C	450C
139	Honolulu CC—Modernization and Renova- tion Modernization and Renovation of Existing Facilities, Honolulu Community College Plans, construction, furniture and equipment to modify, renovate and improve existing facil- ties to meet program requirements and provide for the expansion of the college programs.		A09							
	Design								27	27
	Total Funding							C	27C	27C
140	Honolulu CC—Classroom Building Classroom Building—Honolulu Community College Plans, construction, furniture and equipment of a building for general education and transfer programs including classrooms, laboratories,		A11							

special classrooms and faculty offices. Approximate area 25,000 sf. These funds may be used to construct additional floors to the campus center build, and to supplement Act 68, SLH 1971, Item C-124 funds.

Construction		1,800	1,800
Total Funding	C	1,800C	1,800C

**Kapiolani Community College  
Institutional Support—Kapiolani Comm Col**      UOH 315

141	Kapiolani CC—Renovation of Existing Fac. B05 Renovation of existing facilities at Fort Ruger. Renovation of existing facilities for temporary classrooms, offices, laboratories, library and other academic and support facilities to begin new campus, including site development and improvement to utilities. These funds may be used to renovate existing facilities at Kapiolani and Leahi Hospital to accommodate the college programs.		
	Design	114	114
	Construction	886	886
	Total Funding	C	1,000C
			1,000C

**Leeward Community College  
Instruction—Leeward Comm College**      UOH 321

142	Leeward Comm. Coll—Conversion of Exist. L05 Fac Conversion of Existing Facilities, Leeward Community College Conversion, modifications and renovations of existing facilities to accommodate program requirements.		
	Design	17	17
	Construction	233	233
	Total Funding	C	250C
			250C



	Design		8	8
	Construction		75	75
	Total Funding		83C	83C
	<b>Kauai Community College</b>			
<b>146</b>	<b>Institutional Support—Kauai Comm Coll</b>	UOH 605		
	Kauai CC—Development of New Campus	K05		
	Kauai Community College—Development of New Campus			
	Preparation of educational specifications and master plan. Design and construction of com- plete new campus for the relocation of the exist- ing campus. Estimated enrollment—1,500. Ini- tial development—50-75 acres.			
	Construction		6,929	6,929
	Total Funding		6,929C	6,929C
	<b>University of Hawaii System-Wide Support</b>			
<b>147</b>	<b>Institutional Support—UOH, Syst-Wide Su</b>	UOH 903		
	University System Planning, Statewide	001		
	University System Planning, Statewide			
	Plans and studies to determine the needs for additional campuses. Impact studies, evalua- tions of sites and master planning. (To be ex- pended by the University of Hawaii.)			
	Design		100	100
	Total Funding		100C	100C
	<b>West Oahu College</b>			
	<b>Instruction—West Oahu College</b>	UOH 701		
<b>148</b>	<b>West Oahu College</b>	W01		
	Plans and construction of a new campus includ- ing temporary facilities, equipment and rental to accommodate approximately 400 students in 1975 and 1,500 students in 1976. Land area— 150-250 acres. Construction will be in two ma- jor stages: Phase I—1,500 students—to be com- pleted by September 1976; Phase II—4,500 students—to be completed by September 1978.			

**Program No.**

## **APPROPRIATIONS**

Exp.	FY	C O D E	FY	C O D E	Total	C O D E
Av.	1973-1974		1974-1975		Biennium	

<b>Design</b>	778	778
<b>Construction</b>	1,817	1,817
<b>Total Funding</b>	<b>C</b>	<b>2,595C</b>

**Academic Support—West Oahu College**      UOH    704  
149            West Oahu College                    W30

**West Oahu College—**  
Plans and construction for the incremental development of the campus, including temporary facilities, equipment and rental.

**Design** 125 125  
**Total Funding** C 125C 125C

**Student Services—West Oahu College** UOH 705  
150 West Oahu College W50

**West Oahu College**  
Plans and construction for the incremental development of the campus, including temporary facilities, equipment and rental.

**Design** 54 54  
Total Funding C 54C 54C

Institutional Support—West Oahu College      UOH 706

West Oahu College—Site Development  
West Oahu College—Site study, development of educational specifications, master plan for a new campus. Plans and construction for on-site and off-site improvements, including site improvements for temporary facilities.

**Construction** **3,000** **3,000**  
**Total Funding** **C** **3,000C** **3,000C**

## H. LEISURE TIME

### CULTURAL AND ARTISTIC PRESENTATIONS

Cultural and Artistic Displays

Historical and Archaeological Places

#### LNR—Historical & Archaeological Places

LNR 801

1	Iolani Palace Complex Restoration, Honolulu	F11			65	65
Plans and construction for restoration and interpretation of Iolani Palace, barracks and appurtenant facilities.						
	Design				1,635	1,635
	Construction				1,700C	1,700C
	Total Funding					
2	Russian Fort Historic Project, Waimea, Kauai	F12			25	25
Plans and construction for incremental restoration, interpretation and other improvements.						
	Land Acquisition				25	25
	Design				100	100
	Construction				150C	150C
	Total Funding					
3	Kealakekua Bay State Recreational Area	F14			500	500
South Kona, Hawaii						
Land acquisition, plans, and construction for incremental development of historic, archaeological and compatible park facilities. Facilities will be in operation by 1978, the 200th anniversary of Captain Cook's landing.						
	Land Acquisition				150	150
	Design				650C	650C
	Total Funding					
<b>Other Natural Features</b>						
LNR 803						
4	Iao Valley State Park, Wailuku, Maui	F32				
Plans and construction for incremental devel-						

opment, historic, archaeological, recreational and other park facilities.

	Land Acquisition				200	200
	Total Funding				200C	200C
8	Makua-Kaena Point State Park, Oahu	F56		C	200	200
	Plans and construction of incremental development of scenic lookout, recreational and necessary park facilities.				200C	200C
	Land Acquisition				35	35
	Design				15	15
	Total Funding			C	50C	50C
9	Wailoa River State Recreation Area, South Hilo, Hawaii	F58				
	Plans and construction for incremental development of recreational and other park facilities.					
	Design				5	5
	Construction				95	95
	Total Funding			C	100C	100C
	Other Ocean Based Outdoor Activities					
	DOT—Other Ocean-Based Activities		TRN 801			
10	Ala Wai Boat Harbor, Oahu	020				
	Continue developments to increase capacity, including moorings and shore facilities and other improvements.					
	Design				80	80
	Construction				765	870
	Total Funding			105B	B	105B
				C	845C	845C
11	Haleiwa Boat Harbor, Oahu	040				
	Plans and construction to continue development of the light draft harbor to accommodate additional craft. Develop boat harbor using master plan as a guide.					
	Design				69	69
	Construction				331	331
	Total Funding			C	400C	400C



	Design		14	14
	Construction		66	66
	Total Funding		80D	80D
15	Statewide Sewage System Imprv to Boats Fac.	02S	D	
	Study and implementation of a statewide sewage system for recreational harbors and boating facilities. Implementation costs are dependent upon study findings and recommendations.			
	Design		95	95
	Construction		5	5
	Total Funding		100D	100D
16	New Lahaina Boat Harbor, Maui	04M	D	
	Construction of a new marina between the extension of Lahainaluna Street and Papalaau Street. Dredging entrance and access channel, basin, portion of berthing area; construct wave absorber, breakwater bulkhead, wharf, mole, paving, mooring, shore facilities & other improvements. Possible federal aid anticipated in the planning period is approximately \$1,440,000.			
	Design		135	135
	Total Funding		135C	135C
	<b>LNR—Other Ocean-Based Activities</b>	LNR 805		
17	Haena Beach State Park, Hanalei, Kauai	F74	C	
	Land acquisition, plans and construction for incremental development of camping, historic, archaeological, recreational and other park facilities.			
	Land Acquisition		700	700
	Total Funding		700C	700C
18	Hapuna Beach State Park, S Kohala, Hawaii	F75	C	
	Land acquisition, plans and construction for			

Item No.	Program	Program No.		APPROPRIATIONS					
		Org.	No.	Exp. Agy.	FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975
incremental development of camping, recreational and other park facilities.									
	Land Acquisition							150	150
	Design							15	15
	Construction							285	285
	Total Funding					C		450C	450C
19	Lydgate (Wailua) State Park, Kauai		F76						
	Plans and construction for incremental development of camping, recreational and other park facilities, including pavilion.								
	Design							15	15
	Construction							135	135
	Total Funding					C		150C	150C
<b>I. PUBLIC SAFETY</b>									
CRIMINAL ACTION									
	Confinement								
	Adult Maximum Security Facilities								
	Hawaii State Prison				SOC	402			
1	Community Correctional Center—ISC	901							
	Phased construction of intake service center and community correctional center for Oahu, Hawaii, Kauai, and Maui. Also, construction and renovation of Oahu high security facility. These facilities will replace the existing Hawaii State Prison and the county jails.								
	Construction							4,370	4,370
	Total Funding					C		1,093C	1,093C
						N		3,277N	3,277N

	General Support—Criminal Action				
	Adjudication Supporting Services				
	General Administration— Adjudication		JUD	904	
2	State Judiciary Complex	001			
	Construction of new buildings which will ultimately total 253,000 net sq ft to form the judiciary complex. This complex will serve the supreme court, first circuit court, the family court, and the University of Hawaii Law School.				
	Land Acquisition			3,417	3,417
	Total Funding		C	3,417C	3,417C
3	Honolulu District Court	051			
	This project would provide in two increments a 90,000 net sq ft facility for the district court of Honolulu, central office of the rural district courts, and the traffic violations bureau.				
	Land Acquisition			1,049	1,049
	Design			99	99
	Construction			3,089	3,089
	Total Funding		C	4,237C	4,237C
4	Wailuku Judiciary Complex	261			
	Design and construction of a 30,000 square feet judiciary building to be located in the Wailuku Civic Center. This project will also include land acquisition.				
	Land Acquisition			46	46
	Design			28	28
	Total Funding		C	74C	74C
	<b>PHYSICAL HAZARDS</b>				
	Natural Disasters				
	Prevention of Natural Disasters				
	<b>LNR—Flood Control</b>		LNR	810	
5	Statewide Silt Basins Study and Development	G37			
	Statewide Silt Basins Study and Development				

**Program No.**

## **APPROPRIATIONS**

6,000 square feet of floor space and including all utilities and other supporting items required to complete the facility for occupancy.

Design  
Construction  
Total Funding

C	20	20
N	230	230
	144C	144C
	106N	106N

**Amelioration of Man-Made Disasters**

**DEF—Amelioration of Man-Made Disasters**

DEF 112

- 9      Replacement of Disaster Warning Sirens      C12  
Incremental replacement of civil defense disaster warning sirens, statewide, worn out and unserviceable due to age, use and exposure. This is a continuing program from year to year. Federal matching funds are reimbursable to the State.

Design  
Construction  
Total Funding

C	1	1
N	48	48
	25C	25C
	24N	24N

- 10     Additional Disaster Warning Sirens      C13  
Incremental installation of additional civil defense disaster warning sirens, statewide, to expand the coverage of warning system to keep pace with new developments, growth of communities and population shifts. This is a continuing program from year to year. Federal matching funds will be reimbursed to the State.

Construction  
Total Funding

C	94	94
N	47C	47C
	47N	47N

- 11     Radio Controlled Siren Warning System      C15  
Provide adaptability design and incremental implementation of a project to replace the present telephonically controlled siren warning system with a radio controlled siren warning

system. Federal matching funds are reimbursable to the State.

	<b>Construction</b>		250	250
	<b>Total Funding</b>		250C	250C
14	<b>Departmental Administration Building</b>	D13	C	
	Planning and construction of a special designed two story permanent masonry building containing approximately 30,000 square feet, including all utilities, parking areas, and other supporting features, to provide executive office space and facilities for administration of the State Department of Defense.			
	Design		40	40
	Construction		1,059	1,059
	<b>Total Funding</b>		983C	983C
			N	116N
15	<b>Facilities Maintenance Shop, Oahu</b>	D14	C	
	Planning and construction of a special designed single-story permanent industrial metal building containing approximately 6,400 square feet, including all utilities, paved areas, and other supporting features to provide adequate facilities for the buildings and grounds facilities maintenance section of the dept. This project will also include space for a radio and radiological shop for the civil defense division.			
	Design		13	13
	Construction		230	230
	<b>Total Funding</b>		243C	243C

#### K. GOVERNMENT-WIDE SUPPORT

**EXEC DIRECTION, COORD, POLICY DEVELOPMENT**

**Executive Direction**

**Office of the Governor**

GOV 100

1	<b>Project Adjustment Fund</b>	G01
	To establish a contingency fund for project adjustment purposes subject to the provisions of the appropriations act.	



To be supplemented by federal funds.

	Design		100		
	Total Funding		100C		
5	Five Year Land Use District Boundary Review	LUI	C	100C	100C
	A five year comprehensive review of classification and districting of all lands in the State and of the regulations applicable in each district. Encompasses from collection and analysis of data to adoption of boundaries through public hearings. See level of program activity section for the procedures by which the district boundaries are adopted. Cost estimate (line 26-28) reflects cost needed for next BUU.				
	Land Acquisition		100	20	120
	Total Funding		C	20C	20C
			100N	N	100N
GENERAL SERVICES					
	Property Management				
	<b>Public Lands Management</b>	LNR	101		
6	Waimea Heights Houselots, Kauai	E08			
	Contract let, work in progress. Project completion date 12-72 for first increment. Fourteen lots to be developed. Table R Part I includes staff and/or consultant services for prior years.				
	Design			30	30
	Construction			400	400
	Total Funding		D	430D	430D
7	Puna Farm Lots	E16			
	Preliminary staff planning under way. Design contract in preparation.				
	Construction			100	100
	Total Funding		C	100C	100C



	school buses, department of transportation and department of health facilities. This project includes site selection, land acquisition, complex development report, design and construction.			
	Land Acquisition		80	80
	Total Funding	C	80C	80C
12	Advance Planning, Statewide FY70-71 to A24 74-75			
	To prepare reports such as system development, project development, site selection, State capitol complex policy committee, staff study, CIP assistance, building inventory, State capitol complex plan review, office space inventory, office space layout, analysis of lease request, analysis of office space request in State buildings and other planning projects.			
	Design		90	90
	Total Funding	C	90C	90C
13	Kaneohe State Office Bldg. A37			
	A new site and State office building to provide office space for various State agencies.			
	Land Acquisition		825	825
	Design		15	15
	Total Funding	C	840C	840C
14	Kaunakakai Office Building and Land Acq. A39			
	Expansion of the civic center and new State office building to provide space for various State agencies in the Kaunakakai Civic Center.			
	Land Acquisition		42	42
	Total Funding	C	42C	42C
15	Land Acq State Capitol Complex Mauka A50			
	Purchase 53,000 s.f. of land in the block bounded by Miller, Punchbowl and Vineyard thoroughfare for proposed mauka landscaped mall to the State capitol.			

Item No.	Program	Org.	No.	Exp. Agy.	APPROPRIATIONS					
					FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium	C O D E
	Land Acquisition								100	100
	Total Funding					C			100C	100C
16	Washington Place Renovations	A95							8	8
	Design and construction of building repair work required by building safety code.								34	34
	Design									
	Construction									
	Total Funding					C			42C	42C
	Grant In Aid to Counties		SUB	101						
17	South Kohala Water Project, Hawaii	G02								
	South Kohala Water Project, Hawaii									
	Incremental development of water system, including plans and constructing of source development, transmission mains, treatment plant and storage facilities. (To be expended by the Department of Land and Natural Resources.)									
	Construction								636	636
	Total Funding					C			636C	636C
18	Kona Water Project, Hawaii	G03								
	Kona Water Project, Hawaii									
	Incremental development of water system including plans and construction of source development, a development shaft, pumps and appurtenances, transmission mains, and storage facilities. (To be expended by the Department of Land and Natural Resources.)									
	Land Acquisition								40	40
	Design								287	287
	Construction								1,276	1,276
	Total Funding					C			1,603C	1,603C

19	West Maui Water Project, Maui West Maui Water Project, Maui Incremental development of water systems, including plans and construction of source development, transmission mains, storage facilities and appurtenances, including development of water resources in Kahakuloa. (To be expended by the Department of Land and Natural Resources.)	G04				
	Design		100	100		
	Construction		300	300		
	Total Funding	C	400C	400C		
20	Kau Water Project, Hawaii Kau Water Project, Hawaii Incremental development of water system, including plans and construction of source development, pipelines and storage facilities including conducting agricultural water study for Kau area. (To be expended by the Department of Land and Natural Resources.)	G06				
	Design		100	100		
	Construction		810	810		
	Total Funding	C	910C	910C		
21	Hoolehua Water Project, Molokai Hoolehua Water Project, Molokai Incremental development of water system, including plans and construction of pipelines, tanks, pumps and appurtenances for Hoolehua, Molokai. (To be expended by the Department of Land and Natural Resources.)	G08				
	Land Acquisition		10	10		
	Design		22	22		
	Construction		288	288		
	Total Funding	C	320C	320C		

Item No.	Program	Org. No.	Exp. Agy.	Program No.			APPROPRIATIONS		
				FY 1973-1974	C O D E	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E
22	Kekaha-Waimea Water System, Kauai Kekaha-Waimea Water System, Kauai Incremental development of water system including plans and construction of source development, pipelines, booster pumps and storage facilities. (To be expended by the Department of Land and Natural Resources.)	G16							
	Design						14	14	
	Construction						165	165	
	Total Funding				C		179C	179C	
23	Lihue Water System, Kauai Lihue Water System, (Puhi), Kauai Incremental development of water system including plans and construction of pipelines, source development, booster pumps, storage facilities and appurtenances. (To be expended by the Department of Land and Natural Resources.)	G17							
	Land Acquisition						10	10	
	Design						50	50	
	Construction						630	630	
	Total Funding				C		690C	690C	
24	Koloa-Poipu Water System, Kauai Koloa-Poipu Water System, Kauai Incremental development of water system including plans and construction of pipelines, storage facilities, source development and appurtenances. (To be expended by the Department of Land and Natural Resources.)	G18							

	Land Acquisition		10	10
	Design		40	40
	Construction		479	479
	Total Funding	C	529C	529C
25	Kalaheo-Lawai Water System, Kalaheo, G19 Kauai			
	Kalaheo-Lawai Water System, Kalaheo, Kauai			
	Incremental development of water system includin <sup>g</sup> plans and construction of source development, pipelines, storage facilities and appurtenances. Exploratory deepwell—1971-72, incremental source development (pump, controls, and interconnecting mains—1972-73). (To be expended by the Department of Land and Natural Resources.)			
	Design		14	14
	Construction		168	168
	Total Funding	C	182C	182C
26	Maui County Water Project, Maui G22			
	Maui County Water Project, Maui			
	(To be expended by the Department of Land and Natural Resources.)			
	Land Acquisition		13	13
	Design		17	17
	Construction		220	220
	Total Funding	C	250C	250C
27	Water Sources Investigation, Hawaii G25			
	Water Sources Investigation, Island of Hawaii			
	Engineering and economic studies, geologic investigation, exploration and development of sources for the County of Hawaii. (To be expended by the Department of Land and Natural Resources.)			
	Land Acquisition		5	5
	Design		10	10
	Construction		185	185
	Total Funding	C	200C	200C

Item No.	Program	Org.	No.	Exp. Agy.	Program No.			APPROPRIATIONS					
					C O D E	FY 1973-1974	FY 1974-1975	C O D E	Total Biennium 1973-1975	C O D E			
28	Haiku-Makawao-Pukalani Water Systems, G36 Maui												
	Haiku-Makawao-Pukalani Water Systems, Maui												
	Incremental development of water systems, including plans and construction of source de- velopment, transmission lines, reservoirs, and pumping facilities. (To be expended by the De- partment of Land and Natural Resources.)												
	Design								40		40		
	Construction								660		660		
	Total Funding							C	700C		700C		

SECTION 7. Act 218, Session Laws of Hawaii 1973, is amended by adding a new Part IVA to read:

### **"PART IVA. ADDITIONAL CAPITAL IMPROVEMENT PROJECTS**

SECTION 72A. The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated or authorized, as the case may be, 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 revenues, special funds, general obligation bond funds, airport revenue bond funds, harbor revenue bond funds, Hawaii Housing Authority bond funds, and federal grants. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein that do not have funding specifically designated, provided that the sum total of the general obligation bonds so issued shall not exceed \$97,258,120. The letter symbols used after the specific project appropriations, if any, indicate the source of financing and shall have the following meaning: (a) general obligation bond funds with debt service costs to be paid from special funds, (s) special funds, (r) revenue bond funds, (f) federal funds, (p) private contributions and (x) county funds. For any project jointly funded by state and county moneys, state funds shall be used only when the county provides at least its pro rata share as indicated in the project authorization. The appropriations and authorization in Part IVA include land purchase, plans, site preparation, improvements to land, construction and necessary equipment."

#### **I. COUNTY OF HAWAII**

##### **A. DEPARTMENT OF AGRICULTURE**

(To be expended by the Department of Agriculture)

- |   |        |
|---|--------|
| 1. Animal Quarantine Station  | 1,000  |
| Plans and construction of an animal quarantine station in Hilo, Hawaii. Unencumbered balances in Act 155, Item A5, SLH 1969 may be used for this project.                 |        |
| 2. Waimea Vacuum Cooling Plant  | 20,000 |
| For the completion of the Waimea Vacuum Cooling Project. Plans, construction, paving, curbing, and other necessary appurtenances necessary for completion of the project. |        |

##### **B. DEPARTMENT OF HAWAIIAN HOME LANDS**

(To be expended by the Department of Hawaiian Home Lands)

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|--|---------|
| 1. Puukapu-Kamoku Water Development  | 100,000 |
| Planning and construction of 4 inch water line, including necessary storage facilities.  |         |
| 2. Department of Hawaiian Home Lands   | 200,000 |
| Keaukaha-Waiakea Home Replacement Loan Fund.   |         |
| 3. Waimea Community Hall and Office Complex  | 75,000  |
| To amend Act 197, SLH 1971, Item III F. 3, and Act 176, SLH 1972, Item III F. 2, for demolition and plans and construction of a new building and facilities and to supplemental funding. |         |

## **ACT 218**

### **C. DEPARTMENT OF HEALTH**

#### **Hospitals**

- |  |         |
|--|---------|
| 1. Kohala Hospital<br>Purchase of ambulance.   | 40,000  |
| 2. Honokaa Hospital<br>Purchase of equipment and instruments, improvements to the physical facilities and purchase of ambulance.   | 200,000 |
| 3. Hilo Hospital<br>Amend Act 68, SLH 1971, Item E-19 of Section 4, Hilo Hospital plans and construction for additions, renovations, and remodeling of medical and ancillary facilities. | 20,000  |
| 4. Hilo Hospital<br>Emergency reroofing of three buildings.  | 50,000  |

### **D. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

- |   |        |
|---|--------|
| 1. Ethnic Cultural Building Complex<br>Plans, design, site selection, and landscaping and construction for an ethnic cultural building complex in the Island of Hawaii. | 25,000 |
|---|--------|

### **E. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

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|--|--------|
| 1. Forestry Division<br>Fencing and stocking of silver swords and other endangered species of plants and animals on the Island of Hawaii for protection and propagation. | 25,000 |
| 2. Fish and Game Division<br>Importation of game birds to the Island Hawaii.   | 17,000 |

### **F. HIGHER EDUCATION**

#### **Community College**

- |   |         |
|---|---------|
| 1. Hawaii Community College<br>Plans and incremental construction of new vocational shops and classroom buildings at Hilo College site. | 200,000 |
|---|---------|

#### **Hilo Campus**

- |   |         |
|---|---------|
| 2. Multi-Purpose Gymnasium, University of Hawaii at Hilo Complex<br>Planning and construction of a multi-purpose gymnasium at the University of Hawaii at Hilo Complex, Hawaii. | 150,000 |
|---|---------|

#### **College of Tropical Agriculture**

- |  |        |
|--|--------|
| 3. Pilot Papaya Processing Project<br>Design, plans, remodeling of processing plant, and for other necessary appurtenances and equipment.                      | 65,000 |
| 4. Model Guava Harvester<br>Design, modification, construction, demonstration, and field testing of a model guava harvester and other necessary appurtenances. | 53,000 |

#### **University of Hawaii at Hilo**

- |  |         |
|--|---------|
| 5. International Applied Research Facility<br>Plans, design, landscaping, and construction of a \$1.5 million International Applied Research Facility, and other necessary appurtenances thereof, in Hilo. | 150,000 |
|--|---------|

**G. DEPARTMENT OF EDUCATION**

1. Kalanianaole Elementary and Intermediate School Supplemental funds for the acquisition of land for additional playground space and construction of a band and art building.	270,000
2. New Pahoa School Feasibility study, acquisition of State land and master plans for a new school in Pahoa.	50,000
3. Laupahoehoe High and Elementary School Planning and construction of playground improvements and development of School Master Plan.	54,000
4. Kohala High and Elementary School Extension of Administration Building. To supplement Act 187, SLH 1970, Item F-164.	45,000
5. Kohala High and Elementary School To supplement prior appropriation, Act 197, SLH 1971, Item E-13. Gymnasium development shall be diverted from Kamehameha Park to Kohala High and Elementary School.	400,000
6. Honokaa High and Elementary School Home Economics and Agricultural Facilities. To supplement Act 187, SLH 1970, Item F-161.	172,000
7. Honokaa High and Elementary School Extension of covered playground stand, covered stand for bus stop and lights.	50,000

**H. GRANTS-IN-AID TO HAWAII COUNTY**

(To be expended by the County of Hawaii)

**Sewer**

1. Hilo Sewerage System Plans for expansion of Hilo Sewage Treatment Plant to provide for secondary treatment.	100,000
2. Papaikou-Paukaa Sewerage System Land acquisition, plans and construction of treatment plant and collection mains to service the Paukaa and Papaikou communities.	150,000 1,200,000(f)
3. Kulaimano Sewerage System Land acquisition, plans and construction of sewerage system to service the Kulaimano area.	150,000 1,500,000(f)

**Drainage**

4. Hilo Storm Drainage System Land acquisition, plans and construction of drainage facilities to service areas covered by the Hilo Storm Drainage Master Plan. To supplement prior appropriation.	150,000
5. Waiakea-Uka Flood Control Land acquisition, plans and construction of channels and ponding basin to handle flood waters from Palai Stream and 4-Mile Creek. To supplement prior appropriation.	500,000
6. Mt. View Drainage System Land acquisition and plans for construction of drainage system to alleviate flooding problems in Mt. View area.	50,000

## ACT 218

7. Drainage Improvements Land acquisition, plans and construction of miscellaneous general drainage improvements on Hawi-Niulii Road (vicinity of Arakaki Store), North Kohala.	65,000
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### Roads

8. Kinoole Street Improvement Plans and construction for improvement to Kinoole Street from Mo-houli Street to Olona Street to urban standards.	450,000
9. Kalopa Park Road Land acquisition, plans and construction of County road leading to the State park in Kalopa. To supplement prior appropriation.	75,000
10. Palani Road Land acquisition, plans and construction for improvements to Palani Road from Kuakini Highway to Kaahumanu Highway to include construction of curbs, gutters, sidewalks and median. To supplement prior appropriation.	500,000
11. Belt Highway Improvement, Kahuku to Kona Land acquisition, plans and construction for improvements to existing County highway. To supplement prior appropriation.	400,000
12. Hawaii Belt Road, Honaunau-Milolii Section, South Kona Planning and construction for improvements from Honaunau to Milolii Junction, including safety improvements. (To be expended by the Department of Transportation).	165,000
13. Hawaii Belt Road, Hamakua Plans and construction to improve the sight distance at Kealakaha Bridge. (To be expended by the Department of Transportation).	40,000
14. Mamane Street, Honokaa Plans and construction of road stabilization and slope protection.	60,000
15. Ainaola Drive Improvements Plans, land acquisition and improvements to road leading to Waiakea-Uka area. To supplement prior appropriation.	50,000
16. Puainako Street Extension, Panaewa Plans and rights-of-way acquisition of approximately 2 miles of new road. (To be expended by the Department of Transportation).	100,000
17. Hawaii Belt Road, Kahuku to Papa, Ka'u Realignment and improvements existing Hawaii Belt Highway. Unexpended balances of Item III-C-2, Act 197, SLH 1971, may be used to supplement this appropriation. (To be expended by the Department of Transportation).	1,000
18. Hawaii Belt Road, Paukaa Plans and construction for intersection improvements at Kulana Road, Paukaa. (To be expended by the Department of Transportation).	50,000
19. Hawaii Belt Road, Pepeekeo Design and construction of a divided intersection with acceleration and deceleration lanes on Hawaii Belt Road at Kulaimano Heights Subdivision. (To be expended by the Department of Transportation).	200,000

### Parks

20. Kalapana Beach Park Plans and construction for development of park complex. To supplement prior appropriation.	200,000
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21. Keau Senior Citizens Center Land acquisition, plans and construction for development of senior citizens facility.	25,000
22. Pahoa Park Lights Design and construction of field lighting system. To supplement prior appropriation.	50,000
23. Keau Park Lights Design of field lighting system.	50,000
24. Panaewa Zoo Plans and construction for development of municipal zoo complex.	350,000
25. Ainaola Park Plans and construction for development of neighborhood park.	200,000
26. Mohouli Park Plans and construction for development of neighborhood park. To supplement prior appropriation.	225,000
27. University Heights Park Plans and construction for development of neighborhood park.	50,000
28. Panaewa Neighborhood Park (Mamaki Street) Land acquisition, plans and construction for development of neighborhood park.	50,000
29. Papaikou Park Plans and construction for a foot bridge from park to school property.	45,000
30. Laupahoehoe Beach Park Plans and construction for development of park complex. To supplement prior appropriation.	48,000
31. Honokaa Park Land acquisition, plans and construction for development of multi-recreational facilities, e.g. ballfields, gymnasiums, and supporting facilities. To supplement prior appropriation.	250,000
32. Kona Swimming Pool Plans and construction of swimming pool complex. To supplement prior appropriation.	300,000
33. Kua Bay Beach Park Land acquisition, plans and construction for development of beach park. To supplement prior appropriation.	200,000
34. Ka'u Parks Land acquisition, plans and construction for development of new parks and improvements to existing parks. To supplement prior appropriation.	250,000
35. Kaumana Park Land acquisition, plans and construction for park including access road.	150,000
36. Lokahi Park Plans and construction for development of Lokahi Park.	100,000
37. Laupahoehoe Civic Center Land acquisition, plans and construction of facilities to implement the master plan.	50,000
38. Elderly & Youth Multi-Purpose Center Land acquisition, plans and construction for elderly and youth multi-purpose center in the Fourth District.	200,000

## ACT 218

39. Development of a Park Plan for the Hamakua Coast To survey the feasibility of restoring and preserving sites along the Hamakua Coast for development in an integrated Park Plan to include historical sites by the Department of Land and Natural Resources and the Hawaii County Planning Department.	25,000
40. Hale Hauoli, Home for the Elderly For physical improvements, including painting of facility.	28,000
41. Keaukaha Beach Park Improvement to Keaukaha Beach Park.	11,000
42. Panaewa Park Unencumbered balances from Item F-1, Act 176, SLH 1972, Item F-2, Act 197, SLH 1971, Item F-5, Act 68, SLH 1971 may be used for this project.	1,000
43. Hoolulu Park Complex Development, Hilo, Hawaii Plans and construction for park improvements, including baseball, spectator, parking and other necessary facilities. To be supplemented by prior appropriations for Hoolulu Park Development. (Act 68, SLH 1971, Item A-47).	1,000
<b>Others</b>	
44. Downtown Hilo Development Program Plans and construction for implementation of downtown Hilo Development Plan.	350,000
45. Tidal Wave Memorial Planning and construction of a tidal wave memorial in Hilo.	30,000
<b>Water Supply</b>	
(To be expended by the Department of Water Supply, County of Hawaii)	
46. Pahala Water Source Development Construction of control and chlorinator station at Pahala Source Development, including plans and installation of deep well pump complete with controls.	140,000
47. Ninole Water System Plans and construction of water system including source development, transmission mains, pumps, tanks, and appurtenances at the Ninole Water System.	140,000
48. Paukaa-Papaikou Water System Plans and construction for installation of transmission water line and appurtenances.	180,000
49. Ainaola Trunk Line and Reservoir Plans and construction for installation of storage facilities at Ainaola trunk line and reservoir, including improvement of transmission line.	300,000
50. Transmission Line from Panaewa Well to Kawaiilani Tank Plans and construction for installation of 18 inch pump transmission line and appurtenances at transmission line Panaewa Well to Kawaiilani Tank.	280,000
51. Laupahoehoe Water System Development Phase V Plans and construction for source improvement, installation of trunk lines, feeder mains and supporting facilities.	250,000
52. Keeau-Pahoa Trunk Line Plans and construction for trunk line, storage facilities and well development.	400,000

53. South Kohala Water Development	225,000
Plans and construction of storage facilities and transmission mains at South Kohala Water Development.	
54. Hamakua Water Development	100,000
Plans and construction of storage facilities and purification facilities, including replacement of transmission lines.	
55. Hilo Reservoir Well and Storage	350,000
Drilling of a deep well including installation of pumps and controls and construction of a control building and a 1.0-mg. concrete reservoir.	
56. Wailea-Hakalau Water System	175,000
Plans and construction of water system including source development, transmission mains, tanks and appurtenances at Wailea-Hakalau Water System.	
57. Kona Water Development (Hualalai Road Water System)	200,000
Plans and construction of transmission lines and storage facilities.	
58. Hamakua Water Development (Paauiilo-Kukaiau Trunk Line and Source Development)	150,000
Plans and construction for Paauiilo-Kukaiau Trunk Line and storage facilities, including drilling of a deep well source.	
59. Ookala Water System	45,000
Plans and construction of a water system complete with water mains, booster pumps and storage facilities.	
60. Kehena Ditch Water Source	250,000
Plans and construction for development of the Kehana Ditch Water Source. To supplement prior appropriation. (To be expended by the Department of Land and Natural Resources).	
61. Olaa Flume Spring	250,000
Plans and construction for development of Olaa Spring Source, trunk line, pumps, storage facilities and appurtenances. (To be expended by the Department of Land and Natural Resources).	

## II. COUNTY OF MAUI

### A. DEPARTMENT OF LAND AND NATURAL RESOURCES (To be expended by the Department of Land and Natural Resources)

#### Fish & Game

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|--|--------|
| 1. Maui Game Management Improvements   | 20,000 |
| Incremental development of game water units; signs and markers and thinnings and clearings, including water units. |        |

#### State Parks

- |   |         |
|---|---------|
| 2. Ukumehame State Park, Maui   | 25,000  |
| Study and analysis of higher elevation recreation resources and a plan for the management of these resources. |         |
| 3. Wahikuli State Park, Maui, Phase II  | 200,000 |
| Plans and construction of second phase from present park to Front Street, including large pavillion.          |         |
| 4. Makena-Laperouse State Park, Maui  | 350,000 |
| Incremental acquisition of land and development of master plan for a State Park.                              |         |

## **ACT 218**

### **B. DEPARTMENT OF TRANSPORTATION** (To be expended by the Department of Transportation)

#### **Harbors—Small Boat**

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|--|---------|
| 1. Lahaina Small Boat Launching Ramp, Maui   | 220,000 |
| Supplemental appropriation for the plans and construction of a launching ramp near Mala Wharf, including dredging, breakwater, and other related improvements. |         |

#### **Highways**

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|--|---------|
| 2. Manele Road, Lanai  | 300,000 |
| Plans and construction for the widening and realigning of existing road to Manele Boat Harbor.     |         |
| 3. Honoapiilani Highway, Maui  | 275,000 |
| Resurfacing two-lane highway from Honokawai to Honoluia.   |         |
| 4. Kula Highway, Maui  | 150,000 |
| Plans and construction for the widening and resurfacing of highway from Kaipoioi Bridge to Keokea. |         |
| 5. Hana Highway, Maui  | 100,000 |
| Resurfacing from Hana airport junction to Hana town.   |         |
| 6. Puunene Highway and Dairy Road Intersection, Maui   | 40,000  |
| Plans and construction for installation of traffic signal at intersection.                         |         |
| 7. Hana Highway, Maui  | 250,000 |
| Resurfacing two-lane highway from Spreckelsville to Hookipa Park.                                  |         |

### **C. DEPARTMENT OF EDUCATION**

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|--|---------|
| 1. Kam III School, Lahaina, Maui   | 20,000  |
| Plans and construction for renovation of present cafeteria.  |         |
| 2. Lahainaluna High School, Maui   | 250,000 |
| Plans and construction of four classroom buildings.  |         |
| 3. Baldwin High School, Wailuku, Maui  | 140,000 |
| Plans and construction of roof over new concrete lanai fronting rooms 126 to 134, and construction of P.E. classrooms. |         |
| 4. Kilohana Elementary School, Molokai   | 750,000 |
| Plans and construction of Kilohana Elementary School complex.  |         |
| 5. Iao School, Maui  | 91,000  |
| Plans and construction for new classroom buildings.  |         |
| 6. Lanai High and Elementary School, Lanai   | 135,000 |
| Supplemental appropriation for classroom buildings.  |         |
| 7. Wailuku Elementary School, Maui   | 30,000  |
| Renovation of existing buildings and purchasing of equipment.  |         |
| 8. Lahainaluna High School, Maui   | 50,000  |
| Restroom facilities for the new athletic field.  |         |
| 9. Kam III School, Lahaina, Maui   | 20,000  |
| Resurfacing of driveway from Front Street to Cafeteria including dirt area next to Kindergarten classrooms.            |         |

10. Lanai High and Elementary School, Lanai Plans for Auto/Metal Shop extension to Industrial Arts Building.	35,000
11. Lanai High & Elementary School Plans and installation of public address inter-communication system.	50,000
12. Kahului School, Maui Plans and construction of library building.	32,000
13. Maui High School, Maui Installation and purchasing of equipment—lights for parking area, two backstops, and fences.	65,000
14. Maui High School, Maui Plans and installation of P.A. system.	50,000
15. Maui High School, Maui Plans and construction of gymnasium.	58,000
16. Kula Elementary School, Maui Installation of intercom and P.A. system, renovation of existing buildings and purchasing of equipment, plans and construction to extend central heating to Administration/Library Building.	130,000
17. Waihee School, Maui Renovation of existing buildings and purchasing of equipment.	30,000
18. Haiku School, Maui Plans and construction of storage and parking area.	76,000
19. Haiku School, Maui Plans and construction of Administration/Library Building.	40,000
20. Keanae School, Maui Plans and construction for paving of driveway into school grounds.	30,000
21. Hana High School, Maui Plans and construction of new gymnasium at site of the new Hana High School, including equipment and site preparation.	700,000
22. Lihikai School, Maui Plans and construction of classrooms.	18,000
23. Molokai High and Intermediate School, Molokai Plans and construction of vocational shops and agriculture facilities.	35,000
24. Kualapuu School, Molokai Plans and construction of multi-purpose playcourts.	60,000
25. Baldwin High School, Maui Improvements to electrical system and storage area of auditorium.	75,000

**D. UNIVERSITY OF HAWAII**

1. University Extension Service Building, Maui Plans and construction for University Extension Service Building on Maui Community College site.	125,000
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**E. DEPARTMENT OF HAWAIIAN HOME LANDS**

1. Molokai Recreational-Community Center Complex, Hoolehua, Molokai To supplement prior appropriation to construct a Recreational-Community Center Complex.	350,000
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## **ACT 218**

### **F. DEPARTMENT OF HEALTH**

#### **Hospitals**

1. Maui Memorial Hospital, Maui Plans and construction of new South Wing, renovations and modernization of medical and ancillary facilities, including centralized laundry at Maui Memorial Hospital. Unencumbered balances in Items E-15 and E-16 of Act 68/71, Items H-16 and H-18 of Act 155/69, Items H-22 and H-26 of Act 187/70 shall be used for this project.	310,000
2. Kula Sanatorium, Maui Plans and construction for improvements, including equipment and materials needed in the transfer of Maui's mentally retarded patients now confined at Waimano Home on Oahu to Kula Sanatorium.	25,000
3. Kula Sanatorium, Maui Improvements to water system including safety code requirements of hospital.	90,000
4. Kalaupapa Settlement, Molokai To supplement prior appropriation for the construction of a 20-bed infirmary.	200,000
5. Kalaupapa Settlement, Molokai Purchase of equipment.	70,000

#### **Public Health and Others**

(To be expended by the Department of Health)

6. Molokai Hospital, Molokai Purchase of ambulance for Molokai Hospital.	40,000
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### **G. GRANTS-IN-AID TO MAUI COUNTY**

(To be expended by the County of Maui)

1. Wailuku Drainage System, Lower Main Street, Maui Plans and construction of drainage facilities, including road improvements.	240,000
2. Kihei Drainage Project, Maui Plans and construction of drainage facilities.	100,000
3. NASKA Beach Park, Maui Plans and construction of a beach park at Naska, Kahului.	100,000
4. Lahaina Historic District, Maui Plans and construction for the improvements or removal of seawall and improvements of Front Street, between Lahainaluna Road and Dickenson Street.	250,000

#### **Water Supply**

(To be expended by the Board of Water Supply, County of Maui)

5. Kihei-Makena Water Development, Maui Plans and construction of storage and transmission facilities, including improvements to Kihei and Makena Water System.	800,000
6. Hana Water Development, Maui Plans and construction of storage and transmission facilities, including improvements to Wakiu Water System.	300,000

7. Lower and Upper Kula Water System, Maui Incremental development of water system including plans, land acquisition and construction of pipelines, reservoirs, pumping facilities, treatment plants and other appurtenances.	1,400,000
8. Haiku-Makawao-Pukalani Water System Supplemental appropriation for incremental development of water system, including plans and construction of source development, transmission lines, reservoir, and parking facilities.	700,000

**III. COUNTY OF KAUAI****A. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

**Land Management**

1. Upper Waimea Valley, Kauai Acquisition of land upper Waimea Valley. For public access to Mokihana Ridge.	15,000
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**Fish and Game**

2. Game Introduction, Habitat and Development and Improvement, Kauai Release of birds and mammals, noxious shrubs removal, water unit development, food plantings, roads, trails and signs. Appropriation made in Item IV B-3, Act 176, SLH 1972, shall be used for this purpose.	20,000
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**State Parks**

3. Hanamaulu Beach, Kauai Plans and construction for improvements to alleviate pollution at beach site, including survey and dredging as necessary.	100,000
4. Puumai, Kokee, Kauai Plans and construction for development of hibiscus garden.	10,000
5. Ahukini Pier, Kauai Planning and reconstruction of existing pier and improvement of parking area for recreational use.	50,000
6. Waimea Landing, Kauai Land acquisition, plans and construction for public parking and restroom facilities.	50,000

**Water Development**

7. Wailua-Kapaa Water System, Kauai Land acquisition, incremental development of water system, including plans and construction of pipelines, source development, storage facilities and appurtenances.	200,000
8. Waimea Irrigation System, Kauai Supplement prior appropriation for planning and construction of open concrete culverts and channel to improve existing system.	100,000
9. Hanalei Irrigation, Hanalei, Kauai Plans and construction for repairing and replacing wooden and corrugative flumes, intake dams, ditch banks, clearing of obstruction, installation of culverts, construction of cattle crossing, for the improvement of irrigation system.	51,000

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10. Lihue Water System, Kauai 290,000  
Incremental source development (Puhi) of deep well pump and controls, storage tank, plans and construction of transmission main and booster pumps and controls.

### **B. DEPARTMENT OF TRANSPORTATION** (To be expended by the Department of Transportation)

#### **Harbors—Small Boat**

1. Kikiaola Boat Harbor, Kauai 80,000  
Plans and construction of general improvements to include dredging, modification of breakwater, construction of bulkhead, mooring facilities, removal of old landing dock, extension of marginal wharf, and other improvements.
2. Kapaa Boat Landing Ramp, Kauai 70,000  
Planning and construction of boat landing ramp facility, parking area, marginal wharf, toilet facilities and dredging of Waikaea Canal.
3. Kukuiula Small Boat Harbor, Kauai 100,000  
Land acquisition, plans and construction for development of small boat harbor and ancillary facilities.
4. Hanalei District, Kauai 20,000  
Plans and construction for launching ramp and facilities.

#### **Highways**

5. Kokee Road and Waimea Canyon Road, Kauai 250,000  
Land acquisition, plans and construction of emergency turn-off ramps, construction of a vehicular runaway ramp, and other necessary safety improvements.
6. Hanamaulu-Ahukini Cutoff Road, Kauai 47,000  
Hanamaulu to Ahukini. Land acquisition, plans and construction of highway to relieve congestion through Lihue town area.
7. Kauai State Highway System, Miscellaneous Drainage and Safety Improvements, Kauai 160,000  
Plans and construction of improvements at various locations of the state highway system to alleviate some of the more serious problems.

### **C. DEPARTMENT OF EDUCATION**

#### **Schools**

1. Eleele Elementary School, Kauai 80,000  
Plan and construct library building with furniture and equipment including air conditioning and carpets.
2. Kekaha School Library, Kauai 100,000  
Plans and construction of a school library, including humidity control and carpet. Prior appropriation of \$250,000 in Item IV, E-1, Act 197, SLH 1971 shall be used for this purpose.
3. Kapaa High and Intermediate School, Kauai 100,000  
Addition to existing kitchen to provide a storage and freezer space, including procurement and installation of freezer.
4. Waimea High and Intermediate School, Kauai 275,000  
To supplement prior appropriation to construct an administration building.

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5. Waimea High and Intermediate School, Kauai Lateral connection of sewer lines to the main line provided by the County.	150,000
6. Wilcox Elementary School, Kauai To supplement prior appropriation for expansion of existing library, including equipment and media center.	100,000
7. Kapaa Library, Kapaa, Kauai Paving of parking area.	75,000
8. Koloa School, Kauai Plan and construct teacher workroom, toilet and improvements to grounds and facilities, including playcourt. Replacement of fire losses.	350,000
9. Koloa Community/School Library, Kauai Supplement prior appropriation for construction of a community/school library.	200,000
10. Kekaha School, Kauai Plan and construct administration building with furniture and equipment.	105,000
11. Kapaa Elementary School, Kauai Plan and construct grounds and facilities improvements including outdoor playcourt to include basketball and volleyball courts.	90,000
12. Kapaa High and Intermediate School, Kauai Plans and construction of a swimming pool.	50,000

**D. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

(To be expended by the Department of Social Services and Housing)

1. Elderly Housing, Kapaa and Eleele, Kauai To augment federal funds in the construction of federally-aided low rent housing for the elderly at Kapaa and Eleele. The sums shall be expended only if bid amounts exceed federal appropriations.	50,000
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**E. DEPARTMENT OF HEALTH**

1. Kauai Veterans Memorial Hospital, Waimea, Kauai Land acquisition.	20,000
2. Samuel Mahelona Hospital, Kauai Purchase and install a new nurse call system, physician and staff call system and annunciator to replace present nonconforming system.	53,000
3. Samuel Mahelona Hospital, Kauai Plans and construction of sewage treatment plant.	200,000
4. Kauai Veterans Memorial Hospital, Kauai Plans, construction of new acute care hospital. To supplement prior appropriation.	235,000

**Hospital Grant-in-Aid**

(To be expended by the Department of Health)

5. Wilcox Memorial Hospital, Kauai Plans and construction for ancillary services, including equipment and improvements. To supplement prior appropriation, Item IV, G-3, Act 176, SLH 1972.	160,000
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### F. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

1. State Office Building, Kauai	20,000
Design and construction to renovate the penthouse for office space.	
2. Hawaii Public Broadcasting Authority	20,000
Plans and construction including the purchase of equipment for the improvement of educational television on Kauai.	

### G. AID TO COUNTIES

(To be expended by the County of Kauai)

#### Parks and Recreation

1. Kalihikai Park, Kauai	108,000 108,000(x)
Land acquisition, plans and construction for expansion of existing park; including pavilions, restroom facilities with showers, and paved parking; install fencing, lights and waterline.	
2. Hanapepe Recreational Park, Kauai	142,500 142,500(x)
Plans and construction for development of recreational and multi-purpose center; football and baseball practice areas; roadway and parking; fencing and passive recreational area and picnic area. Shower, locker room and toilet facilities; sprinkler system. To supplement prior appropriation.	
3. Lihue County Park, Kauai	30,000 30,000(x)
Construction of restroom, install fencing and sprinkler system, and renovate existing grandstand.	
4. Waimea Tennis Court, Kauai	20,000 20,000(x)
Plans and construction to replace existing tennis court lights and fencing.	
5. Kekaha Park, Kauai	15,000 15,000(x)
Reconstruct existing track to official length of 440 yards.	
6. Kapaa Beach Park, Kauai	35,000 35,000(x)
Plans and construction of pavilions, restrooms, fencing and site improvements.	
7. Wailua Homestead Park, Kauai	150,000 150,000(x)
Land acquisition, plans and construction for development of park. May be matched with Bureau of Outdoor Recreation fund.	
8. Poipu Beach Park, Kauai	250,000 250,000(x)
Incremental land acquisition; plans and construction for development of regional park complex to include beach facilities, picnic and recreational areas; parking and other development.	
9. New Kapaa Park, Kauai	154,500 154,500(x)
Plans and construction for development of existing park to include baseball area; relocate Little League baseball-softball-football fields; practice fields and additional tennis courts. Parking areas, fencing, playground equipment, sprinkler system, restrooms, picnic areas and lighting.	

10. Isenberg Park, Kauai	82,000 82,000(x)
Plans and construction for development and improvements, including baseball, softball, Little League and football fields, basketball court and lighting. Plans and construction, renovation and remodeling of existing building for Community-Senior Citizen Center.	
11. Ann Knudsen Park (Koloa Park), Kauai	115,000 115,000(x)
Land acquisition; plans and construction for expansion of Koloa Park to include baseball, Little League baseball, softball, football fields, basketball court and practice fields; parking areas, fencing, playground equipment, sprinkler system, restroom and picnic areas.	
12. Waimea Athletic Field and Playground, Kauai	86,000 86,000(x)
Plans and construction for development of a park to include baseball, Little League baseball, softball, football and practice fields, basketball court, playground equipment, picnic area, fencing, sprinkler system, roadway and parking.	
13. Kalawai Sportsfield, Kauai	121,000 121,000(x)
Land acquisition; plans and construction for development of athletic field and playground which will include baseball, Little League baseball, softball, football fields, tennis courts, basketball court and practice fields; parking areas, fencing, playground equipment, sprinkler system, restrooms, passive recreational and picnic areas.	
14. Kaumakani Sportsfield, Kauai	75,000 75,000(x)
Plans and construction of baseball backstop, bleachers, fencing, restrooms, dugouts, waterlines, paved basketball courts, for the joint use of the community and school.	
15. West Kauai Senior Center, Waimea, Kauai	50,000 50,000(x)
Land acquisition; plans, construction and furnishing for community and senior citizens center, to include space for Waimea District Court. To supplement prior appropriation, Item K-15, Act 197, SLH 1971.	
16. Wailua Golf Course, Kauai	60,000 60,000(x)
Plans and construction for improvement of facilities for the 1975 Public Links Tournament which includes purchase of equipment and improvements to upgrade the Wailua Golf Course to the requirements of the USGA.	
17. Kukuiula Small Boat Harbor Park, Koloa, Kauai	115,000 115,000(x)
Land acquisition, plans and construction for development of a park to include adequate parking, picnic and recreational areas with pavilions and restrooms.	
18. Kekaha New Beach Park, Kekaha, Kauai	10,000 10,000(x)
Plans for construction of new park including pavilions, restrooms, shower facilities, grills, tables, sprinkler system, parking and fencing.	

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19. Wailua Houselots Park, Kauai	10,000 10,000(x)
Plans for construction of softball, baseball and Little League fields, tennis courts with lights, restrooms, sprinkler system, parking and fencing.	
20. Prince Kuhio Park, Kauai	50,000
Plans and construction for improvement to existing park, including landscaping.	
<b>Sewers</b>	
21. Waimea Sewerage System, Kauai	50,000 50,000(x)
Plans and construction of interceptor, trunk and sewage pump station for the Waimea sewerage system.	
22. Eleele-Hanapepe Sewerage System, Kauai	50,000 50,000(x)
Plans and construction of sewage treatment plant facilities; including initial 0.4 mgd capacity sewer treatment plant, ocean outfall sewer, sewage pump stations, force mains, interceptor, and trunk. Prior appropriation in Item IV, K-7, Act 197, SLH 1971 shall be used for this purpose	
23. Kapaa Sewerage System, Kauai	50,000 50,000(x)
Plans and construction of sewage treatment plant facilities; including initial 0.5 mgd capacity sewer treatment plant, ocean outfall sewer, sewage pump stations, force mains, interceptor, and trunk.	
24. Lihue Sewerage System, Kauai	335,000 335,000(x)
Plans and construction of sewage treatment plant expansion, ocean outfall sewer, and sewage pump stations, interceptor, and trunk.	
25. Wailua Sewerage System, Kauai	150,000 150,000(x)
Plans and construction of sewage treatment plant expansion, sewage pump stations, and complete trunk.	
26. Solid Waste Management, Kauai	17,000 1,000(x)
Kauai County Solid Waste management program to establish sanitary landfills. Prior appropriation, Item P-10, Act 40, SLH 1968 shall be used for this purpose.	
27. Solid Waste Management Program, Kauai	305,000 305,000(x)
Plans and construction for sanitary landfills and solid waste transfer stations to phase out existing open dumps, includes purchase of equipment such as tractors and trailers, site improvement and engineering.	
<b>Roads</b>	
28. Waimea River Ford Crossing, Kauai	62,000 62,000(x)
Plans and construction of Ford Crossing across Waimea River upstream of the swinging bridge.	
29. Kamalu Road Bridge, Kauai	75,000 75,000(x)

Plans and construction of bridge and approaches of Opaekaa Stream.	
30. Kokee Road, Kauai	64,000 64,000(x)
Spot widening and safety improvements to improve lateral clearance; improvements to drainage culverts; installation of guard rails, etc.	
31. Kokee Road, Kauai	67,000 67,000(x)
Land acquisition; plans and construction of emergency turnoff ramp #5; construction of a vehicular runaway ramp; vicinity of Bridge approximately 3.3 miles north of Kauai Belt Road.	
32. Kokee Road, Kauai	31,000 31,000(x)
Land acquisition; plans and construction of emergency turnoff Ramp #4; construction of a vehicular runaway ramp; vicinity of Mango Tree approximately 4 miles north of Kauai Belt Road.	
33. Kokee Road, Kauai	63,500 63,500(x)
Reconstruct and widen Kokee Road and construct bus escape ramps.	
34. Highway Beautification, Kauai	50,000 50,000(x)
Plans and construction for development, maintenance and beautification of roadway shoulders within County and State jurisdiction.	
35. Rice Street Reconstruction, Kauai	200,000 200,000(x)
Plans and reconstruction of existing roadway including sidewalk area; install drainage facilities and make other roadway improvements as required. Project limits extend from Kuhio Highway to Lihue industrial area, a distance of approximately one mile.	

**Special County Facilities**

36. Lihue Police Station Expansion, Kauai	25,000 25,000(x)
Plans and construction for the expansion of the Lihue Police Station. Unencumbered balance from Item IV, K-14, Act 197, SLH 1971, shall be used for this purpose.	
37. Lihue Fire Station and Headquarters Building, Kauai	206,000 206,000(x)
Plans and construction of one-story concrete frame and steel structure for combination fire station and administration building.	
38. Kauai Firing Range, Kauai	75,000 75,000(x)
Plans and construction of firing range.	
39. Kauai War Memorial Convention Hall Extension, Kauai	175,000 175,000(x)
Plans and construction for expansion of the Kauai War Memorial Convention Hall meeting and exhibition area and the purchase of equipment and furniture. The expansion shall include the Senior Citizens and Community Center.	

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40. Kalaheo Multi-purpose Recreation Center, Kauai	50,000 50,000(x)
Plans and construction of a multi-purpose recreational and community center, including furniture and equipment.	
41. Hanapepe Baseyard, Kauai	142,000 142,000(x)
Plans and construction of baseyard facilities to include baseyard operations, and space for the State Highways Division for their vehicles and equipment.	
42. Shoreline Special Treatment Zone, Kauai	15,000 15,000(x)
Establish shoreline zones, development of use policies; determination of setback lines and preparation of rules and regulations.	
<b>Kauai Civil Defense Agency</b>	
43. Civil Defense Agency, Kauai	12,500 12,500(x)
Purchase of civil defense communications equipment.	
44. Civil Defense Agency, Kauai	5,000 5,000(x)
Plans and construction for regrading the unpaved road to Mt. Kahili.	

## IV. CITY AND COUNTY OF HONOLULU

### A. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

1. Waimanalo Bay Recreation Park, Oahu	100,000
Planning and construction for incremental development of a park.	
2. Heeia Land Acquisition Project, Oahu	1,400,000
Acquisition of Heeia Fishpond and Matson Point--tax key map 4605—(l through 12 parcels) for an educational/cultural center. Unencumbered balances in Item K-17, Act 176, SLH 1972, to be used for this project in conjunction with new appropriation.	
3. Sand Island State Park, Oahu	1,000,000
Planning and construction for incremental development of park. Fund appropriated herein and under Part III, Section 4-B-11, Act 68, SLH 1971, may be expended for security guard purposes until completion of construction.	
4. Honolulu Stadium Site, Oahu	10,000,000
Acquisition of lands, planning and development up to 9.17 acres for State park and recreational complex in Moiliili on lands of the old Stadium site.	
5. Makiki-Tantalus State Park Complex, Oahu	75,000
Supplemental appropriation for the incremental development of the park complex.	
6. Maunawili Sugarcane Experimental Project, Oahu	800,000
Acquisition of lands to be used as a sugarcane breeding site for the development of hybrid sugarcane, which would be resistant to insects and diseases. State to lease land and facilities to a research agency for the conduct of such experiments.	
7. Keaiwa Heiau State Recreation Area, Aiea, Oahu	50,000
Plans and construction of recreational and restroom facilities.	

8. Royal Mausoleum To supplement prior appropriations for renovation and modification of the Royal Mausoleum.	230,000
9. Statewide Trail and Access System Initial planning, coordination and development of a statewide trail and access system including (a) design of an administrative structure; (b) statewide inventory of all trails; (c) development of criteria for the designation of state trails and designation of the appropriate implementing agencies for the different classes of trails; (d) establishment of procedures for assuring the trail rights-of-way; and (e) drafting of a model legislation necessary for the implementation of a statewide trail and access system.	100,000
10. Agricultural Recreation Fencing, facilities, equipment (including lockers), and preparation of the land for agricultural use and improvements. Provided that such funds shall not be used for constructing and improvements of lands specified above which results in profit-making activities.	250,000
11. Paiko Lagoon Wild Life Refuge, Oahu Land acquisition, planning and construction of a fish and wildlife sanctuary and park at Paiko Peninsula, Oahu.	400,000
12. Food Distribution Center, Oahu Land acquisition, plans and construction for site preparation improvements, repairs, renovations, and necessary equipment as the 1st increment of the Food Distribution Center.	50,000
13. Kaiaka Point, Haleiwa, Oahu Land acquisition and development of a state park at Kaiaka Point.	1,000,000

**B. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

**Harbors**

1. Pokai Bay Improvements, Waianae Planning and construction of additional docking piers and general improvements to related facilities, including the construction of a tunnel through the existing groin to alleviate the sand problem.	100,000
2. Haleiwa Boat Harbor Repairs and improvements for damages caused by high surf.	125,000

**Highways**

3. Kunia Road, Oahu Plans, land and construction of an undercrossing at Kunia Road, located approximately 600 feet north of Interstate Route H-1.	250,000
4. Kamehameha Highway Traffic Lights Planning and construction of traffic lights at the intersection of Kamehameha Highway and Lumauau Street to serve the Crestview and Seaview Communities.	30,000
5. Kahekili Highway Improvements, Kaneohe, Oahu Plans and construction of stack lane at Haiku Road.	75,000
6. Kalanianaole Highway, Oahu Highway improvements on Kalanianaole Highway from the vicinity of Saddle City towards Waimanalo and for highway lighting at the intersection of Kalanianaole Highway and Keolu Drive.	250,000

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7. Kamehameha Highway Installation of highway lights on Kamehameha Highway between Waimea Bay and vicinity towards Haleiwa.	50,000
8. Kamehameha Highway Extension and widening of Kamehameha Highway, Honolulu bound, from Lanikuhana Avenue, Mililani, Oahu.	35,000
9. Kamehameha Highway Installation of traffic lights at intersection of Kamehameha Highway and Lanikuhana Avenue.	60,000
10. Kalanianaole Highway, Ainakoa to Hawaii Kai, Honolulu Rights-of-way, plans and construction for ultimate highway system including bikeways and transit system from the terminus of H-1 Freeway at Ainakoa through Hawaii Kai to Lunalilo Home Road.	2,512,000
11. Kalanianaole Highway Street Lighting Improvements, Kirkwood to Hawaii Kai Drive, Honolulu Plans and construction for improvement of street lighting along Kalanianaole Highway. Unencumbered balances from this appropriation may be used to supplement appropriation in Item I-C-19, Act 176, SLH 1972.	50,000
12. Kalanianaole Highway, Oahu Planning and construction of a pedestrian overpass over Kalanianaole Highway to Holy Trinity School. Unencumbered balances from this appropriation may be used to supplement appropriation in Item I-C-19, Act 176, SLH 1972.	265,000
13. Kunia Interchange, Oahu Landscaping and installation of a sprinkler system at the Kunia Interchange, Oahu.	150,000
14. Second entrance to Wahiawa Town, Oahu Conduct feasibility study for the need of a second entrance to Wahiawa Town and plans therefor. Unencumbered balances in Item C-50 of Act 155, SLH 1969 and Item K-70 of Act 176, SLH 1972, may be used for this project.	1,000
15. Kamehameha Highway Improvements, Oahu Installation of approximately 50 mercury vapor lights along Kamehameha Highway from Kahae Road extending 7,000 feet towards Kahuku, Oahu.	45,000
16. Farrington Highway Improvements Acceleration lane and tapered pavement on Farrington Highway at the intersection of Laaloa Street, Honokaihale, Oahu.	125,000

## C. UNIVERSITY OF HAWAII

### Manoa Campus

1. Baseball Diamond Supplemental appropriation for the construction of a baseball diamond and appurtenances.	500,000
2. KTUH Planning and construction for development of student radio facilities.	26,000
3. Agricultural Area Landscaping and general improvements at Mauka-Manoa Campus.	50,000

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4. Public Agricultural Service Center Plan, construct and equip Public Agricultural Service Center.	35,000
5. Sewerage Recycling Project Planning and construction of demonstration sewerage recycling project by the Hawaii Institute of Marine Biology.	40,000
6. Mauka-Makai Mall Planning and construction for development of Mall extending from Varney Circle to Dole Street.	37,000
7. Pedestrian Crossing, Dole Street Plans and construction for development of a pedestrian crossing across Dole Street connecting the University of Hawaii Mauka-Makai Mall to the University of Hawaii parking structures.	45,000
8. Recreational Facilities Supplemental appropriation for the construction of bleachers, tennis courts and other recreational facilities for the athletic field at the Manoa Campus.	450,000
9. Medical School Facilities To match on a 80%-20% federal grant funds for capital improvements to be used by the Medical School of the University of Hawaii at the Queen's Medical Center, St. Francis Hospital, Children's Hospital, Kuakini Hospital, Kapiolani Hospital and Leahi Hospital.	2,094,970

**Research Centers and Other Components**

10. Pearl City Instructional Facility, Oahu Plans and construction of instructional and dormitory facilities including furniture and equipment and miscellaneous road improvements at the Pearl City Instructional Facility for agricultural development and environmental improvement.	285,000
11. Poamoho Agricultural Experiment Station Fiberglass covered greenhouse for crop protection in research plots.	12,000
12. Poamoho Agricultural Experiment Station Covered area for research in agronomics crops (2 acres @ \$2,000)	4,000
13. Poamoho Agricultural Experiment Station Pave station working area around buildings for all weather operation. 2" minimum, asphalt concrete. Fill, level grade and roll base.	26,000
14. Poamoho Agricultural Experiment Station Remodel office, laboratory and meeting room.	30,000
15. Waimanalo Experimental Farm, Oahu Improvements to existing building facilities and improvements to ground facilities.	110,000
16. Waikiki Aquarium Planning and construction of improvements, including renovations to existing facilities.	100,000

**Community Colleges**

17. Lower Access Road to Leeward Community College Planning and construction funds as the State's participating share in improving a lower access road to Leeward Community College.	100,000
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| 18. Leeward Community College, Navy Drum Storage Area, Oahu<br>Land acquisition, planning and improvement of the Navy drum storage area at Leeward Community College, Oahu.  | 100,000 |
| 19. Windward Community College<br>Plans and construction to improve existing facilities, including air conditioning and carpeting the library and media room, repair roof leakage and miscellaneous site improvements including resurfacing of existing tennis courts. | 211,000 |

### **D. GRANT-IN-AID**

(To be expended by the Department of Health)

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| 1. Kapiolani Maternity and Gynecological Hospital<br>Planning and construction of Children's Hospital facility.   | 500,000   |
| 2. Kapiolani Maternity and Gynecological Hospital<br>Planning and construction of a new maternity facility.   | 500,000   |
| 3. Kuakini Hospital<br>Grant-in-aid for construction and equipping of a 150-bed care home for the elderly people; a day care center for elderly people; a 100-bed intermediate care facility; and a 50-bed extended care facility for the new proposed complex. | 500,000   |
| 4. Pacific Institute of Rehabilitation Medicine<br>Planning, construction, and equipment for the expansion of facilities.   | 1,500,000 |
| 5. Progressive Health Care Building, Oahu<br>Construction of a heliport on the roof of the proposed Progressive Health Care Building.   | 150,000   |
| 6. Queen's Medical Center<br>Renovation of old hospital floor for construction of a surgical and cardiac intensive care unit.   | 500,000   |
| 7. St. Francis Hospital<br>Planning and construction of a new addition which will include surgery and emergency rooms and other related facilities.   | 500,000   |
| 8. Wahiawa General Hospital<br>Grant-in-aid for general improvements.   | 500,000   |
| 9. Fort Ruger Activity Center for Mentally Retarded, Oahu<br>Construction, equipment and furnishing for multi-purpose building.   | 120,000   |
| 10. Kaneohe Drug Abuse Center<br>Establishment of a Kaneohe Drug Abuse Center, Kaneohe.   | 44,000    |
| 11. Special Education Facility, Waianae<br>Planning and construction of a facility for retarded children in the Waianae District.   | 100,000   |

### **E. DEPARTMENT OF EDUCATION**

#### **Honolulu District**

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| 1. Aina Haina Elementary School, Honolulu<br>Plans and construction for renovation and improvements of existing library. | 50,000 |
| 2. Aina Haina Elementary School, Oahu<br>Completion of covered walkway.  | 50,000 |

4. Ala Wai School, Honolulu	200,000
Planning and construction for improvements, renovations, and repairs to existing facilities and school grounds.	
5. Aliiolani Elementary School, Honolulu	32,000
Reroofing or demolishing the auditorium pending the condition of the structure.	
6. Aliiolani Elementary School, Honolulu	20,000
Playground improvements including paved play courts and appropriate playground and play court equipment, construction of tile wall in the vicinity of Building A, construction of stone wall along 6th Avenue for erosion control and student safety.	
7. Dole Intermediate School, Oahu	327,000
Plans and construction of six classrooms to include equipment storage area, work tables, and all facilities related to the instruction of physical, earth, and life sciences and biology.	
8. Dole Intermediate School, Oahu	90,000
Renovation of the band and chorus rooms for soundproofing and air conditioning.	
9. Farrington High School, Honolulu	55,000
Renovation of existing registration and business office to provide for adequate area for desks, cabinets, and other equipment and the installation of proper ventilation and security measures.	
10. Hahaione Elementary School, Honolulu	300,000
Plans and construction for expansion and improvement of library.	
11. Hawaii School for the Deaf & Blind	100,000
Plans and construction of a playground.	
12. Hokulani Elementary School, Honolulu	156,000
Supplemental appropriation for construction or renovation of existing facilities for art, science classrooms and teacher work center.	
13. Jarrett Intermediate School, Honolulu	100,000
Supplemental appropriation to complete renovation of the science and art classrooms.	
14. Jefferson School, Honolulu	180,000
Planning and construction of administration building.	
15. Jefferson School, Honolulu	350,000
Planning and construction of classroom buildings.	
16. Kaahumanu School, Honolulu	30,000
Planning of a two-story special classroom building.	
17. Kaewai Elementary School, Honolulu	5,000
Construction of covered walkway between the library and office.	
18. Kaimuki High School	850,000
Auditorium and improvements to existing facilities.	
19. Kaimuki Intermediate School, Oahu	390,000
For improvements to existing facilities and for ground improvements.	
20. Kaimuki Intermediate School, Honolulu	100,000
Improvements to grounds and facilities.	
21. Kaiser High School, Honolulu	170,000
Plans and construction for a gymnasium, including necessary related improvements.	

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22. Kaiser High School, Honolulu	100,000
Plans and construction for improvements to football field, including bleachers, press boxes, ticket box, concession stand, crowd control fence, score board and public address system.	
23. Kaiser High School, Honolulu	1,000,000
Plans and construction for an auditorium to be used by school and community.	
24. Kalakaua Intermediate School, Honolulu	350,000
Plans and construction of an administration building.	
25. Kalani High School, Honolulu	750,000
Plans and construction for a media center.	
26. Kalani High School, Honolulu	180,000
Plans and construction for improvement and renovations to physical education and athletic facilities including: Construct two additional tennis courts, resurface two existing tennis courts, remove portable toilet at athletic field, and provide lighting for tennis courts, hallways, driveways, sidewalks, and parking lots.	
27. Kalihi Elementary School, Honolulu	7,000
Provide for more electric outlets in existing classrooms.	
28. Kalihi Elementary School, Honolulu	35,000
Extensive renovation of roof over walkway between buildings A and B.	
29. Kalihi Elementary School, Honolulu	100,000
Installation of fluorescent light fixtures for 30 classrooms and cafeteria.	
30. Kalihi-Uka Elementary School, Honolulu	3,000
Repairing of crumbling stonewall, to eliminate present hazardous condition.	
32. Kalihi-Waena Elementary School, Honolulu	25,000
Planning and construction of a basketball court.	
33. Kamiloiki Elementary School, Honolulu	20,000
Plans and construction for improvements, including expansion of parking area, instrumental and choral rooms, library and other existing facilities.	
34. Kapalama Elementary School, Honolulu	75,000
Plans and construction of covered walkways.	
35. Kawanakanoa Intermediate School, Honolulu	100,000
Supplementary appropriation for improvements and renovations to existing auditorium.	
36. Kokohead Elementary School, Honolulu	20,000
Plans and construction for improvements, including expansion of parking area, instrumental choral rooms, library and other existing facilities.	
37. Kuhio School, Honolulu	150,000
Planning and construction for improvements, including renovations to existing facilities.	
38. Lanakila Elementary School, Honolulu	10,000
Plans and construction for widening of Kuakini Street entrance, posting one-way signs, and adding fencing along Kuakini Street boundary.	

39. Lanakila Elementary School, Honolulu	50,000
Plans and construction of enclosing lanais in buildings A and B.	
40. Lanakila Elementary School, Honolulu	1,000
Construction for placing tackboards in cafeteria.	
41. Lanakila Elementary School, Honolulu	300,000
Landscaping of lawn area and improvement of walkways and steps, and installation of covered walkways.	
42. Lanakila Elementary School, Honolulu	475,000
Demolition of existing building, and planning and construction of gymnasium.	
43. Liholiho Elementary School, Honolulu	100,000
Plans and construction for art-music room, paved courtyard for J Building, sidewalks to connect J Building to other buildings, and building up the bases on the baseball field.	
44. Likelike Elementary School, Honolulu	75,000
Plans and construction of an outdoor playcourt to include a regulation paved basketball court and two mini-courts.	
45. Likelike Elementary School, Honolulu	35,000
Improvements to existing facilities, repainting of doors of buildings, panels on end of buildings and all outdoor play equipment.	
46. Linapuni Elementary School, Honolulu	10,000
Plans and construction of a covered walkway between buildings A and B.	
47. Lincoln Elementary School, Honolulu	105,000
Planning renovation to enlarge library. Includes air conditioning and carpeting.	
48. Lunalilo Elementary School, Honolulu	100,000
Plans and construction for improvements to campus, landscaping, replacement of coconut trees, improve drainage and install sprinkler system.	
49. Maemae Elementary School, Honolulu	20,000
Paving to provide safe loading and unloading of students and improved access to temporary parking area.	
50. Maemae Elementary School, Honolulu	25,000
Installation of fluorescent lights in buildings B and J.	
51. Manoa Elementary School, Honolulu	10,000
Extension of parking area adjacent to the administration building.	
52. Manoa Elementary School, Honolulu	10,000
Installation of a chain fence on east end of campus.	
53. Manoa Elementary School, Honolulu	50,000
Leveling and planting of the west end of campus.	
54. Manoa Elementary School, Honolulu	10,000
Removal of an island on the road adjacent to the administration building.	
55. McKinley High School, Honolulu	750,000
Master plans, plans and construction for renovation of instructional facilities, student activities center, athletic complex, vocational education facilities, special education classrooms, and new library-media materials center.	

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56. Moanalua Intermediate School, Oahu Planning and construction of acoustic noise control and air conditioning.	100,000
57. Moanalua Elementary School, Oahu Improvement and expansion of the library. Funds to be supplemented from Item E-84, Act 197, SLH 1971.	5,000
58. Noelani Elementary School, Honolulu Supplementary appropriation to Item E-65, Act 176, SLH 1972, to include teacher work centers and library.	150,000
59. Niu Valley Intermediate School, Honolulu Planning and construction of renovation of the cafeteria to accommodate student and community activity programs, and the renovation to existing library facilities and improvements and expansion of parking, existing instrumental and choral rooms, and existing facilities for teacher work centers and custodial storage room. Unencumbered balances on Item I.E. 31 A of Act 176, SLH 72 and Item I.E. 120, Section 2, Act 176, SLH 72, may be used for this project.	20,000
60. Nuuanu Elementary School, Honolulu Planning and construction of extension of existing sidewalks from rear of library to building F and covered play area.	33,000
62. Nuuanu Elementary School, Honolulu Renovation of existing classroom into multi-purpose rooms—art, music and science.	30,000
63. Nuuanu Elementary School, Honolulu Planning and construction of air conditioning system in existing library.	20,000
64. Nuuanu Elementary School, Honolulu Planning and construction of gymnasium.	100,000
65. Palolo Elementary School, Honolulu Construction of covered walkways.	30,000
66. Puuhale Elementary School, Honolulu Plans and construction for the installation of basketball court lights for the purposes of community use during after school hours.	20,000
67. Roosevelt High School, Honolulu Installation of a public address system in Building "N" and library.	5,000
68. Roosevelt High School, Honolulu Installation of security screens and devices in first floor windows in Buildings "C" and "G".	10,000
69. Roosevelt High School, Honolulu Planning and construction of restrooms for auditorium.	20,000
70. Roosevelt High School, Honolulu Construction of a carport for the school bus and truck.	5,000
71. Roosevelt High School, Honolulu Construction of a stone wall and steps on corner of Nehoa Street and Mott-Smith Drive to control erosion.	5,000
72. Roosevelt High School, Honolulu Purchase new equipment and installing improved lighting in metal and jewelry classrooms.	2,000

73. Roosevelt High School, Honolulu	25,000
Re-open and re-surface fireroad behind N building leading to G building. Construct parking area adjacent to G building.	
74. Roosevelt High School, Honolulu	2,000
Replace stage curtains in auditorium.	
75. Roosevelt High School, Honolulu	50,000
Supplementary appropriation for construction of makai bleachers of Roosevelt stadium.	
76. Roosevelt High School, Honolulu	35,000
Repairs and improvements to student restrooms, hallways and classrooms in building A, cafeteria and senior patio.	
77. Roosevelt High School, Honolulu	5,000
Construction of a footbridge across the stream along Auwaiolimu Street with an access gate in the fence.	
78. Roosevelt High School, Honolulu	10,000
Repair ceiling and installation of tile in cafeteria.	
79. Royal Elementary School, Honolulu	20,000
Plans and construction for improvements and resurfacing of the play area, court, and various existing facilities.	
80. Stevenson Intermediate School, Honolulu	300,000
Renovation of art and homemaking classrooms.	
81. Stevenson Intermediate School, Honolulu	500,000
Supplemental appropriation for planning and construction of the Instructional Material Center to be shared by Stevenson and Lincoln Schools.	
82. Waialae Elementary School, Honolulu	250,000
Plans and construction for renovation of existing classrooms to be used for art, music and science classes; demolish an old, existing structure on the school ground, and paving of a grassy area approximately 120' x 60'.	
83. Wilson Elementary School, Oahu	50,000
For improvements to the library facilities and for the installation of air conditioning in the administration offices.	

**Central Oahu District**

84. Aiea High School	150,000
Air conditioning, carpeting and other improvements to the existing library.	
85. Aiea Elementary School	75,000
Renovate existing classrooms for physically handicapped program.	
86. Aiea Intermediate School	40,000
Plan and construct paved playcourt.	
87. Aiea Intermediate School	35,000
Supplementary funds for acquisition of land and construction of additional parking.	
88. Kaala Elementary School	12,000
Planning and construction of fencing and ground improvements.	
89. Kaala Elementary School	50,000
Installation of new fire alarm system throughout school.	

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90. Kaala Elementary School Installation of lights for softball field.	50,000
91. Kipapa Elementary School Ground improvement. Funds to be supplemented from Item F-142 of Act 155, SLH 1969.	15,000
92. Leilehua High School Relocation and rewiring of fire alarm system.	50,000
93. Leilehua High School Planning and construction of covered walkway from building "M" to building "L".	15,000
94. Leilehua High School Repaving of front parking lot.	15,000
95. Leilehua High School Planning and construction of fencing and paving of mauka side of school for a parking area.	75,000
96. Makalapa Elementary School Plans and construction of teachers' dining room.	20,000
97. Moanalua Elementary School Improvement and expansion of the library; funds to be supplemented from Item E-84 of Act 197, SLH 1971.	5,000
98. Moanalua Elementary School Planning and construction of teachers' dining room.	25,000
99. Moanalua High School Plans for construction of 12 classroom building.	40,000
100. Moanalua Intermediate School Planning and construction of acoustic noise control and air conditioning.	100,000
101. Nimitz Elementary School Plan and construct paved playcourt.	30,000
102. Radford High School Plan and construct a team locker building. Funds to be supplemented from Item F-65 of Act 155, SLH 1969.	1,000
103. Radford High School Supplemental funds for gymnasium mezzanine.	125,000
104. Red Hill Elementary School Planning and construction of covered playcourt and parking.	160,000
105. Alvah Scott Elementary Improve playground including installation of sprinkler system.	75,000
106. Fort Shafter Elementary School Improve school ground.	30,000
107. Solomon Elementary School Planning and construction of fencing and ground improvement.	15,000
108. Solomon Elementary School Planning and construction of teacher's workrooms with toilets.	50,000
109. Waialua High School Planning and construction of a parking area for 150 cars.	88,000
110. Waialua High School Planning and installation of a pavement and fencing in the mauka area of the shop building and the construction of security screens for the shop building.	40,000

111. Waiahu Library, Oahu Supplemental appropriation for the construction of a 900 square feet meeting room, remodeling portions of existing facilities and installation of temperature and humidity control equipment.	1,000
112. Wahiawa Elementary School Classroom renovation—Special Education class.	75,000
113. Wahiawa Elementary School Making a supplemental appropriation to the prior appropriation for a basketball court.	12,000
114. Gus Webling Elementary School Planning and construction of teacher's dining room.	25,000
115. Wheeler Elementary School Demolition of Buildings A, B, C, D, and F.	30,000

**Leeward Oahu District**

116. August Ahrens Elementary Renovation of kindergarten building to administration building and site improvements.	100,000
117. August Ahrens Elementary Planning and construction of a fence and a sidewalk between Waipahu Estates Subdivision and August Ahrens Elementary.	18,000
118. Campbell High School Construction of gymnasium and other site improvements.	999,000
119. Ewa Beach Elementary Plan and construct paved playcourts and site improvements.	35,000
120. Honowai Elementary Renovation of existing classroom space to music room, construction of ramp and/or stairway to correct hazardous conditions and site improvements.	45,000
121. Iroquois Point Elementary Plan and construct paved playcourts and site improvements.	35,000
122. Kaimiloa Elementary Plan and construct serving kitchen-dining room, paved playcourts, and other site improvements.	434,000
123. Makakilo Elementary School, Oahu Planning and construction of covered walkways at Makakilo Elementary School.	25,000
124. Mililani Elementary Construction of chain link fence, construction of covered walkway between main building and food service building.	10,000
125. Nanakuli High School Plans for a gymnasium and construction of a ticket and broadcast booth, chain link fencing, installation of public address and electric power circuits and site improvements.	270,000
126. Pearl City Educational Cluster Construction of a chain link fence to run along Road A in the Pearl City Educational Cluster, Oahu.	5,000
127. Pearl City Highlands Elementary Addition to and renovation of administration and library building, including parking area, air conditioning and site improvements.	250,000

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128. Pearl City High School Plan and construct baseball field, backstop, scoreboard, site improvements and plans for a gymnasium.	226,000
129. Pearl City Highlands Intermediate School Plan and construct roofs over the courtyard, assembly and dining areas including concrete floor fixtures, drainage, and other site improvements.	250,000
130. Parking Lot Adjacent to Pearl City Library Land acquisition, planning and construction of a parking lot adjacent to the Pearl City Library.	66,150
131. Waianae High School Plan and construct tumbling and weightlifting addition to gymnasium and renovations of gymnasium, including replacement of flooring, bleachers, doors and other improvements.	280,000
132. Waianae Elementary School Ground improvements and the installation of security lights.	30,000
133. Waianae High School Plans and construction of a library at Waianae High School.	400,000
134. Waimalu Elementary School Ground improvements, including sprinklers, sidewalks, topsoil, and grass.	25,000
135. Waipahu Elementary School Plans and construction of a single story administration and library building and site improvements.	100,000
136. Waipahu High School Plans for the construction of a gymnasium.	75,000
137. Waipahu High School Plans and construction of a pedestrian overpass to provide access to the athletic field.	150,000
138. Waipahu High School Plans and construction of a gymnasium, security lights on parking lots and site improvements.	1,155,000
139. Waipahu Intermediate Construction of fine arts and vocational arts building and site improvements.	375,000

### Windward Oahu District

140. Castle High School Renovation of the old library. To supplement prior appropriation.	50,000
141. Castle High School, Oahu Plans and construction of a swimming pool.	150,000
142. Castle High School, Oahu Renovate electrical system and install lights in parking lot.	100,000
143. Castle High School, Oahu Renovate plumbing and make necessary improvements to sewer line.	150,000
144. Castle High School, Oahu Plans and construction for auditorium.	330,000
145. Kaaawa Elementary School, Oahu Paving and widening of the entrance and the exit of the driveway.	4,000

146. Kaaawa Elementary School, Oahu Playcourt for basketball and volleyball.	4,000
147. Kaelepulu Elementary School, Oahu Plans and construction of a concrete playcourt, water fountains, baseball backstop on the playground, the continuation of existing walkways, and fencing.	46,000
148. Kahuku High School, Oahu Repave back road.	5,000
149. Kahuku High School, Oahu Planning and resodding, regrading, replanting of grass for football field.	10,000
150. Kahuku High School, Oahu Plans and construction of athletic facilities and gymnasium.	1,000,000
151. Kailua Elementary School, Oahu Construction of parking facilities.	70,000
152. Kailua Elementary School, Oahu Demolition of old, substandard classrooms.	13,000
153. Kailua High School, Oahu Plans and construction of additional parking and drainage improvements.	100,000
154. Kailua High School, Oahu Improvements to the athletic field including improvements to the track field and the planning and construction of restroom facilities.	85,000
155. Kailua High School, Oahu Planning and construction of an additional entry road to Kailua High School.	300,000
156. Kailua Intermediate School, Oahu Renovations of classrooms.	100,000
157. Kainalu Elementary School, Oahu Improvements to existing facilities.	100,000
158. Kaneohe Elementary School, Oahu Planning and construction of an administration building.	150,000
159. Kaneohe Elementary School, Oahu Improvement to recreational facilities and comfort station.	80,000
160. Kaneohe Elementary School, Oahu Plans, renovation and improvements to classrooms and library.	50,000
161. Kaneohe Elementary School, Oahu Construction of acoustics and other improvements in cafeteria.	75,000
162. Kaneohe Regional Library, Oahu Renovation and expansion to include an individualized audio-visual study area.	30,000
163. Keolu Elementary School, Oahu Installation of a fence between the school and existing park and improvements to the existing parking lot.	12,000
164. King Intermediate School, Kaneohe, Oahu Plans and construction of parking and athletic facilities.	270,000
165. King Intermediate School, Kaneohe, Oahu Planning and construction of a resource center.	200,000

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166. Pope Elementary School, Oahu Installation of a baseball diamond and backstop.	6,000
167. Puohala Elementary School, Kaneohe, Oahu Construction of parking facilities.	30,000
168. Waiahole Elementary and Intermediate School, Oahu Demolition of old classrooms and administration building and conversion of classrooms to temporary administration and library facilities.	25,000
169. Waimanalo Elementary and Intermediate School, Oahu Improvements to existing facilities and ground improvements including fencing, modifications to existing playcourt area, clearing the agricultural area, security screens and renovations to classrooms and restrooms.	50,000

### **F. DEPARTMENT OF SOCIAL SERVICES AND HOUSING**

1. Crafts Center, Nanakuli Planning for the site selection and construction of a craft center at Nanakuli.	10,000
2. Variety Club School Planning and construction of the Variety Club School, a school for learning disability students to be located at Ft. Ruger.	900,000

#### **Hawaii Housing Authority**

(To be expended by the Hawaii Housing Authority)

3. Kaahumanu Housing Construction, equipping, maintenance and repair of existing facilities and equipment at Kaahumanu Housing. Priorities to be determined by the Hawaii Housing Authority.	78,000
4. Kalihi Valley Homes Alterations to the administration and maintenance buildings.	25,000
5. Kamehameha Housing Construction, equipping, maintenance and repair of existing facilities and equipment at Kamehameha Housing. Priorities to be determined by the Hawaii Housing Authority.	74,000
6. Mayor Wright Housing Construction, equipping, maintenance and repair of existing facilities and equipment at Mayor Wright Housing. Priorities to be determined by the Hawaii Housing Authority.	117,000
7. Palolo Housing Community Hall Supplemental appropriation for the completion of the Palolo Housing Community Hall and to provide necessary furnishings and equipment.	300,000
8. Palolo Housing Renovation of kitchen and bathroom facilities.	150,000

### **G. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

1. Bishop Museum Grant-in-aid for improvements to Bishop Museum Facilities.	100,000
2. Hawaii State Senior Citizen Center, Lanakila Plans and construction for the renovation and improvements to the Hawaii State Senior Citizen Center.	50,000

3. Multi-purpose Service Center, Haleiwa	100,000
Supplemental appropriation for land acquisition, planning and construction of a facility to administer services in traffic, health, welfare and other state general services.	
4. Youth Facility, Waianae	10,000
Appropriations for the leasing of a facility for youth activities.	
5. Kahuku Motorcycle State Park	75,000
Plans and construction of a comfort station and other appurtenances.	
6. Multi-purpose Community and Recreation Center, Whitmore	200,000
Land acquisition, plans, construction, equipment and other appurtenances of a Multi-purpose Community and Recreation Center at Whitmore, Oahu. To supplement appropriations made by Item F-180, Act 155, SLH 1969, Item F-131, Act 187, SLH 1970 and Item E-132, Act 197, SLH 1971.	

**H. GOVERNOR'S OFFICE**

(To be expended by the Governor's Office)

1. Natural Energy Laboratory	50,000
To create a natural energy laboratory of the State to be located on State owned land makai of Keauhole Airport in Kona.	

**I. JUDICIARY**

(To be expended by Judiciary)

1. Judiciary Programs, Minor Statewide CIP Projects	200,000
Plans, construction, and purchase of equipment for improvements, including additions, repairs, renovations, alterations, and modifications to existing structures for the Judiciary programs within the State.	

**J. CITY AND COUNTY OF HONOLULU**

(To be expended by the City and County of Honolulu)

**Parks and Recreation**

1. Kilauea Playground	100,000
Plans and construction for tennis courts and swimming pool.	
2. Kaimuki, Crane, Petrie and Paki Playgrounds	100,000
Plans and construction for general improvements.	
3. Halawa District Park	125,000
Plan and construct Olympic size swimming pool. Funds from Item K-45, Act 176, SLH 1972, shall be used for this project.	
4. Halawa District Park	400,000
Supplemental funds for plans and construction of gymnasium which shall include meeting rooms, and rooms for other recreational and social activities.	
5. Moanalua Gardens Community Gymnasium	400,000
Supplemental funds for plans and construction of a community gymnasium which shall include meeting rooms, and rooms for other recreational and social activities.	
6. Aiea Recreation Center Park	35,000
Plan and construct roof over existing bleachers.	
7. Mini-park, Wahiawa, Oahu	50,000
Plans and construction of a mini-park to be located next to the Wahiawa Library.	

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8. Fred Wright Park, Wahiawa, Oahu Supplemental appropriation for the installation of baseball field lights.	30,000
9. Kanewai Park, Honolulu Supplemental appropriation to improve facilities and to provide a community pool.	150,000
10. Palolo Playground, Honolulu Supplemental appropriation for completion of neighborhood youth facilities.	350,000
11. Tennis Courts at Kapiolani Park Planning and construction of tennis courts.	100,000
12. Aiea Bay, Pearl Harbor, Oahu Development of Aiea Bay, Pearl Harbor, Oahu, into a park and recreational area.	115,000
13. Recreational and Cultural Center Plans and construction for recreational and cultural center along the Ala Wai Canal, from McCully Street to Palolo-Manoa Stream: Grant-in-aid to the City and County of Honolulu for planning and for such planning to include relocation of the present canoe center to the recreational and cultural center.	50,000
14. Recreational Facilities Planning, construction, and installation of recreational facilities in all State and City parks in the 12th District.	175,000
15. Kaimuki Senior Citizens Center Plans and construction for a Senior Citizens Center.	500,000
16. Papakolea Recreational Center Plans and construction for roof over bleachers and swimming pool, installation of gutters to improve drainage, construction of steps from Kauhane Street to the Center and from Tantalus Drive to the Center.	300,000
17. Kalihi Valley Field Complex Plans and construction for a swimming pool complex.	400,000
18. Booth Park Supplemental appropriation for gym-swimming pool complex and equipment.	50,000
19. Nuuanu Valley Park Plans for construction of swimming pool.	50,000
20. Puunui Park Repairs and installation of gutters and drainage to Recreation Center and installation of field lights.	95,000
21. Kalakaua Recreation Center Plans and construction for the installation of lighting of existing tennis and playcourts and for two new tennis courts. Plans, engineering and construction of a new swimming pool, sprinkler systems, and a new master plan utilizing abandoned roadways, and renovation of the existing gym recreation center, including resurfacing of present courts. Unencumbered balances from Item I-K-18 of Act 176, SLH 1972 may be used for this project.	660,000
22. Jonathan Springs Park Improvements to Jonathan Springs Park.	60,000

23. Kauluwela Playground Plans and construction for improvements including recreational building and equipment.	156,000
24. Honolulu Theater for Youth Plans and construction of a theater including workshops. Unexpended balances in Item 0-1, Act 155, SLH 1969 and City and County funds, may be used for this project.	1,200,000
25. Koko Head District Park  Complete design of swimming pool complex and construction of the recreation center building/gymnasium and landscaping.	425,000 540,000(x)
26. Mililani Town Planning and construction of an Olympic size swimming pool in Mililani Town, Oahu.	150,000
27. Wahiawa, Waialua, and Mililani Areas Planning and construction of tennis practice walls and asphalt concrete flooring in the Wahiawa, Waialua and Mililani Town Areas, Oahu.	30,000
28. Keolu Playground, Kailua Plans and construction for installation of lights for the basketball court and field.	40,000
29. Waimanalo Plans and construction of a new athletic complex.	50,000
30. Kaneohe Playground Planning and construction of comfort station.	80,000
31. Kailua Field  Construction of swimming pool complex.	345,000 385,000(x)
32. Senior Citizens Center, Kailua For plans and land acquisition for a Senior Citizens Center in Kailua.	200,000
33. Kaluapuhi Neighborhood Park in Pikoiloa, Kaneohe Plans and construction.	125,000
34. Lighting facilities in Kaneohe Parks Lights for Kaluapuhi Neighborhood Park, Keahala Village Park and Kaneohe District Park.	250,000
35. Kaneohe District Park Plans and construction of four tennis courts.	120,000
36. Keahala Village Park Plans and construction of a Kaneohe Senior Citizen Center.	125,000
37. Maunawili Park, Kailua Land acquisition, planning and construction of a new park in Maunawili, Kailua.	200,000
38. Hauula Playground Expansion, Hauula Land acquisition and site improvements, filling and grading to enlarge playground site to accommodate regulation Little League and Pop Warner events.	100,000
39. Manana Playground Planning and construction of a comfort station at Manana Playground.	20,000

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40. Pearl City	150,000
Planning and construction of an Olympic-size swimming pool in Pearl City.	
41. Makakilo Recreation Center	1,000
Planning and construction of a swimming pool. Unencumbered balances in Item K-24 of Act 197, SLH 1971, may be used for this project.	
42. Pearl Ridge Park	300,000
Planning and construction of a recreational complex at Pearl Ridge Park.	
43. Pacific Palisades	100,000
Planning and construction of a community swimming pool in Pacific Palisades.	
44. 17th Representative District Mini Parks	105,000
Land acquisition, plans, construction and equipment for improvement and development of mini parks, including lighting, in the 17th Representative District.	
45. Fernandez Park	20,000
Plans and construction for the installation of lights on the basketball court and for restrooms.	
46. Kuhio Park Terrace	500,000
Additional funds for acquisition of approximately two and one half acres of land, also plans and construction for expansion of the present park. Supplements funds appropriated under Item I-K-56 of Act 176, SLH 1972.	
48. Moiliili Community Center	250,000
Plans and construction of multi-use facility to be used for programs dedicated to all age groups, including an extensive Senior Citizens program.	
49. Makiki Recreational Center	75,000
Supplemental appropriation for the development of a park complex at the HSPA site, bounded by Wilder Avenue, Keeaumoku Street and Makiki Street.	
50. Manoa Valley Recreation Center	5,000
Construction of paved concrete area between the swimming pool and pavilion.	
51. Manoa Valley Recreation Center	70,000
Planning and construction of additional site improvements including drainage and a picnic area.	
52. Manoa Valley Recreation Center	22,000
Planning of a bandstand-mini-theater complex.	
53. Kahala Park	10,000
For the installation of lights at the basketball court.	
54. Kilauea Park	450,000
Plans and construction of a gymnasium.	
55. Kahala Heights Park	100,000
Planning and construction of a park at Kahala Heights.	
56. Recreational Facilities, Kailua	100,000
Plans and construction of playing fields for Little League and other sports events.	

**GRANTS-IN-AID TO CITY AND COUNTY OF HONOLULU**  
 (To be expended by the City and County of Honolulu)

**Roads**

57. Kamehameha Highway Improvements, Kaneohe Improvements of Waihee Road to vicinity of Waiahole Valley Road.	100,000
58. Pedestrian Overpass, Kaneohe Pedestrian overpass at the intersection of Kamehameha Highway and Haiku Road, Kaneohe.	50,000
59. Kailua Road Plans and construction for the widening of Kailua Road between Hahani Street and Wanaao Road, Kailua. The amount appropriated shall be used to reduce any improvement district assessments for this project.	300,000
60. Hamakua Road, Kailua Planning, land acquisition and completion of Hamakua Road, Kailua.	100,000
61. Kamehameha Highway Improvements, Kaneohe Plans and construction for improvements to Kamehameha Highway between Lilipuna Road and Haiku Road. Funds to be used to reduce any improvement district assessments for this project.	200,000
62. Footbridge across Waolani Stream at Bates Street Plans and construction of a footbridge. Unencumbered balances from Item I-K-65 Act 176, SLH 1972, may be used for this project.	10,000
63. New Laimi Footbridge Planning and construction of a new Laimi Footbridge.	75,000
64. Salt Lake Boulevard Land acquisition, plans, and construction for the realignment, widening, and improvement of Salt Lake Boulevard between Halawa Heights and Puuloa Road.	1,000,000
65. Puiwa Road Planning and construction for widening and necessary improvements between Pali Highway to Park Street, Honolulu.	80,000
66. Kamehameha Highway Plans and construction of shoulder improvements from Likelike Highway to Paleka Road, including pedestrian footpath.	50,000
67. Dike Road, Kawainui Swamp, Kailua Preliminary planning and engineering of a four-lane dike road.	50,000
68. Parking Structures Planning of two parking structures with adjacent recreational facilities, located within the area bounded by Pensacola, University and Nehoa Avenues and Lunalilo Freeway.	75,000
69. Oahu and University Avenues Plans and construction for the upgrading and widening of Oahu Avenue between East Manoa Road and Maile Way.	200,000
70. Waianae Valley Road, Improvements Planning for improvements of Waianae Valley Road.	10,000
71. Halekou Road Plans and construction for paving of Halekou Road from Kamehameha Highway to Mahinui Road, Oahu.	50,000

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### Flood Control

72. Drainage Facility	140,000
Plans for the construction of drainage facilities along 22nd Avenue at 22nd Avenue and Puu Panini Avenue, and on the 3700 block of Pukalani Place.	
73. Kamooalii Stream, Kaneohe	10,000
Drainage and channel improvements to Kamooalii Stream.	
74. Palolo Stream	300,000
Supplemental appropriation for plans and construction of a retaining wall to prevent erosion along Palolo Stream from Keanu Street to St. Louis Drive.	
75. Palolo-Waialae Avenues	110,000
Appropriation for plans and construction of storm drains to provide relief for existing inadequate drainage facilities at Palolo-Waialae Avenues.	
76. Nuhelewai, Kapalama Drainage and Flood Control Improvements	660,000
Supplemental appropriation for continuation of planning and construction of storm drainage improvements and retaining walls in Nuhelewai, Kapalama Areas from Naio Street to Kapalama Canal.	
77. Paukauila Stream	25,000
Preliminary engineering to prevent stream erosion from Alanuki Bridge to Kaiaka Bay.	

### Others

78. Bikeways and Bikepaths in the 12th District	250,000
Plans and construction for bikeways and bikepaths.	
79. Bikeways in Kailua	50,000
Planning and construction of bikeways in Kailua, to be matched by the City and County of Honolulu.	
80. Bikeways in Manoa	50,000
Planning and construction of bikeways in Manoa Valley to the Manoa Campus of the University of Hawaii.	
81. Kapahulu HRA	100,000
To supplement revolving loan fund.	
82. Haaula Civic Center	200,000
Land acquisition, planning, construction, etc., to enlarge scope of city program to include accommodations for Senior Citizens' meeting rooms, etc.	
83. Nanakuli Recreation Center, Night Lights	25,000
Planning and construction of night lights for the baseball field.	

### Board of Water Supply

(To be expended by the Board of Water Supply, City and County of Honolulu)

84. Kailua Sewage Treatment Plant Sludge Dewatering Facility	135,000
Construction of a sludge dewatering machine and its enclosure for compliance with federal and state water quality standards.	
85. Nanakuli Waterline Development	175,000
Appropriations for the development of a waterline on Mano and Kauwahi Avenue.	
86. Pililaau Park, Waterline Development	40,000
Installing of pipeline.	

**SECTION 8.** Section 79, Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 9.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto new Sections 79A and 79B reading as follows:

**"SECTION 79A.** The following sums or so much thereof as may be necessary are hereby appropriated to the program as designated to fund the following programs for the remainder of the fiscal biennium ending June 30, 1975:

	FY 1973-74	FY 1974-75	Total Biennium 1973-75
<b>ECONOMIC DEVELOPMENT</b>			
Malaysian Prawn Research and Development Project (LNR 171)	—	60,000A	60,000A
Kona Coffee Research (AGR 151)	—	90,000A	90,000A
Research on Pineapple Production and Labor Efficiency (UOH 102)	—	150,000A	150,000A
Pest Control Board (REG 105)	—	20,000A	20,000A
Aid to Kona Coffee Processors (AGR 151)	—	25,000A	25,000A
Eradication of Gorse (noxious weed) on the Island of Maui (AGR 122)	—	20,000A	20,000A
To extend credit for operations under the farm loan revolving fund (AGR 101)	—	500,000A	500,000A
Funding of the Hawaii Sea Grant Program (UOH 104)	—	120,000A	120,000A
Commission on International Economic Affairs (PED 119)	—	3,000A	3,000A
Energy Conservation Program (PED 101)	—	150,000A	150,000A
Control eradication of papaya virus diseases (AGR 122)	—	60,000A	60,000A
Study, experimentation and evaluation on control of souring beetles (AGR 122)	—	45,500A	45,500A
Testing Services, UH Tropical Agriculture (UOH 102)	—	21,000A	21,000A
Develop a modification of the papaya mechanical harvester and spraying equipment (UOH 102)	—	16,000A	16,000A
Kohala Grain Research in connection with the redevelopment of the Kohala area (UOH 102)	—	265,600A	265,600A
To provide for the continuation of the Marketing News Service Program (AGR 191)	—	3.00* 18,000A	3.00* 18,000A
<b>TRANSPORTATION</b>			
To strengthen airport security for scheduled carriers (TRN 293)	—	1,065,244B	1,065,244B

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Additional operational requirements for the Honolulu International Airport (TRN 293)	—	460,000B	460,000B
To establish a Statewide Transportation Planning Program (TRN 693)	—	500,000B	500,000B

### **ENVIRONMENTAL PROTECTION**

To develop criteria for defining the State's environmental support capabilities to enable the administration to identify areas in danger of environmental misuse, and to conduct feasibility research of solid waste recovery (GOV 401)	—	100,000A	100,000A
To provide for establishment of a park ranger corps (LNR 809)	—	12,700A	12,700A
To provide operating funds for the Environmental Commission (GOV 102)	—	75,000A	75,000A

### **HEALTH**

To provide for the development of immunological tests for ciguatoxin fish poisoning in Hawaii (HTH 131)	—	10,000A	10,000A
To provide operating subsidy to Molokai Hospital (SUB 501)	—	60,000A	60,000A
To provide operating subsidy to Kahuku Hospital: Provided that any release of funds shall be contingent upon the director of the department of health's certification of the hospital's financial and management plans and policies. Provided further that the certification shall be made on quarterly basis (SUB 501)	30,000A	120,000A	150,000A
To provide mental health services for children (HTH 495)	—	60.00* 760,500A	60.00* 760,500A
To contract for services relating to detoxification of intoxicated persons (HTH 495)	—	50,000A	50,000A
To fund a pilot project to study certain dietary changes of mentally ill persons (HTH 495)	—	10,000A	10,000A
To provide for the continuation of the Emergency Medical Services Program. The department of health may contract with other agencies for training programs (HTH 892)	—	75,000A	75,000A

### **HUMAN RESOURCES**

For regulating and licensing day care centers and family day care homes for the elderly (SOC 122)	—	55,000A	55,000A
To continue the Progressive Neighborhoods Program's Quick Kokua and Human Service Centers projects through June 30, 1975 in order to complete the evaluation of the projects (GOV 862)	—	477,000A	477,000A

To provide for program director, secretary, and operational requirements for the Community Coordinated Child Care Committee of the State Commission on Children and Youth (GOV 861)	—	38,363A	38,363A
To continue the Hawaii State Senior Center Program (BUF 602)	—	87,500A	87,500A
To continue the Waianae-Nanakuli and Kalihi-Palama Education Centers (GOV 862)	—	332,000A	332,000A
To continue the operations of senior centers, statewide (BUF 602). Provided that the sum of up to \$26,000 shall be expended for Kauai Senior Centers Inc., up to \$19,100 shall be expended for Moiliili Multi-purpose Center, up to \$65,000 shall be expended for Area-Wide Horizons For Senior Citizens, and up to \$10,000 shall be expended for Pau Hana Years Radio Simulcast.	—	121,100A	121,100A
To continue the operations of the Waianae Rap Center and Kalihi-Palama Alternatives for Youths (GOV 862). Provided that the general fund appropriation shall be decreased to the extent of the amount of federal funds received.	—	115,100A	115,100A
To provide additional funds to the department of health for the operations of the Renal Disease Program (HTH 802)	—	50,000A	50,000A
To provide for a unit to conduct eligibility reviews of public assistance to ensure proper payments (SOC 902)	—	80,000A	80,000A
To supplement the building fund of the Habitat, Inc. (GOV 866)	—	25,000A	25,000A
To provide for the continuance of the State Office and the OEO-designated Community Action Agency Programs on each of the four counties (GOV 863). Provided that up to \$65,000 shall be expended for Hawaii County Economic Opportunity Council, up to \$65,000 shall be expended for Maui Economic Opportunity, Inc., up to \$65,000 shall be expended for Kauai Economic Opportunity, up to \$105,000 shall be expended for Honolulu Community Action Program Inc., and up to \$184,000 shall be expended for the Hawaii Office (State) of Economic Opportunity.	—	484,000A	484,000A
To provide state matching funds to purchase child care services under Title IV of the Social Security Act (SOC 191). Provided that the amount appropriated includes funding for the Operation Kokua Day Care Center and the Waianae-Nanakuli Child Development Center.	—	200,000A	200,000A
To provide for the continuance of the Immigration Center (GOV 862)	—	85,000A	85,000A
To provide \$267,000 for the continuance of the Legal Aid Program and \$105,000 for a contingency loan fund to lend operating money to the Legal Aid Society for up to three months (GOV 863)	—	372,000A	372,000A

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To provide for the Comprehensive Manpower Program (GOV 862). Provided up to \$45,000 shall be expended for Kalihi-Palama Manpower Center, up to \$91,000 shall be expended for Concentrated Employment Program Training And Job Placement, and up to \$64,000 shall be expended for Upward Mobility.	—	200,000A	200,000A
To provide for a demonstration day care facility for the elderly at Wilcox Memorial Hospital (SOC 122)	—	47,000A	47,000A
To provide for the continuation of the Housing Relocation Unit (SOC 395)	—	65,000A	65,000A

## **EDUCATION AND CULTURE**

To provide for the continuance of the College Opportunities Program (UOH 101)	—	152,000A	152,000A
To provide for the continued funding of the Pacific and Asian Affairs Program (UOH 903)	—	65,000A	65,000A
To provide funds for theater for youth (BUF 881)	—	35,000A	35,000A
To provide additional appropriations for the educational television series on labor entitled, "Rice and Roses"; provided further, that such funds shall be placed in a special trust fund to be expended by the Educational Television Network and that such funds may be expended upon approval of this Act (REG 701)	—	37,000A	37,000A
For repair and maintenance of Kahuku High and Elementary School buses (AGS 808)	—	3,000A	3,000A
To provide additional security guards at University of Hawaii, Hilo (UOH 206)	—	20,000A	20,000A
To provide funding for PEACESAT—a low cost satellite communication system suited to remote small population groupings (UOH 104)	—	50,000A	50,000A
To provide funds for the Comprehensive Training (University without walls) Program (UOH 101)	—	125,000A	125,000A
To provide supplemental funds for book and periodical purchases (UOH 104)	—	140,000A	140,000A
To provide special education instruction to identified handicapped students; funds provided for 28 positions (EDN 411)	—	209,000A	209,000A
Early Childhood Education (EDN 411)	—	25,000A	25,000A
To provide cooperative education work study funding (UOH 902)	—	150,000A	150,000A
To provide additional college work study funding (UOH 902)	—	50,000A	50,000A
To conduct a feasibility study for the export of dendrobium orchids and ornamental foliage to the U.S. and Japanese markets (UOH 101)	—	20,000A	20,000A

To strengthen vocational counseling rather than college oriented counseling by providing in-service education for teachers and to have teachers work with counselors as a team (EDN 251)	—	100,000A	100,000A
To provide for free enrollment of Senior Citizens in University of Hawaii and Department of Education adult education programs (UOH 902) (EDN 621)	— —	37,500A 62,500A	37,500A 62,500A
To provide for establishment of a Women's Study Program at the University of Hawaii (UOH 101)	—	50,000A	50,000A
To provide funding for 100 3 on 2 teacher positions (EDN 411)	—	833,000A	833,000A
To implement the foundation program (EDN 411)	—	566,000A	566,000A
To provide a subsidy to adequately compensate school coaches (EDN 251)	—	279,000A	279,000A
To provide for school repairs and maintenance (AGS 807)	-	500,000A	500,000A
To continue research on conversion of waste agricultural fibrous material to livestock feed (UOH 102)	—	30,000A	30,000A
Funding for Honolulu Community Theater (BUF 881)	—	38,000A	38,000A
To implement the School Health Services Program (HTH 871)	—	175,000A	175,000A
To provide for culture and arts programs on the Waianae Coast (BUF 881)	—	30,000A	30,000A
To help defray costs of the Hawaii Youth Symphony (BUF 881)	—	50,000A	50,000A
To help defray costs of the Honolulu Symphony (BUF 881)	—	50,000A	50,000A
To provide for culture and arts programs in the Kalihi-Palama area (BUF 881)	—	30,000A	30,000A
To continue the operation of the Hawaii Commission on the Year 2000 (GOV 102)	—	18,000A	18,000A
To provide additional funds for the operation of the Hawaii Bicentennial Commission (GOV 102)	—	94,600A	94,600A
To establish a Chair for Peace (UOH 102)	—	25,000A	25,000A
To provide financial support for the Young Farmer Program (UOH 903)	—	50,000A	50,000A

**LEISURE TIME**

To provide for intramural activities in the community colleges and University of Hawaii at Hilo. The appropriated amount will be allocated as follows: Hilo College and Hawaii Commu-	—	50,000A	50,000A
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nity College, \$11,000; Windward Community College, \$6,000; Leeward Community College, \$8,000; Honolulu Community College, \$7,000; Kapiolani Community College, \$8,000; Maui Community College, \$5,000; and Kauai Community College, \$5,000 (UOH 902)

### PUBLIC SAFETY

To provide for additional District Courts and operational workload requirements (JUD 221)	19.00*	19.00*	19.00*
	34,400A	171,381A	205,781A
To provide additional staffing for the Traffic Court (JUD 201)	15.00*	15.00*	15.00*
	17,000A	85,699A	102,699A
To provide for correctional programs at the Hawaii State Prison (SOC 402)	—	200,000A	200,000A
To provide for the transfer of the operation of the Halawa Jail to the State (SOC 402)	—	1,819,526A	1,819,526A

### INDIVIDUAL RIGHTS

Civil cases—additional requirements (JUD 112)	—	2.00*	2.00*
	—	15,636A	15,636A
To provide funds for three additional Circuit Court judges and staff, provided that one of the judges may be assigned to the family court (JUD 113)	12.00*	12.00*	12.00*
	16,500A	201,350A	217,850A
To provide for additional requirements of the Labor Industrial Relations Appeals Board (LBR 812)	1,000A	2.00*	2.00*
		24,000A	25,000A
Operating funds for the board of radiologic technicians (REG 105)	—	10,000A	10,000A
Status of Women study of the Hawaii Revised Statutes (BUF 888)	—	10,000A	10,000A
To provide funds for the two additional investigators and a stenographer in the office of consumer protection (GOV 110)	—	3.00*	3.00*
	—	37,000A	37,000A
To provide for the dissemination of consumer information (GOV 110)	—	10,000A	10,000A

### GOVERNMENT-WIDE SUPPORT

Conduct an intensive study by an actuarial consultant of the effects of Chapter 88—Pension and Retirement Systems and to make recommendations for improvement (BUF 141)	—	50,000A	50,000A
To fund additional requirements due to increase in utility rates (BUF 101). Provided that the appropriation shall be allotted by the director of finance to the appropriate department or agency.	—	413,200A	413,200A

“SECTION 79B. There is hereby appropriated to the assured Standard of Living Program (SOC 201, SOC 211, SOC 223, SOC 307) the following sums, or so much thereof as may be necessary to provide for a three-fourths

of one per cent increase of welfare recipients' monthly payments to partially offset the general excise taxes paid.

	1973-74	1974-75
General Fund	—	371,000A
Federal Fund	—	201,788N

SECTION 10. Part VI, Act 218, Session Laws of Hawaii 1973, is hereby repealed.

SECTION 11. Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Part VI reading as follows:

#### **"PART VI. ISSUANCE OF BONDS**

SECTION 80. **GENERAL OBLIGATION BONDS.** General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects listed in Part IV of Act 218, Session Laws of Hawaii 1973, as amended by this Supplemental Appropriations Act and designated to be financed from general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds, provided that the sum total of the general obligation bonds so issued shall not exceed \$220,000,000.

SECTION 81. **AIRPORT REVENUE BONDS.** The department of transportation is authorized to issue airport revenue bonds for airport capital investment projects listed in this Supplemental Appropriations Act and designated to be financed by revenue bond 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 airport revenue bonds 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, as amended, 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 bond. The Governor, in his discretion, is authorized to use the airport revenue fund to finance those

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projects in this Supplemental Appropriation Act where the method of financing is designated to be by airport revenue bond funds.

**SECTION 82. HOUSING AUTHORITY REVENUE BONDS.** The Hawaii Housing Authority is authorized to issue housing authority revenue bonds pursuant to Section 103-7, Hawaii Revised Statutes, for housing capital investment projects listed in this Supplemental Appropriation Act and designated to be financed by revenue bond funds. The expenses of the issuance of such housing authority revenue bonds and the principal and interest on such bonds sold shall not be a general obligation of the State of Hawaii.

**SECTION 83. UNIVERSITY OF HAWAII REVENUE BOND.** The University of Hawaii is authorized to issue revenue bonds for the incremental development of University dormitory facilities, faculty housing facilities and services center listed in this Supplemental Appropriations Act. The Governor, in his discretion, is authorized to use general obligation bond funds to finance the student dormitories, faculty housing and services center listed in this Supplemental Appropriations Act, in lieu of the full application thereto of University of Hawaii revenue bond funds, and the foregoing amount, or so much thereof as shall be sufficient to finance such undertakings, are hereby appropriated from general obligation bond funds, provided, the sum total of University of Hawaii revenue bond funds and general obligation bond funds for student dormitories, faculty housing and services center authorized in said parts of this Act shall not exceed \$21,717,000. General obligation bonds may be issued as provided by law to yield the foregoing amount, which general obligation bonds shall be in addition to the general obligation bonds listed in this Supplemental Appropriations Act, provided the sum total of general obligation bonds so issued shall not exceed \$21,717,000. The principal and interest of general obligation bonds issued in lieu of University of Hawaii revenue bonds for said student dormitories, faculty housing, and services center shall be reimbursed to the general fund from the net revenue derived from the rates, rentals, fees and charges imposed for the use and services of or commodities and facilities furnished by the undertaking or, if the respective undertaking shall be operated and maintained, or combined with, another or others of said undertakings, or with another or other university undertakings, as a system or systems, from the net revenue derived from the respective system or systems."

**SECTION 12.** Section 86 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 13.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 86 reading as follows:

"**SECTION 86.** Section 4, Act 68, Session Laws of Hawaii 1971, is amended by modifying the scope or expenditure pattern of certain projects enumerated therein and by adding new projects thereto. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in section 4, Act 68, Session Laws of Hawaii 1971, but not listed below. The Act 68 projects, the modifications, and the new projects are as follows:

	FY 1971-72	FY 1972-73	Total Biennium 1971-73
<b>B. ECONOMIC DEVELOPMENT</b>			
Water and Land Development (To be expended by the Department of Land and Natural Resources)			
Land Management			
8. Food Distribution Center, Oahu—Plans and construction of second increment of food distribution center complex. \$50,000 to be used for repairs to facilities at Food Distribution Center, 1st increment.	...	70	70
Design		70	70
Construction	300	1,170	1,470
Total Funding	300(g)	1,240(g)	1,540(g)
11. ANUENUE DEVELOPMENT, Oahu Development of a long-range master plan for land use, access, utilities for a State park, industrial, waterfront industrial and park access, including roads, water and drainage facilities, sewerage system and utilities; and construction.			
Design	130	—	130
Construction	740	—	740
Total Funding	870(g)	—	870(g)
<b>C. EDUCATION AND CULTURE</b>			
LOWER EDUCATION			
5. KAISER HIGH, Oahu Plan and construct a gymnasium.			
Construction	—	330	330
Total Funding	—	330(g)	330(g)
11. KANEOHE INTERMEDIATE (New School), Oahu Plan and construct locker/showers and physical education facilities.			
Construction	—	517	517
Total Funding	—	517(g)	517(g)
17. KANEOHE INTERMEDIATE (New School), Oahu Plan and construct Special classrooms.			
Construction	—	689	689
Total Funding	—	689(g)	689(g)
31. KANEOHE INTERMEDIATE (New School), Oahu Construct food preparation area.			
Construction	—	313	313
Total Funding	—	313(g)	313(g)
51. AUGUST AHRENS ELEMENTARY SCHOOL, Construct 10 classrooms, demolition of buildings E and G, ground improvements adjacent to library.			
Construction	435	—	435
Total Funding	435(g)	—	435(g)

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55. KAISER HIGH SCHOOL, Oahu Plan and construct gymnasium at Kaiser High School.			
Design	40		40
Construction	755		755
Total Funding	795(g)		795(g)
55a. KAMILOIKI INTERMEDIATE SCHOOL, Oahu Plan and construct ground improvements.			
Design	10		10
Construction	90		90
Total Funding	100(g)		100(g)
61. MAUKALANI ELEMENTARY, Oahu Land acquisition, plan and construct 16 classrooms, plans and construction of multi-purpose dining room.			
Land	570	—	570
Design	176	—	176
Construction	260	621	881
Total Funding	1,006(g)	621(g)	1,627(g)
64. SECOND ELEMENTARY SCHOOL IN THE NANAKULI AREA			
Plans and construction of 16 classrooms, serving kitchen-dining room and site improvements.			
Design	75	—	75
Construction	67	691	758
Total Funding	142(g)	691(g)	833(g)
81. MOANALUA HIGH, Oahu			
Plan and construct regular and special classrooms, laboratories, and shops.			
Design	55	—	55
Construction	1,693	—	1,693
Total Funding	1,748(g)	—	1,748(g)
<b>H. TRANSPORTATION</b>			
Harbors			
(To be expended by the Department of Transportation)			
15. Barbers Point Deep Draft Harbor Development, Oahu—Stage I development of a second deep-water port for Oahu.			
Land	5	—	5
Construction	6,520	—	6,520
Total Funding	4,100(a)	—	4,100(a)
	2,425(f)	—	2,425(f)
“16. Improvements and Additions to Fueling Facilities and Systems at Honolulu Harbor, Oahu —Development of fueling facility and/or development and renovation of fueling line system at Honolulu Harbor. Unexpended funds from Act 38, SLH 1966, Item II-C-9, may be used to supplement this appropriation.			

Design	—	20	20
Construction	—	480	480
Total Funding	—	500(a)	500(a)"

Unless otherwise specified herein, the expending agency shall be the department of accounting and general services. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein which are designated to be financed from the general obligation bond fund, and from the general obligation bond fund with debt service cost to be paid from special funds; which bonds shall be in addition to the general obligation bonds authorized to be issued by Act 68, SLH 1971, provided that the sum total of the general obligation bond so issued shall not exceed \$6,328,000."

SECTION 14. Section 87 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

SECTION 15. Section 87 of Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 87 reading as follows:

"SECTION 87. Section 4, Act 202, Session Laws of Hawaii 1972, is amended by modifying the scope or expenditures pattern of certain projects enumerated therein and by adding new projects thereto. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in section 4, Act 202, Session Laws of Hawaii 1972, but not listed below. The Act 202 projects, the modifications, and the new projects are as follows:

	FY 1971-72	FY 1972-73	Total Biennium 1971-73
22. NEW KAILUA HIGH, Oahu Construct administration building.			
Design	—	20	20
Construction	—	249	249
Total Funding	—	269(g)	269(g)
75. KAILUA HIGH (New School), Oahu Construct classrooms, library, renovate old library and administration to classrooms, custodial area and sitework.			
Design	200	—	200
Construction	1,767	649	2,616
Total Funding	1,967(g)	649(g)	2,616(g)
77. KANEOHE INTERMEDIATE (New School) Construct classrooms with teachers' workroom.			
Construction	—	1,480	1,480
Total Funding	—	1,480(g)	1,480(g)"

SECTION 16. Section 88 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

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**SECTION 17.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 88 reading as follows:

**"SECTION 88.** The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated or authorized, as the case may be, to be expended by the department of accounting and general services, unless otherwise specified herein, out of moneys in the treasury received from general revenues and general obligation bond funds. (The amount after each project listed in this section is in thousands of dollars.) General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein that do not have funding specifically designated, provided that the sum total of the general obligation bonds so issued shall not exceed \$19,000.

### **A. DEPARTMENT OF EDUCATION**

- |   |   |
|---|---|
| 1. KALAKAUA INTERMEDIATE SCHOOL, Oahu   | 1 |
| Plans for music building. Unencumbered balances in Item I-E-52 of Act 197, SLH 1971, and Item I-E-105 of Act 176, SLH 1972, may be used for this project.   |   |
| 2. DOLE INTERMEDIATE SCHOOL, Oahu   | 1 |
| Expansion and improvements to existing library. Unencumbered balances in Item F-171 and Item F-73 of Act 155, SLH 1969, and Item I-E-101 of Act 176, SLH 1972, may be used for this project.                                |   |
| 3. KAISER HIGH SCHOOL, Oahu   | 1 |
| Planning and construction of a swimming pool, including equipment. Unexpected balances in Item I-K-14 of Act 197, SLH 1971, shall be used for this project.   |   |
| 4. KIPAPA ELEMENTARY SCHOOL, Oahu   | 1 |
| Ground improvements. Unencumbered balances in Item F-142 of Act 155, SLH 1969, may be used for this project.  |   |
| 5. NEW AHUIMANU ELEMENTARY SCHOOL, Oahu   | 1 |
| Plans and construction of classrooms, administration, library, kitchen/multi-purpose dining room. Unencumbered balances in Item F-11 of Act 155, SLH 1969, may be used for this project.                                    |   |
| 6. KA'U HIGH SCHOOL, Hawaii   | 1 |
| Construction of science classrooms. Unencumbered balances in Item III-E-6 of Act 197, SLH 1971, may be used for this project.   |   |
| 7. KEALAKEHE ELEMENTARY SCHOOL, Hawaii  | 1 |
| Construct playground and 12-classroom building. Unencumbered balances in Item F-206 of Act 155, SLH 1969, may be used for this project.   |   |
| 8. NAALEHU ELEMENTARY SCHOOL, Hawaii  | 1 |
| Plans and construction of a four-classroom building. Unencumbered balances in Items F-173 of Act 187, SLH 1970, III-E-18 and III-E-23 of Act 197, SLH 1971, and III-E-4 of Act 176, SLH 1972, may be used for this project. |   |
| 9. LANAI HIGH AND ELEMENTARY SCHOOL, Lanai  | 1 |
| Construction of classrooms. Unencumbered balances in Item F-154 of Act 187, SLH 1970, may be used for this project.   |   |

10. ALIAMANU ELEMENTARY SCHOOL, Oahu	I
Enlargement and renovation of present library. Unencumbered balances in Item F-79 of Act 155, SLH 1969 may be used for this project.	
11. WAIALUA HIGH SCHOOL, Oahu	I
Planning and construction of a comprehensive cesspool system. Unencumbered balances in Item F-26 of Act 155, SLH 1969, may be used for this project.	
12. KAMILOIKI INTERMEDIATE SCHOOL, Oahu	I
Grade, grass, and install a sprinkler system. Unencumbered balances in Item F-122 of Act 187, SLH 1970, may be used for this project.	
13. HONOLULU DISTRICT HIGH SCHOOLS, Oahu	I
Plan and construct facilities for athletic events. Unencumbered balances in Item F-132 of Act 155, SLH 1969 and Item F-102 of Act 187, SLH 1970, may be used for this project.	
14. KAIMUKI HIGH SCHOOL, Oahu	I
Planning and construction or renovations of classrooms and/or administration and library facilities. Unencumbered balances in Item F-114 of Act 155, SLH 1969, may be used for this project.	
15. STEVENSON INTERMEDIATE SCHOOL, Oahu	I
Planning and construction of a new library or improving and renovating existing library. Unencumbered balances in Item F-58 of Act 155, SLH 1969; Item F-25 of Act 187, SLH 1970; Item I-E-78 of Act 197, SLH 1971; Item I-E-115 of Act 176, SLH 1972, may be used for this project.	
16. KAHUKU HIGH & ELEMENTARY SCHOOL, Oahu	I
Construction of lights for athletic field. Unencumbered balances from Item I-E-102 of Act 176, SLH 1972, may be used for this project.	
17. CASTLE HIGH SCHOOL, Oahu	I
Improvements to athletic field and lights for parking lot. Unencumbered balances from Item I-E-102 of Act 176, SLH 1972, may be used for this project.	
18. KALAHEO HIGH SCHOOL, OAHU	I
Plans and construction of special classrooms and site improvements. Unencumbered balances from Item F-49 of Act 155, SLH 1969, may be used for this project.	
19. KALAHEO HIGH SCHOOL, Oahu	I
Land acquisition and plans and construction of site improvements. Unencumbered balances from Item F-2 of Act 187, SLH 1970, and Item I-E-44 of Act 197, SLH 1971, may be used for this project."	

SECTION 18. Act 218, Session Laws of Hawaii 1973, is amended by adding a new Section 88A to read as follows:

"SECTION 88A. Section 1 of Act 155, Session Laws of Hawaii 1969, is amended by modifying the scope or expenditures pattern of certain projects enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects in Section 1, Act 155, Session Laws of Hawaii 1969, but not listed below. The Act 155 projects and the modifications are as follows:

## **ACT 218**

### **B. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

"4. Land acquisition, Oahu—For the acquisition of 51.628 acres more or less of federally owned land at Fort Ruger by direct purchase or exchange or otherwise."

1,000,000

### **C. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

"16. Barbers Point Deep Draft Harbor, Oahu—Planning, engineering and land acquisition for incremental development of a second deep water harbor for Oahu. Use of this appropriation is contingent upon the State obtaining an agreement from the land owner(s) that the lands (less dredge spoils) required for the harbor and the back-up areas will be given to the State at no cost to the State; provided that such lands (less dredge spoils) can be received by the State with restrictions to harbor and harbor back-up use."

200,000(s)

15,660,000(f)

SECTION 19. Act 218, Session Laws of Hawaii 1973, is amended by adding a new Section 88B to read as follows:

"SECTION 88B. Section 1 of Act 187, Session Laws of Hawaii 1970, is amended by modifying the scope or expenditures pattern of certain projects enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects in Section 1, Act 187, Session Laws of Hawaii 1970, but not listed below. The Act 187 projects and the modifications are as follows:

### **B. DEPARTMENT OF LAND AND NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources)

"3. Land Acquisition, Oahu—For the acquisition of 51.628 acres more or less of federally owned land at Fort Ruger by direct purchase or exchange or otherwise."

5,000,000

### **C. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

"9. Addition, Reconstruction, Relocation and Improvement of Recently Acquired Honolulu Harbor Facilities, Oahu."

383,000(a)

42,000(s)

General obligation bonds may be issued as provided by law to yield the amount appropriated from general obligation bond funds for the undertakings of this Act, which general obligation bonds shall be in addition to the general obligation bonds authorized to be issued by Act 187, SLH 1970, provided that the sum total of general obligation bonds so issued to finance said undertakings shall not exceed \$383,000.

SECTION 20. Act 218, Session Laws of Hawaii 1973, is amended by adding a new Section 88C to read as follows:

"SECTION 88C. Section 2 of Act 197, Session Laws of Hawaii 1971, is amended by modifying the scope or expenditures pattern of certain projects enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects in Section 2, Act 197, Session Laws of Hawaii 1971, but not listed below. The Act 197 projects and the modifications are as follows:

**II. COUNTY OF MAUI**

**C. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

"8. Lanai Airport, Lanai--Extension of parking facilities, painting of terminal and cargo building." 48,000(a)

General obligation bonds may be issued as provided by law to yield the amount appropriated from general obligation bond funds for the undertakings of this Act, which general obligation bonds shall be in addition to the general obligation bonds authorized to be issued by Act 197, SLH 1971, provided that the sum total of general obligation bonds so issued to finance said undertakings shall not exceed \$48,000.

SECTION 21. Act 218, Session Laws of Hawaii 1973, is amended by adding a new Section 88D to read as follows:

"SECTION 88D. Section 2 of Act 176, Session Laws of Hawaii 1972, is amended by modifying the scope or expenditures pattern of certain projects enumerated therein. Nothing in this section shall affect the continuing effectiveness of those projects in Section 2, Act 176, Session Laws of Hawaii 1972, but not listed below. The Act 176 projects and the modifications are as follows:

**IV. COUNTY OF KAUAI**

**C. DEPARTMENT OF TRANSPORTATION**

(To be expended by the Department of Transportation)

"1. Lihue Airport, Kauai—Plans for the new runway." 100,000(a)

General obligation bonds may be issued as provided by law to yield the amount appropriated from general obligation bond funds for the undertakings of this Act, which general obligation bonds shall be in addition to the general obligation bonds authorized to be issued by Act 176, SLH 1972, provided that the sum total of general obligation bonds so issued to finance said undertakings shall not exceed \$100,000.

SECTION 22. Act 218, Session Laws of Hawaii 1973, is amended by adding a new section 97A to read as follows:

"SECTION 97A. Unless otherwise provided in this Act, the governor is authorized to transfer funds between appropriations for research and development and operating purposes, provided that the programs from and to which transfers are made are within the same major program area, except if it is determined by the director of finance that a department will experience undue financial hardship then with the approval of the governor, transfer of funds may be made between the appropriations for that department; and provided, further, that such transfer shall not be made to implement any collective bargaining contracts signed after this legislature adjourns sine die."

SECTION 23. Act 218, Session Laws of Hawaii 1973, is amended by adding a new section 98A to read as follows:

## **ACT 218**

**"SECTION 98A.** Where a program is financed by the general fund as well as federal funds, general funds are hereby appropriated to make up the difference between the amount of federal funds received and amount of federal funds authorized in this Act upon approval of the Governor or the director of finance if such authority is so delegated; provided that programs including positions affected by the aforementioned condition shall not be authorized to extend beyond June 30, 1975 unless expressly approved by the legislature; provided further that the governor shall report to the next regular session of the legislature the details of the programs, positions, and appropriations made through this section."

**SECTION 24.** Section 103 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 25.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 103 reading as follows:

**"SECTION 103.** Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects listed in this Supplemental Appropriations Act, shall not lapse, provided that all appropriations made to be expended in fiscal year 1973-74 which are unencumbered as of June 30, 1978 and all appropriations made to be expended in fiscal year 1974-75 which are unencumbered on June 30, 1979 shall lapse as of the date, and provided further that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursements."

**SECTION 26.** Section 105 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 27.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 105 reading as follows:

**"SECTION 105.** The designated expending agency for capital investment projects listed in this Supplemental Appropriations Act is authorized to delegate to other state or county agencies the planning and construction of such projects when it is determined by such agency that it is more advantageous to do so."

**SECTION 28.** Section 106 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 29.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 106 reading as follows:

**"SECTION 106.** All general obligation bond funds used for highway, land development, harbor or airport 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, at his discretion, is authorized to use the State highway fund, the harbor special fund or the airport revenue fund to finance the res-

pactive highway, harbor or airport projects in this Supplemental Appropriations Act or which were previously authorized, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from special funds."

**SECTION 30.** Section 108 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 31.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 108 reading as follows:

"**SECTION 108.** In the event that the amount specified for a capital investment project listed in this Supplemental Appropriations Act where the source of funding for the project is designated as the general obligation bond fund shall not be wholly required to complete the work of such project, or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature in this Act or in a prior year, or authorized by the legislature in the future; provided that in the event that the amount specified for a capital investment project listed in this Supplemental Appropriations Act 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 this Supplemental Appropriations Act; provided further that such supplemental allotments shall not be used to increase the scope of the project; and provided further that a report of such supplemental allotments and transfers into the project adjustment fund for the period ending December 31, 1974, shall be made to the legislature by February 1, 1975."

**SECTION 32.** Section 109 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 33.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 109 reading as follows:

"**SECTION 109.** In the event that the amount specified for a capital investment project listed in this Supplemental Appropriations Act where the source of funding for the project is designated as special funds, general obligation bond fund with debt service cost to be paid from special funds, or revenue bond fund shall not be wholly required to complete the work of such item, or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature in this Act or in a prior year, or authorized by the legislature in the future."

**SECTION 34.** Section 110 of Act 218, Session Laws of Hawaii 1973 is hereby repealed.

**SECTION 35.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 110 reading as follows:

## **ACT 218**

**"SECTION 110.** The governor may authorize the expenditure of funds for capital investment projects not previously authorized or not listed in this Supplemental Appropriations 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 listed in this Supplemental Appropriations 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 appropriated in this Supplemental Appropriations Act to accomplish the purposes of this section."

**SECTION 36.** Section 112 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 37.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 112 reading as follows:

**"SECTION 112.** In connection with all State park capital investment projects authorized in this Supplemental Appropriations Act, the board of land and natural resources may use its present staff, summer student help, and such temporary personnel who shall be exempted from the provisions of Chapters 76 and 77, Hawaii Revised Statutes, and who are unemployed and are duly registered as unemployed with the department of labor and industrial relations. The board may, upon approval of the governor, enter into contract for the necessary equipment, supplies, materials, labor, professional service and technical assistance to be used in the projects."

**SECTION 38.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 112A reading as follows:

**"SECTION 112A.** The appropriation of \$4,810,000 authorized by section 6, under the Overseas Facilities and Services for Honolulu Harbor (TRN 301), project No. J19, of this Supplemental Appropriations Act, for the "Acquisition and Development of Piers 41-42", shall have the bond principal and interest reimbursed from the harbor special fund. Payment of such sum, or any portion thereof, shall be the first of two incremental payments to be applied against an acquisition cost of \$11,225,000 or the appraised value of the premises, as of the date of approval of this Act, whichever is lower. Upon payment of the first increment, that portion of the properties shall be conveyed to the State by way of subdivision. The total acquisition consists of 16.152 acres, more or less, and includes improvements thereon or appurtenances thereunto belonging, excluding the marine railway facility at pier 41. The second incremental payment, with interest as applicable on the balance of the acquired price, shall be made only when authorized by subsequent appropriations."

**SECTION 39.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 112B reading as follows:

**"SECTION 112B.** The appropriation of \$3,000,000 authorized by Section 6, Item A-5, of this Supplemental Appropriations Act for agricultural park

subdivisions may be used to purchase land at Kunia, Oahu, provided that the park is less than 600 acres and that land under pineapple cultivation is not used for such purposes.”

**SECTION 40.** Section 113 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 41.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 113 reading as follows:

“**SECTION 113.** 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 this Supplemental Appropriations 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 42.** Act 218 is amended by adding a new Section 114A to read as follows:

“**SECTION 114A.** In the event the State should assume the direct operation of any nongovernmental agency which received any State funds under the provisions of this Act, all such funds shall constitute a credit against the costs of acquiring all or any portion of the property, real, personal, or mixed of such nongovernmental agency. This credit shall be applicable regardless of when such acquisition takes place.”

**SECTION 43.** Section 115 of Act 218, Session Laws of Hawaii 1973, is hereby repealed.

**SECTION 44.** Act 218, Session Laws of Hawaii 1973, is amended by adding thereto a new Section 115 reading as follows:

“**SECTION 115.** The governor shall determine when and the manner in which authorized projects will be initiated. In releasing funds for projects, the governor shall consider the objectives of the user agency, its programs, the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the project will meet the objectives of said 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 said user agency in the most efficient and economical manner possible.”

**SECTION 45.** Act 218, Session Laws of Hawaii 1973, is amended by adding a new Section 116A to read as follows:

“**SECTION 116A.** The governor is hereby authorized to establish 40 permanent or temporary positions during each fiscal year of the biennium to be allocated by him to any of the program areas included in this Act as he shall deem proper. Priority shall be given to positions relating to collective bargaining, electronic data processing and program evaluation. No positions shall be established under this section to implement any collective bargaining agreement signed after this Legislature adjourns sine die.”

## ACT 218

SECTION 46. Act 218, Session Laws of Hawaii 1973, is amended by adding a new Section 117A to read as follows:

“SECTION 117A. Any provision of law to the contrary notwithstanding, the governor is authorized to utilize such sums as provided by this Act, for salary increases for employees who are excluded from unit 8 and whose salaries are set by the University of Hawaii board of regents, based on the salary schedule for unit 8, provided that said increases shall not exceed and shall not take effect earlier than increases for members in the unit.”

SECTION 47. Act 218, Session Laws of Hawaii 1973, is amended by adding a new Section 117B to read as follows:

“SECTION 117B. Any provision of law to the contrary notwithstanding including Section 77-12, Hawaii Revised Statutes, the governor is authorized to utilize such sums as provided in this Act for salary increases for employees who are excluded from units 4 and 10 and whose salaries are set by Section 77-13, Hawaii Revised Statutes, provided that the granting of such increases shall not result in excluded members receiving greater total increases during the 1974-75 fiscal year than those received by members of the unit nor should such increases take effect earlier than increases received by members in the unit.”

SECTION 48. Any law or provision of this Act to the contrary notwithstanding, from the appropriation made in Section 9 of this Act for the foundation program, the department of education is authorized to hire persons on a contractual basis to meet the foundation program's objectives; and, provided further that teachers hired for the program shall not be used in the calculation of the average statewide class-size ratio, the collective bargaining agreement notwithstanding.

SECTION 49. Nothing in this Act shall affect the continuing effectiveness of those pay increases and other cost items authorized by those collective bargaining agreements negotiated with the exclusive bargaining agents and approved by the 1973 Legislature and funded by Act 218, Session Laws of Hawaii 1973.

SECTION 50. The Department of Education is requested to maintain teachers in schools in all districts which face declining student enrollment provided that such teachers shall not be used in the calculation of the average statewide class size ratio, the collective bargaining agreement notwithstanding.

SECTION 51. **Repeal.** Sections 34, 36, 57, 72 (part IV), 79, 80, 81, 82, 83, 86, 87, 88, 97, 103, 105, 106, 108, 109, 110, 112, 113, 114, 115, 116 and 117 of Act 218, Session Laws of Hawaii 1973, are hereby repealed.

SECTION 52. **Severability.** If any portion of this Supplemental Appropriations Act or its applications 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 53.** 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 material or the underscoring. Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 218, Session Laws of Hawaii 1973, not repealed or modified by this Act.

**SECTION 54. Effective date.** This Act shall take effect upon its approval.

(Approved June 13, 1974.)

## ACT 219

H.B. NO. 3095-74

A Bill for an Act Relating to the Executive Budget Act.

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

**SECTION 1.** Section 37-62, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-62 Definitions.** Unless otherwise clear from the context, as used in this part:

- (1) 'Agency' means any executive department, independent commission, board, bureau, office, or other establishment of the state government (except the legislature), or any quasi-public institution which is supported in whole or in part by state funds.
- (2) 'Bond categories' means types of bonds and includes general obligation bonds, reimbursable general obligation bonds, and revenue bonds.
- (3) 'Bond fund' means the fund used to account for the proceeds of bond issues and expenditures therefrom.
- (4) 'Bond receipts' means the proceeds from the issuance of governmental bonds.
- (5) 'Capital expenditures' means payments to contractors and payments for other items related to the construction of a capital improvement project.
- (6) 'Capital investment costs' means costs, beyond the research and development phase, associated with capital improvements, including the acquisition and development of land, the design and construction of new facilities, and the making of renovations or additions to existing facilities. Capital investment costs for a program are the sum of the program's capital improvement project costs.
- (7) 'Construction costs' means the costs involved in building, equipping and landscaping capital facilities, including any consultant or staff services required.
- (8) 'Cost categories' means the major types of costs and includes research and development, capital investment, and operating.

## ACT 219

- (9) 'Cost elements' means the major subdivisions of a cost category. For the category 'capital investment,' it includes land acquisition, design, and construction. For the categories 'research and development' and 'operating,' it includes personal services, other current expenses, equipment, and motor vehicles.
- (10) 'Crosswalk' means a reconciliation of the program structure with the structure used for accounting and/or appropriations.
- (11) 'Debt service' means interest and principal repayments on moneys borrowed.
- (12) 'Departmental earnings' means the amounts collected by governmental agencies for services provided and products or property sold; rentals collected for use of public property; fees, fines, forfeitures, and penalties assessed; and other related types of charges.
- (13) 'Design costs' means the costs related to the preparation of architectural drawings for capital improvements through its various stages from schematic to final construction drawings. It does not include costs associated with the identification of needs, determining alternative ways of meeting needs, and prescription of standards for capital improvements.
- (14) 'Effectiveness measure' means the criterion for measuring the degree to which the objective sought is attained.
- (15) 'Federal aid interstate' means funds received from the federal government for the purpose of constructing the interstate highway system in the State.
- (16) 'Federal aid primary' means funds received from the federal government for the purpose of constructing primary roadways.
- (17) 'Federal aid secondary' means funds received from the federal government for the purpose of constructing secondary roadways.
- (18) 'Federal aid urban' means funds received from the federal government for the purpose of constructing roads in urban areas.
- (19) 'Federal receipts' means financial aid received from the federal government.
- (20) 'Full cost' means the total cost of a program, system or capability, including research and development costs, capital investment costs, and operating costs.
- (21) 'General fund' means the fund used to account for all transactions which are not accounted for in another fund.
- (22) 'General obligation bonds' means certificates or notes of indebtedness for the payment of the principal and interest of which the full faith and credit of the State are pledged.
- (23) 'General obligation reimbursable bonds' means general obligation bonds, the principal and interest of which are paid from the general fund but the general fund is reimbursed to the extent of such payments from other sources.
- (24) 'Inter-departmental transfers' means funds which will be used by a program but will be appropriated to a different program.
- (25) 'Land acquisition costs' means the cost of obtaining lands, including

- any consultant or staff services costs attributable to that acquisition.
- (26) 'Means of financing' means the various sources from which funds are available and includes the general fund, special fund, revolving fund, general obligation bonds, reimbursable general obligation bonds, revenue bonds, federal aid interstate highway fund, federal aid primary road fund, federal aid secondary road fund, federal aid urban fund, other federal funds, private contributions, county funds, trust funds, and other funds.
- (27) 'Non-add' means a program which is listed with an objective or a program grouping, but the cost of which is not to be included in the total cost of that objective or program grouping because it is included in some other objective or program group.
- (28) 'Non-tax revenue sources' means sources other than taxes from which revenues are produced and includes departmental earnings of various kinds, reimbursements of principal on general obligation bonds issued for State agencies and counties, federal receipts which are restricted in their use to specified purposes, and other federal receipts.
- (29) 'Objective' means a statement of the end result, product, or condition desired, for the accomplishment of which a course of action is to be taken.
- (30) 'Operating costs' means recurring costs of operating, supporting and maintaining authorized programs, including costs for personnel salaries and wages, employee fringe benefits, supplies, materials, equipment and motor vehicles.
- (31) 'Phases of capital improvement projects' means land acquisition, design, construction, and occupancy.
- (32) 'Planning' means that process by which government objectives are formulated; measures by which effectiveness in attaining the objectives are identified; alternatives by which objectives may be attained are determined; the full cost, effectiveness and benefit implications of each alternative are determined; the assumptions, risks and uncertainties of the future are clarified; and cost and effectiveness and benefit tradeoffs of the alternatives are identified.
- (33) 'Program' means a combination of resources and activities designed to achieve an objective or objectives.
- (34) 'Program size' means the magnitude of a program, such as the number of persons serviced by the program, the amount of a commodity, the time delays, the volume of service in relation to population or area, etc.
- (35) 'Program size indicator' means a measure to indicate the magnitude of a program.
- (36) 'Program structure' means a display of programs which are grouped in accordance with the objectives to be achieved, or the functions to be performed.
- (37) 'Programming' means that process by which government's long-range program and financial plans are scheduled for implementation

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over a six-year period and which specifies what programs are to be implemented, how they are to be implemented, when they are to be implemented, and what the costs of such implementation are.

- (38) 'Reimbursable general obligation bonds' means general obligation bonds, the principal and interest of which are paid from the general fund but the general fund is reimbursed to the extent of such payments from other sources.
- (39) 'Research and development costs' means costs primarily associated with the development of a new program, system or capability to the point where capital and/or operating costs are required to introduce the program, system or capability into operational use.
- (40) 'Resource categories' means types of resources and includes tax revenues, departmental earnings, and federal receipts.
- (41) 'Revenue bonds' means certificates or notes of indebtedness payable from and secured solely by the revenues or user taxes, or any combination of both, of a public undertaking, improvement, or system.
- (42) 'Revolving fund' means a fund from which is paid the cost of goods and services rendered or furnished to or by a State agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.
- (43) 'Special funds' means funds which are dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.
- (44) 'Taxes' and 'tax revenue sources' mean each specific kind of tax.
- (45) 'Tax revenues' means the amounts collected from compulsory charges, in the form of taxes, levied by the State for the purpose of financing services performed for the common public benefit.
- (46) 'Trust fund' means a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes."

SECTION 2. Section 37-64, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-64 Governing principles.** The system shall be governed by the following general principles:

- (1) Planning, programming, budgeting, evaluation, appraisal and reporting shall be by programs or groups of programs.
- (2) The state program structure shall be such as will enable meaningful decisions to be made by the governor and the legislature at all levels of the structure. At its lowest level, it shall display those programs which are the simplest units of activities, about which resource allocation decisions are to be made by the governor and the legislature.
- (3) A program which serves two or more objectives shall be placed in the program structure along with that objective which it primarily

- serves; where desirable, it shall also be placed with other objectives, but as a non-add item.
- (4) The full cost, including research and development, capital and operating costs, shall be identified for all programs regardless of the means of financing; costs shall be displayed in the year of their anticipated expenditure, regardless of whether such costs have been authorized to be expended by prior appropriations acts or are authorized to be expended by existing law or require new appropriations or authorizations.
  - (5) Objectives shall be stated for every level of the state program structure.
  - (6) The effectiveness of programs in attaining objectives shall be assessed.
  - (7) Planning shall have a long-range view.
  - (8) Systematic analysis in terms of problems, objectives, alternatives, costs, effectiveness, benefits, risks and uncertainties shall constitute the core of program planning."

SECTION 3. Section 37-69, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-69 The six-year program and financial plan.** (a) The governor shall prepare a six-year program and financial plan encompassing all state programs. Not less than twenty days before the legislature convenes in every odd-numbered year, the governor shall submit to the legislature and to each member thereof, the six-year program and financial plan. The program and financial plan shall be annually and continually updated and maintained. The program and financial plan shall, in general, contain:

- (1) The state program structure.
  - (2) Statements of statewide objectives and program objectives.
  - (3) Program plans which describe the programs recommended to implement the statewide and program objectives and the manner in which the recommended programs are proposed to be implemented over the next six fiscal years.
  - (4) A financial plan which shows the fiscal implications of the recommended programs for the next six fiscal years.
- (b) The information contained in the program and financial plan shall be presented generally in the following manner:

- (1) Information shall be displayed by programs, or groups of programs.
- (2) Programs shall be appropriately crosswalked to expending agencies.
- (3) Data shall be appropriately summarized at each level of the program structure.
- (4) Program costs shall include all costs, including research and development, operating and capital, regardless of the means of financing, except that the means of financing shall be expressly identified; all costs shall be displayed in the year of their anticipated expenditure, regardless of whether such costs have been authorized to be expended by prior appropriations acts or are authorized to be ex-

pended by existing law, or require new appropriations or authorizations.

- (5) Cost data shall be presented in units of thousands of dollars, or less.
- (6) Comparative data for the last completed fiscal year and the fiscal year in progress shall be shown.
- (c) The financial plan for the ensuing six fiscal years shall more specifically include:
  - (I) Economic data for the State and the counties of the following kinds:
    - (A) Population—historical, current and projected population count; population distribution by age and sex; estimated increases and decreases, including increases and decreases by in-migration; etc.
    - (B) Employment—magnitude of labor force by age and sex; labor force participation rates; employment by age and sex; industry and occupational surpluses and shortages; effects of government programs on employment rate; etc.
    - (C) Income—per capita and per family income; disposable income; income distribution; etc.
    - (D) Wages and prices—wages by industry and occupational groups; prices for government procurement items; construction costs; cost of living index; price indices for components of personal consumption; etc.
    - (E) Industry and business trends.
    - (F) Effects of national economic and financial policies and conditions.
  - (2) Brief statements disclosing the basis upon which the revenue estimates in the plan were made, including for each specific tax and non-tax revenue source, the previous projections for the last completed fiscal year and the fiscal year in progress, the variance between the projections and the actual or revised estimate, and the reasons for the variances; the tax or source base and rates; yield projections of existing revenue sources and existing taxes at authorized rates; assumptions made and methodology used in projections; changes recommended, projected yields if changes are adopted, etc.
  - (3) At the lowest level on the state program structure, for each program:
    - (A) The total actual program cost for the last completed fiscal year, the estimated cost for the fiscal year in progress and the estimated cost for each of the next six fiscal years; research and development, operating and capital costs shall be included and the means of financing shall be appropriately identified. The number of personnel positions shall be shown for the program, identified by their means of financing.
    - (B) The program size indicators; the actual size attained in the last completed fiscal year, the estimated size for the fiscal

- year in progress and the estimated size for each of the next six fiscal years.
- (C) The effectiveness measures; the actual level of effectiveness attained in the last completed fiscal year, the estimated level of effectiveness for the fiscal year in progress, and the estimated level for each of the next six fiscal years.
- (4) Appropriate displays of (3) (A) and (C) immediately above, at every level of the state program structure above the lowest level, by the major groupings of programs encompassed within the level. The displays of (3) (A) shall appropriately identify the means of financing and the number of positions included in the level.
- (5) Financial summaries displaying the State's financial condition, actual for the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years, including:
- (A) A display of the programmed, total state expenditures, by cost categories, the total state resources anticipated from existing tax and non-tax sources at existing rates, by resource categories (including the fund balance or deficit at the beginning of the fiscal year and bond receipts), and the resulting fund balance or deficit at the close of each fiscal year.
- (B) The changes proposed to the existing tax and non-tax rates, sources or structure, and the estimated increases or reductions in revenues, the estimated cumulative increases or reductions, and the estimated fund balance or deficit in each of the next six fiscal years 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 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.
- (6) A summary of the balance of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and estimated for each of the next six fiscal years.
- (7) 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 were met in the last completed fiscal year, are to be met in the fiscal year in progress, and are proposed to be met in each of the next six fiscal years. The summary shall detail, for each fiscal year:
- (A) Of the total bond fund requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorizations.

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- (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof proposed to be issued.
- (C) A recapitulation of the total bonds to be issued, including both new authorizations and prior authorizations, by bond categories.
- (8) 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 next six fiscal years.
  - (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 next six fiscal years resulting from such changes.
  - (C) The total estimated revenues with and without the proposed changes in each of the next six fiscal years.
- (d) The program plans for the ensuing six fiscal years shall more specifically include:
  - (I) At the lowest level on the state program structure, for each program:
    - (A) A statement of its objectives.
    - (B) Measures by which the effectiveness in attaining the objectives is to be assessed.
    - (C) The level of effectiveness planned for each of the ensuing six fiscal years.
    - (D) A brief description of the activities encompassed.
    - (E) The program size indicators.
    - (F) The program size planned for each of the next six fiscal years.
    - (G) A narrative explanation of the plans for the program. It shall contain, and in general be limited to, the following:
      - (i) a description of the kinds of activities carried out or unusual technologies employed;
      - (ii) a statement of key policies pursued;
      - (iii) identification of important program or organizational relationships involved;
      - (iv) a description of major external trends affecting the program;
      - (v) a discussion of significant discrepancies between previously planned cost, effectiveness, and program size levels and those actually achieved;
      - (vi) comments on, and an interpretation of, cost, effectiveness, and program size data over the upcoming budget period, with special attention devoted to changes from the current budget period:

- (vii) comments on, and an interpretation of, cost, effectiveness, and program size data over the four years of the planning period and how they relate to the corresponding data for the budget period;
  - (viii) a summary of the special analytic study, program evaluation, or other analytic report supporting a substantial change in the program where such a major program change recommendation has been made.
- (H) The full cost implications of the recommended programs, by cost categories, and cost elements actually experienced in the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years. The means of financing shall be identified for each cost category. The personal services cost element shall be shown separately; the cost elements of other current expenses, equipment, and motor vehicles may be combined. The number of positions included in the program shall be appropriately identified by means of financing.
- (I) A recapitulation of (H) above for the last completed fiscal year, the fiscal year in progress and each of the next six fiscal years, by means of financing grouped under each cost category. The number of positions included in any program shall be appropriately identified.
- (J) An identification of the revenues generated in the last completed fiscal year and estimated to be generated in the fiscal year in progress and in each of the next fiscal years, and the fund into which such revenues are deposited.
- (K) Details of implementation of each capital improvement project included in the total program cost, including:
- (i) a description of the project, location, and scope;
  - (ii) the initially estimated, currently estimated and final cost of the project, by investment cost elements and by means of financing;
  - (iii) the amounts previously appropriated by the legislature for the project, by cost elements and by means of financing specified in the acts appropriating the sums, and an identification of the acts so appropriating;
  - (iv) the costs incurred in the last completed fiscal year and the estimated costs to be incurred in the fiscal year in progress and in each of the next six fiscal years, by cost elements and by means of financing; and
  - (v) a commencement and completion schedule, by month and year, of the various phases of the capital improvement project (i.e., land acquisition, design, construction and occupancy) as originally intended, as currently estimated, and as actually experienced.

- (L) A crosswalk of the program expenditures, by cost categories and cost elements between the program and expending agencies for the next two fiscal years. The means of financing and the number of positions included in the program costs to be expended by each agency shall be specified.
- (2) Appropriate displays at every level of the state program structure above the lowest level. The displays shall include:
  - (A) A listing of all major groupings of programs included within the level, together with the objectives, measures of effectiveness and planned levels of effectiveness for each of the ensuing six fiscal years for each such major groupings of programs.
  - (B) A summary of the total cost of each cost category by the major groupings of programs encompassed within the level, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the next six fiscal years."

SECTION 4. Section 37-70, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-70 Program memoranda.** Not later than the third Wednesday of January of each odd-numbered year, the governor shall submit to the legislature and to each member thereof, a program memorandum covering each of the major programs in the statewide program structure. Each program memorandum will include:

- (1) An overview of the program as a whole including a discussion of:
  - (A) Objectives.
  - (B) Component programs.
  - (C) Departments involved.
  - (D) Relationships to other agencies and jurisdictions.
  - (E) Major activities.
  - (F) Important external developments affecting the program.
  - (G) Significant discrepancies between previously planned cost and effectiveness levels and those actually achieved.
  - (H) Trends and comparisons in costs, effectiveness, or activity data over the budget and planning period.
- (2) A statement of the major program changes being recommended for the budget and planning period to include for each proposed change:
  - (A) A brief statement of the recommended change.
  - (B) The cost and program performance consequences of the change over the budget and planning period.
  - (C) A summary of the analytic rationale for the change.
- (3) A discussion of emerging conditions, trends and issues including:
  - (A) Actual or potential impact on the State and its programs.
  - (B) Possible alternatives for dealing with the specific problems occasioned by the emerging conditions, trends, and issues.
  - (C) Suggestions for a program of analyses to resolve the most urgent of the problems.

- (4) Appendices as needed to include appropriate issue papers, special analytic studies, other reports, and crucial source data.
- (b) If it is deemed more desirable, the program memoranda and the six-year program and financial plan may be combined into a single document containing all the information required for each separate document."

SECTION 5. Section 37-71, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-71 The budget.** (a) Not less than twenty days before the legislature convenes in every odd-numbered year, the governor shall submit to the legislature and to each member thereof, a budget which shall contain the program and budget recommendations of the governor for the succeeding two fiscal years. The budget shall in general, contain:

- (1) The state program structure.
- (2) Statements of statewide objectives.
- (3) The financial requirements for the next two fiscal years to carry out the recommended programs.
- (4) A summary of state receipts and revenues in the last completed fiscal year, a revised estimate for the fiscal year in progress, and an estimate for the succeeding biennium.
- (b) The information contained in the budget shall be presented generally in the following manner:
  - (1) Information shall be displayed by programs or groups of programs.
  - (2) Program financial requirements shall be appropriately crosswalked between the programs and the expending agencies.
  - (3) Data shall be appropriately summarized at each level of the program structure.
  - (4) Program costs shall include all costs, including research and development, operating and capital, regardless of the means of financing, except that the means of financing shall be expressly identified, and regardless of whether the expenditure of any sum was authorized by prior appropriations acts, is authorized by existing law, or requires new authorization, except that the amounts requiring new authorization shall be appropriately identified.
  - (5) Financial requirements shall be presented to the nearest dollar, omitting cents; and the summary of state receipts and revenues shall be presented to the nearest thousand dollars.
  - (6) The budget shall reflect the ensuing first two fiscal year program costs contained in the six-year program and financial plan.
  - (c) The display of financial requirements for the ensuing two fiscal years shall more specifically include:
    - (1) At the lowest level on the state program structure, for each program:
      - (A) The total recommended expenditures, including research and development, capital and operating costs, by cost categories and cost elements for the ensuing biennium; the planned allocation of the total biennial requests, by cost categories, and cost elements, between the two fiscal years of the biennium. The

means of financing and the number of positions included in any cost category amount shall be appropriately identified.

- (B) A summary showing means of financing the total recommended expenditures, those amounts requiring and those amounts not requiring legislative appropriation or authorization for spending in each fiscal year of the biennium.
- (C) A crosswalk of the total proposed biennial expenditures between the program and expending agencies. The means of financing the number of positions included in any cost amount, and the net amount requiring appropriation or authorization shall be appropriately identified for each expending agency.
- (D) The proposed changes in the levels of expenditures, by cost categories, between the biennium in progress and the ensuing biennium, together with a brief explanation of the major reasons for each change. The reasons shall include, as appropriate, the following:
  - (i) Salary adjustments to existing positions of personnel.
  - (ii) The addition or deletion of positions.
  - (iii) Changes in the number of persons being served or to be served by the program.
  - (iv) Changes in the program implementation schedule.
  - (v) Changes in the actual or planned level of program effectiveness.
  - (vi) Increases due to the establishment of a program not previously included in the State's program structure.
  - (vii) Decreases due to the phasing out of a program previously included in the State's program structure.
  - (viii) Changes in the purchase price of goods or services.

As appropriate, references to the program and financial plan shall be noted for an explanation of the changes. For each program, the total dollar and percentage change shall also be noted. Notwithstanding the provisions of subsection (b) (5) of this section, the proposed changes in the levels of expenditures may be shown to the nearest thousand dollars.

- (2) Appropriate summaries of (1) (A) and (C) immediately above at every level of the state program structure above the lowest level. Such summaries shall be by the major groupings of programs encompassed within the level. The summaries of (1) (A) shall identify the means of financing and the number of positions included in any cost category amount.
- (3) A summary listing of all capital improvement projects included in the proposed capital investment costs for the ensuing biennium. The listing shall be by programs at the lowest level of the state program structure and shall show for each project, by investment cost elements:
  - (A) The cost of the project.
  - (B) The amount of funds previously appropriated and authorized by the legislature.

- (C) The amount of new appropriations and authorizations proposed in each of the two fiscal years of the ensuing biennium and in each of the succeeding four years. The amount of the new appropriations and authorizations proposed shall constitute the proposed new requests for the project in each of the fiscal bienniums.

In every instance, the means of financing shall be noted.

- (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 of 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.

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- (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 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.
- (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.
- (e) The proposed budget shall include such other financial statements, information and data which in the opinion of the governor are necessary or desirable in order to make known in all practical detail the programs, program plans, and financial conditions of the State.

(f) The proposed budget shall contain an item to be known as the 'contingent fund,' which sum, upon approval by the legislature, shall be available for allocation by the governor during the ensuing fiscal biennium to meet contingencies as they arise.

(g) If it is deemed more practical, the six-year program and financial plan and the budget may be combined into a single document containing all the information required for each separate document."

SECTION 6. Section 37-74, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-74 Program execution.** (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several agencies responsible for administering state programs shall administer their program assignments and shall be responsible for their proper management.

(b) The appropriations by the legislature for a biennium shall be allocated between the two fiscal years of the biennium in the manner provided in the budget or appropriations act and as further prescribed by the director of finance. The amounts allocated for each fiscal year shall be subject to the allotment system prescribed in chapter 37, part II. Each agency (except the courts), in estimating its quarterly requirements under chapter 37, part II, shall prepare a plan for the fiscal year for the operation of each of the programs it is responsible for administering. The operations plan shall be in such form and content as the department of budget and finance may prescribe. It shall be submitted, together with the estimated quarterly requirements, to the department of budget and finance on such date as the department may prescribe.

(c) The department of budget and finance shall:

- (1) Review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature, that it reflects proper planning and efficient management methods, and that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year.
  - (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part.
  - (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that such expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that state receipts and surpluses will be insufficient to meet the authorized expenditure levels.
- (d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization. Authorized transfers or changes, when made, shall be reported to the legislature.

SECTION 7. Section 37-75, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-75 Variance report.** Not less than twenty days prior to the convening of each regular session of the legislature, the governor shall submit to the legislature and to each member thereof, a report on program performance for the last completed fiscal year and the fiscal year in progress. In format, the report shall generally follow the fiscal requirements portion of the executive budget or budgets. The report shall include:

- (1) At the lowest level of the program structure, for each program contained in the budget finally approved by the legislature for the last completed fiscal year and the fiscal year in progress:
  - (a) A comparison, by the operating and research and development cost categories, of the budgeted expenditures and the actual expenditures for the last completed fiscal year and the budgeted expenditures and the estimated expenditures for the fiscal year in progress.
  - (b) A comparison, for the operating and research and development cost categories, of the budgeted expenditures and positions authorized and the actual expenditures and positions filled in the last completed fiscal year and a comparison of the budgeted expenditures and the number of positions authorized for the fiscal year in progress and the actual expenditures and number of positions filled in the first three months of the fiscal year in progress and the estimated expenditures and number of positions expected to be filled in the remaining months of the fiscal year in progress.
  - (c) The program size indicators, and a comparison of the program size anticipated and the size actually realized in the last completed fiscal year and the program size anticipated and the size estimated for the fiscal year in progress.
  - (d) The effectiveness measures, and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress.
  - (e) A narrative explanation of the major differences for the last completed fiscal year in each of the comparisons made in (a), (b), (c) and (d), including an explanation of the basis upon which the original estimates were made and the reasons why such estimates proved accurate or inaccurate, and a statement of what the actual experience portends for the future of the program in terms of costs, size and effectiveness.

Expenditure amounts in the comparisons shall be shown to the nearest thousand dollars.

- (2) Appropriate summaries at each level of the state program structure for each major grouping of programs encompassed therein, showing:
  - (a) A comparison of the total budgeted expenditure and the total actual expenditure for the last completed fiscal year and the

- total budgeted expenditure and the total estimated expenditure for the fiscal year in progress. The expenditure amounts shall be shown to the nearest thousand dollars.
- (b) The effectiveness measures, and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress.
  - (c) A narrative explanation summarizing the major reasons for the differences in the comparisons made for the last completed fiscal year in (a) and (b).
- (3) Significant variations in capital improvement costs will be explained in the narrative. Capital improvement project variances will be referenced to the six-year program and financial plan, which will contain the information specified in section 37-69(d) (1) (K)."

SECTION 8. Section 37-76, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-76 Publication.** The state six-year program and financial plan, the budget and the variance report shall be printed with a reasonable number of copies for public distribution."

SECTION 9. Section 37-78, Hawaii Revised Statutes, is amended to read:

**"Sec. 37-78 Schedule of implementation.** The governor shall submit to the legislature:

- (1) At the regular session of 1975, and every odd-numbered year's session thereafter, the program memoranda described in section 37-70.
- (2) At the regular session of 1975, and every odd-numbered year's session thereafter, his proposed State budget, and six-year program and financial plan."

SECTION 10. Severability. 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.

SECTION 11. 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 material, or the underscoring.\*

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

(Approved June 13, 1974.)

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\*Edited accordingly.

A Bill for an Act Relating to the Bonus for Pensioners.

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

SECTION 1. Section 88-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-11 Bonus; amounts available.** Except as herein provided, every pension payable under the employees' retirement system or payable pursuant to any law of the State, or by any county or independent public board or commission, shall be increased by a bonus for each month as follows:

- (1) Effective July 1, 1973, \$72.05 per month to those retirants and pensioners who had, before July 1, 1966, ten or more years of service; provided, that any member who is retired because of physical or mental disability due to any injury or disease incurred while in the performance of his duty as a public employee shall be entitled to receive the bonus payment without meeting the minimum service requirements;
- (2) Effective July 1, 1973 \$28.82 per month additional to the above bonus to those retirants or pensioners who retired before July 1, 1945;
- (3) Effective July 1, 1973 \$28.82 per month additional to the above bonus or bonuses to those retirants or pensioners who have had twenty-one or more years of service;
- (4) Effective July 1, 1973 if the pension as increased by the bonus or bonuses does not equal \$187.33 per month, the bonus shall be further increased by such sum, not in excess of \$28.82, as will bring the total of the pension and bonus to \$187.33 per month; provided, that where the dependents of a deceased pensioner are receiving pension by reasons of his death, the total only of all amounts paid to the dependents shall be so increased, and the increase herein shall be shared by them in proportion to the respective amount of pension receivable by them exclusive of this increase;
- (5) In the case of any retirement allowance for service commencing after June 30, 1965, pursuant to subdivision (1) or (3) of section 88-74, the only bonus payable shall be in the amount by which the benefit payable under the subdivisions is less than the bonus as set forth above, provided, that in no case shall a person who retires after June 30, 1965, receive less under the service and ordinary disability retirement system benefits, plus the bonus payable under this section than he would have received if subdivision (5) had not been enacted;
- (6) Any provisions of this section to the contrary notwithstanding, there shall be paid to every person who on June 30, 1965, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any

- county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) On January 1, 1966, seven and one-half per cent of the retirement allowance or pension;
  - (B) On July 1, 1969, an additional ten per cent of the retirement allowance or pension;
  - (C) On July 1, 1970, an additional ten per cent of the retirement allowance or pension;
  - (D) On July 1, 1973, an additional five and one-half per cent of the retirement allowance or pension;
- (7) Any provision of this section to the contrary notwithstanding, there shall be paid to every person who retired between July 1, 1965 and June 30, 1970, and who, on June 30, 1974, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner: On July 1, 1974, five and one-half per cent of the retirement allowance or pension."

SECTION 2. Section 88-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-14 Bonus; authority to pay.** The board of trustees of the employees' retirement system shall pay the bonus to pensioners under the system, except those pensioners under the system who are retired employees of the respective counties; the comptroller shall pay the bonus to all state pensioners who are not under the system; and the appropriate officer of each county and each independent board or commission hereby affected, shall pay the bonus granted to pensioners whose pensions are payable by the respective counties, boards, and commissions.

The appropriate officer of each county upon certification to the council by the employees' retirement system of the amounts necessary to meet payments of the bonus to pensioners of the system who are retired employees of the respective counties, shall also remit the amounts to the system. Remittances shall be made not later than December 31 of each year and shall be sufficient for twelve months' payments to the pensioners certified to the council."

SECTION 3. Section 88-16, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-16 Bonus; appropriation.** Sufficient funds shall be appropriated to the employees' retirement system from the general revenues of the State not otherwise appropriated, to pay the bonus to all pensioners under the system except those pensioners who are retired employees of the respective counties. Sufficient funds shall be appropriated to the state department or agency hereby affected from the general revenues of the State not otherwise appropriated, to pay the bonus to those state pensioners not under the system. The council of each county, and each independent board or commission affected shall appropriate the funds to pay the bonus to pensioners

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whose pensions are payable by their respective counties, boards, and commissions as well as to pensioners of the employees' retirement system who are retired employees of their respective counties."

SECTION 4. Section 88-109, Hawaii Revised Statutes, is amended to read:

**"Sec. 88-109 Funds of the system.** The assets of the system are assigned to the following funds hereby created:

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

SECTION 5. Part II of chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 88- Pension bonus fund.** The pension bonus fund shall be the fund to which shall be credited all moneys provided by the State and counties for the purpose of bonus payments and from which shall be paid the bonuses to pensioners under the system in accordance with sections 88-11 to 88-17."

SECTION 6. 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 \$510,000 or so much thereof as may be necessary, for the purposes of this Act.

SECTION 7. 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 material, or the underscoring.\*

SECTION 8. This Act shall take effect on July 1, 1974.

(Approved June 13, 1974.)

ACT 221

S.B. NO. 1860-74

A Bill for an Act Relating to Taxation.

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

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

I. A new section to be appropriately designated and to read as follows is added:

\*Edited accordingly.

**"Sec. 235- Excise tax credit.** (a) 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, may claim an excise tax credit against his individual income tax liability for the taxable year for which the individual income tax return is being filed; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been filed by them shall claim only the tax credit to which they would have been entitled had a joint return been filed; and provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual income tax purposes may also claim tax credits as set forth in this section.

(b) Tax credit schedule. Each taxpayer may claim tax credits in the amount indicated for each adjusted gross income bracket as shown in the schedule below multiplied by the number of qualified exemptions to which he is entitled.

**Excise Tax Credit Schedule**

Adjusted Gross Income		Tax Credit
Under \$5,000		30
\$ 5,000 under \$ 6,000		28
6,000 " 7,000		26
7,000 " 8,000		24
8,000 " 9,000		22
9,000 " 10,000		20
10,000 " 11,000		17
11,000 " 12,000		14
12,000 " 13,000		11
13,000 " 14,000		8
14,000 " 15,000		6

(c) Qualified exemption defined. For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that a person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided further that multiple exemption shall not be granted because of advanced age, deficiencies in vision or hearing, or other disability.

(d) Tax credits to be deducted from income tax liability, if any; refunds. The tax credits claimed by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual income tax liability, if any, for the tax year in which they are properly claimed. In the event the tax credits claimed by a resident taxpayer exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability shall be paid to the resident individual; and provided further that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

## ACT 221

(e) All claims for tax credits under this section, including any amended claims must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit."

2. Section 235-56 is repealed.
3. Section 235-56.5 is repealed.
4. Section 235-57 is repealed.

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 4. This Act shall take effect upon its approval; provided that this Act shall apply to taxable years beginning on or after January 1, 1974.

(Approved June 13, 1974.)

## ACT 222

H.B. NO. 2440-74

A Bill for an Act Relating to Fishing Rights.

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

SECTION 1. Section 188-45, Hawaii Revised Statutes, is amended to read:

**"Sec. 188-45 Nahu and iao; penalty.** Except as hereinafter provided, it shall be 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, iao, or marquesan sardine; 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 fishermen as defined in section 189-1 licenses to take nehu, iao, marquesan sardine, 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 such licensed commercial fisherman only if he is employed on a live-bait tuna boat and only if his principal means of livelihood is derived from tuna fishing and the sale of tuna, and such nehu is not sold to others. The licenses may be issued by the department upon such terms and conditions as the department may deem necessary to conserve the supply of such fish

\*Edited accordingly.

within state waters. Any such license may be summarily revoked for a violation of any term or condition thereof, and any or all such licenses may be revoked summarily whenever, in the judgment of the department, the action is necessary for the conservation of the fish.

Any person violating this section shall be fined not more than \$200 or imprisoned not more than fifty days, or both.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.

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

(Approved June 13, 1974.)

**ACT 223**

H.B. NO. 1931

A Bill for an Act Relating to Qualifications for Elderly Housing.

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

SECTION 1. Chapter 359, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 359- Applications for elderly housing; restrictions.** No applicant shall be entitled to elderly housing under this chapter who has sufficient income or other resources to provide a subsistence compatible to decency and health. In determining the needs of an applicant for elderly housing, the Hawaii housing authority shall consider current available resources; provided that all assets transferred or assigned by the applicant to another person within the three-year period prior to the submittal of an application shall be included; and provided further, that the valuation of the assets, including real property, shall be based on their fair market value as of the date of transfer."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 13, 1974.)

**ACT 224**

H.B. NO. 3005-74

A Bill for an Act Relating to Fish and Game Licenses for Senior Citizens.

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

SECTION 1. Section 188-50, Hawaii Revised Statutes, is amended to read as follows:

\*Edited accordingly.

## ACT 224

**"Sec. 188-50 License; application; fees; restrictions.** The licenses required by section 188-49 and badges 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 and badges shall expire and become void on June 30, following the date of issuance, except the tourist license and badge which shall expire and become void thirty days after the date of issuance; provided that, no fees or charges shall be made for licenses and badges issued to persons sixty-five years of age and older. A duplicate license or badge may be issued upon affidavit that the original license or badge has been lost or destroyed and upon the payment of 50 cents.

The fee schedule for licenses and badges shall be as follows:

- (1) All minors between nine and fifteen years of age, \$1 each;
- (2) A resident of the State for at least one year, and over fifteen years of age, \$2.50;
- (3) Persons not qualifying under (2) but over fifteen years of age, \$5, 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, \$2.50.
  - (B) Tourist license which is valid for only thirty days from the date of issue, \$2.50.

No person to whom a license or badge has been issued under this section shall permit any other person to carry, display or use the license or badge for any purpose. Every person to whom a license or badge has been issued under this section shall display the badge while fishing or show the license upon demand of any officer authorized to enforce the fish and game laws of the State, and any person who fails to do so shall be guilty of a violation of sections 188-49 to 188-51.

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, must themselves be licensed. The application must state the area to be visited, the dates for the excursion, the name of the organization or group, and must 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 shall be deemed part of the catch of the licensed adult accompanying him."

SECTION 2. Section 191-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 191-3 Licenses and badges expire when.** (a) All licenses and badges shall expire and become void on June 30th 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 such 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 and badges issued to persons sixty-five years of age and older."

SECTION 3. 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 material, or the underscoring.\*

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

(Approved June 13, 1974.)

## ACT 225

S.B. NO. 4

A Bill for an Act Relating to Aged Persons.

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

SECTION 1. **Findings and purpose.** The legislature finds that a wide range of public and private programs and services is available to the elderly in Hawaii with governmental support at the federal, state, and county levels. However, with increased concern over the sociological, psychological, and economic problems of the elderly and a growing number of programs designed to deliver a full range of essential services to them, it has become evident that a comprehensive master plan is needed to afford the elderly's many publics—the executive state departments, the legislature, the county governments, private organizations and indeed, all Hawaii's people—an instrument which intelligibly expresses realistic objectives to influence and direct coordinated and systematic planning for the elderly in the State.

Therefore, the purpose of this Act is to strengthen, improve, and coordinate public and private programs and services to the elderly with a view toward a statewide network of comprehensive, coordinated programs, services, and opportunities for Hawaii's elderly.

SECTION 2. Chapter 349, Hawaii Revised Statutes, is amended as follows:

1. By amending section 349-1 to read as follows:

**"Sec. 349-1 Commission; appointment; tenure.** There shall be a state commission on aging which shall consist of not less than twenty-one nor

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\*Edited accordingly.

more than twenty-seven members. The membership shall include, ex officio, the director of health, the director of social services, the superintendent of education, the president of the university of Hawaii, the director of labor and industrial relations, the secretary of the state employees retirement system, or their permanently appointed designees who shall be responsible for program planning or evaluation for their respective departments, and by invitation, the Hawaii representative of the United States Department of Health, Education, and Welfare. The remaining members shall be appointed by the governor in accordance with article IV, section 6, of the State Constitution. One-third of the members shall be appointed for the term of four years, one-third for the term of three years, and one-third for the term of two years, and thereafter the terms of office of each member shall be four years. Of the appointed members there shall be one member from the county of Hawaii, one member from the county of Maui, one member from the county of Kauai, and one member from the city and county of Honolulu, and at least one-third of the age of sixty years or older. The members shall serve without compensation but shall be paid their necessary expenses in attending meetings and carrying out the duties of the commission. The members shall be selected on the basis of their interests and knowledge in and their ability to make contributions to the solution of problems relating to aging. The governor shall appoint the chairman of the commission. There shall be no less than twelve meetings of the commission each year, all meetings to be held in the city and county of Honolulu."

2. By amending section 349-2 to read as follows:

**"Sec. 349-2 Duties of commission; reports.** The commission shall:

- (1) Provide the means by which governmental and nongovernmental agencies can coordinate their plans, policies, and activities with regard to aging, including a state master plan for the elderly pursuant to section 349-12.
- (2) Create public awareness and understanding of the needs and potentials of older persons.
- (3) Encourage state departments, universities, and other appropriate agencies to conduct needed research in the field of aging in conjunction with the state master plan for the elderly. When the research cannot be done within the established agencies, it shall be carried out by this commission.
- (4) Recommend legislative and administrative action on behalf of the aging; review legislation pertaining to older persons and appropriations made for services in their behalf in such fields as health, social welfare, education, employment, and recreation; and consider and present revisions and additions needed and report to the governor and to the legislature regarding such legislation using the state master plan for the elderly as a basis for recommendation, review, and consideration of legislative and administrative actions.
- (5) Appraise the availability, adequacy, and accessibility of all services and facilities for older persons within the State for which standards shall be established in the state master plan.

- (6) Study the operations and the operating policies affecting older persons of all state and county departments and agencies responsible for providing services for older persons, including without limitation to the generality of the foregoing, the agencies with primary responsibility for public health, social welfare, education, housing, employment, recreation, and retirement, and report to the governor and to the legislature. The executive heads of all such departments and agencies shall cooperate with the commission in providing information as the commission deems necessary for the effective discharge of its duties under sections 349-1 to 349-5 and section 349-12; provided, that no provision of law with respect to confidentiality of information shall be violated herewith.
  - (7) Stimulate, guide, and provide technical assistance in the organization of local or regional committees on aging, and in the planning and conduct of services, activities, and projects.
  - (8) Stimulate training for workers in services to the aging.
  - (9) Promote the development of services to assist middle-aged and older persons to develop skills, attitudes, and interests to prepare themselves for their later years.
  - (10) Maintain contacts with local, state, and federal officials and agencies concerned with planning for middle-aged and older persons.
  - (11) Cooperate with national groups on aging and arrange for participation by representatives of the State in White House conferences and other national conferences from time to time.
  - (12) Administer funds allocated for its work; be authorized to accept, disburse, and allocate funds which may become available from other governmental and private sources; provided, that all such funds shall be disbursed or allocated in compliance with any specific designation stated by the donor and in the absence of such specific designation, the funds shall be disbursed or allocated on projects directly benefiting the elderly in accordance with the purposes of sections 349-1 to 349-5 and section 349-12; provided further that an evaluation be conducted of all programs administered by Federal and State funds.
  - (13) Submit an annual report with recommendations to the governor and the legislature. All programs which have been initiated by the commission or those programs in which the commission has participated shall be included in the annual report, including a detailed accounting of all project contracts. The commission's budget and expenditures for the previous fiscal year shall also be included in every annual report."
3. By amending section 349-3 to read as follows:

**"Sec. 349-3 County committees; appointment.** The mayor of the city and county of Honolulu and the mayors of each of the other counties shall each appoint within their respective counties a committee of not less than fifteen persons charged with the duty and responsibility of developing such information as the state commission requires or as the committee deems

advisable concerning the problems of aging within the respective counties. The committees shall submit to the state commission plans and proposals for meeting these problems in the several counties. Each county committee shall endeavor to secure the widest possible citizen participation in its efforts and, for this purpose, may utilize or continue the existence of study panels or groups. Where there exists within the county government an agency on aging officially recognized by the state commission on aging as the agency to plan and coordinate services to the aging within the county, the county committee shall have the additional duty and responsibility of advising the county agency on all matters pertaining to the planning and coordination of services to the aging. The membership of each county committee shall include, ex officio, the chief administrative officer at the county level (or his permanently appointed designee) of the state department of health, of the state department of social services and housing, of the employment service office of the state department of labor and industrial relations, and of the state department of education, the administrative head of any county recreation agencies, and the county representative of the state commission. The other members shall be selected upon the basis of their interest in the problems of aging, their effectiveness in promoting the welfare of the middle-aged and older persons within the county, and their knowledge of local conditions. The chairman shall be elected annually from the non-governmental members of the committee. One-third of the nongovernmental members of the county committees shall be appointed for four years, one-third for three years and one-third for two years, and thereafter their successors shall be appointed for terms of four years. Each county committee shall meet at least twelve times a year. The members of the county committee shall receive no compensation for their services. The respective councils may make appropriations to meet the necessary expenses of the committees."

4. By amending section 349-4 to read as follows:

**"Sec. 349-4 Director; qualification; duties; assistants.** The state commission on aging shall select and employ a director who shall be exempt from chapters 76 and 77. The director shall have professional training and recent experience in the field of social work, education, public health, or other related field, or the equivalent in work experience in one of these fields, and recent experience in a supervisory, consultative, or administrative position.

The director shall serve as consultant to the governor on problems of aging; shall develop a state master plan for the elderly and assist in coordinating the programs of all agencies concerned with problems of aging; shall help plan, organize, and coordinate the activities of the county committees; shall arrange for statewide studies of the needs and existing facilities for older persons and develop recommendations and plans for action consistent with the purposes of this chapter; shall secure statistical data from the county committees and from state and local agencies; shall arrange for the exchange of information, plans, and programs between public and private groups interested in the problems of aging; shall prepare articles, reports, and bulletins for the use of the state commission and the county committees and agencies

and for general publication; shall keep and maintain records and reports and conduct correspondence relative to the work of the commission. The director shall be paid and reimbursed for reasonable and necessary traveling expenses in carrying on this work. The commission may employ such additional staff for the director as may be necessary to carry out the duties of the commission, subject to chapters 76 and 77, and provide suitable quarters."

5. By amending section 349-6 to read as follows:

**"Sec. 349-6 Declaration of purpose; support; duties.** (a) The legislature hereby declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our State are entitled to, and it is the joint and several duty and responsibility of the State of Hawaii and its counties to enable our older people to secure equal opportunity to the full and free enjoyment of the following:

- (1) An adequate income in retirement in accordance with the American standard of living.
- (2) The best possible physical and mental health which science can make available, without regard to economic status.
- (3) Suitable housing, independently selected, designed, and located with reference to special needs and available at costs which older citizens can afford.
- (4) Full restorative services for those who require institutional care.
- (5) Opportunity for employment with no discriminatory personnel practices because of age.
- (6) Retirement in health, honor, and dignity.
- (7) Pursuit of meaningful activity within the widest range of civic, cultural, and recreational opportunities.
- (8) Efficient community services which provide social assistance in a coordinated manner and which are readily available when needed.
- (9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.
- (10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives.

(b) In support of the declaration of purpose in subsection (a), it shall be the policy of the State of Hawaii and its counties to:

- (1) Make available comprehensive programs which include a full range of health, education, and social services to our older residents who need them;
- (2) Give full and special consideration to older residents with special needs in planning such programs, and, pending the availability of such programs for all older residents, give priority to the elderly with the greatest economic and social need;
- (3) Provide comprehensive programs which will assure the coordinated delivery of a full range of essential services to our older residents, and where applicable, also furnish meaningful employment opportunities for individuals, including older persons from the community; and

(4) Insure that the planning and operation of such programs will be undertaken as a partnership of older residents, the at-large community, and the State and its counties with appropriate assistance from the federal government.

(c) It shall be the duty and responsibility of every state department and county agency providing programs and services to the elderly to actively work toward the goals articulated in subsections (a) and (b) and to employ the State's policy as included in the state master plan for the elderly in the planning and implementation of their individual programs."

6. By amending section 349-9 to read as follows:

**"Sec. 349-9 Purpose of the fund.** The fund shall be used for:

- (1) Research, planning, development, and coordination of programs and facilities designed for older persons;
- (2) Demonstration programs or activities which are beneficial to older persons;
- (3) Special personnel needed to carry out programs designed for older persons; or
- (4) Establishing new or expanding existing programs for older persons which provide (A) recreational and other leisure time activities; (B) informational, health, welfare, counseling, or referral services; or (C) assistance to older persons in providing volunteer community or civic services; and
- (5) The training of the commission's staff in program planning and evaluation."

7. By amending section 349-10 to read as follows:

**"Sec. 349-10 Authority of commission.** Pursuant to the state master plan for the elderly, the commission may by way of grant to or contract with the county agencies on aging, any public or nonprofit private agency, organization, or institution or any private person:

- (1) For research or developmental projects and facilities which are or may be beneficial to older persons;
- (2) For the specialized training of persons employed or prepared for employment in carrying out programs designed for older persons;
- (3) For informational, health, welfare counseling, or referral services;
- (4) For educational programs for maintenance of health and development of vocational interests and skills;
- (5) For enlisting and training older persons for voluntary civic services;
- (6) For opportunities for development of constructive use of retirement time; or
- (7) For transmission of arts, skills, or culture of older persons to the younger people.

The commission may adopt, amend, or repeal necessary rules and regulations to implement sections 349-6 to 349-10. It may, to the extent it deems appropriate, require the recipient of any grant or contract to contribute money, facilities, or services to carry out the project for which the grant or contract is made."

8. By adding a new section 349-12 to read as follows:

**"Sec. 349-12 State master plan for the elderly.** The commission on aging shall be responsible for the development, implementation, and updating on a continuous basis, of a comprehensive master plan for the elderly which shall include, but not be limited to, the following:

- (1) Compilation of basic demographic data on the elderly in the State;
- (2) Identification of the physical, sociological, psychological, and economic needs of the elderly in the State;
- (3) Establishment of long-range and immediate goals pursuant to section 349-6, for programs and services for the elderly in the State;
- (4) Establishment of priorities for program implementation and of alternatives for program implementation; and
- (5) Organization of administrative and program structure, including the use of facilities and personnel.

The state master plan for the elderly shall be developed in accordance with the planning-programming-budgeting format of the State and shall be subject to the final approval of the legislature."

**SECTION 3. Master plan development committee.** To implement section 349-12, Hawaii Revised Statutes, the commission on aging shall form from its numbers a master plan development committee consisting of the ex officio representatives of state department heads who are members and the executive director of the area agencies on aging of each county. The staff of the commission on aging shall assist and serve the master plan development committee which shall operate until the approval of the master plan by the legislature as provided in section 349-12, Hawaii Revised Statutes. The final plan shall be submitted to the legislature twenty days prior to the convening of the regular session of 1975.

**SECTION 4.** There is hereby 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 the purposes of this Act.

**SECTION 5.** 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 material, or the underscoring.\*

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

(Approved June 13, 1974.)

ACT 226

H.B. NO. 2491-74

A Bill for an Act Relating to Planning and Development of North Kohala.

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

**SECTION 1.** Section 6 of Act 197, Session Laws of Hawaii 1972, is amended to read:

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\*Edited accordingly.

## ACT 227

"The \$100,000 and \$3,700,000 authorized in sections 2 and 3 of this Act to be expended shall lapse on June 30, 1979. Annual progress reports of the feasibility studies and programs for the planning and development of North Kohala under this Act shall be submitted to the legislature within 20 days before the legislature convenes. The final report shall be submitted within sixty days after the lapsing of the authorization under this Act."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 14, 1974.)

## ACT 227

H.B. NO. 2329-74

A Bill for an Act Relating to Planning and Development of Kauai.

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

SECTION 1. Section 6 of Act 82 of the Session Laws of Hawaii 1973, is amended to read:

"SECTION 6. The authorizations in section 2, 3, 4, and 5 of this Act shall lapse on June 30, 1979. Annual progress reports of the feasibility studies and programs for the planning and development of Kauai under this Act shall be submitted to the legislature within 20 days before the legislature convenes. The final report shall be submitted within sixty days after the lapsing of the authorization under this Act."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 14, 1974.)

## ACT 228

H.B. NO. 2747-74

A Bill for an Act Relating to the Planning and Development of Molokai.

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

SECTION 1. Sections 1, 2, 3, and 4 of Act 83, Session Laws of Hawaii 1973, are amended to read:

"**SECTION 1. Findings and Declaration of Necessity.** The Legislature finds and declares that: (a) the announced termination of pineapple operations in 1975 by Dole Company and Del Monte Corporation poses a serious economic threat to Molokai; (b) potentially viable industries for the area

\*Edited accordingly.

include: grain production and milling, tropical fruit processing, livestock production, slaughterhouse, meat packing, aquaculture, visitor facilities and others; (c) feasibility studies must be conducted to determine the technical and economic feasibility of these and other potentially viable industries; (d) the housing needs of the residents of Maunaloa and Kualapuu must be expeditiously met; (e) implementation of the planning and development of Molokai must commence to include, but not be limited to, development of those industries found to be feasible, housing programs, and manpower training programs; and (f) it is vital for the individuals associated with Molokai to become involved with its comprehensive planning as an investment for the future.

"SECTION 2. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$600,000, and from the general obligation bond fund of the State of Hawaii, the sum of \$4,600,000, to be expended by the governor, to carry out the feasibility studies and the planning and development of Molokai.

"SECTION 3. The director of finance is authorized to issue general obligation bonds of the State in the amount of \$4,600,000 to be used for the purposes of this Act.

"SECTION 4. The authorization in Section 2 of this Act shall lapse on June 30, 1979. Annual progress reports of the feasibility studies and programs for the planning and development of Molokai under this Act shall be submitted to the legislature within 20 days before the legislature convenes. The final report shall be submitted within sixty days after the lapsing of the authorization under this Act."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 14, 1974.)

ACT 229

H.B. NO. 2709-74

A Bill for an Act Making an Appropriation to Accelerate Ohia Decline Study.

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

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 (\$50,000 per year for two years after the effective date of this Act) for the purpose of accelerating the Ohia Decline study (an unknown disease) which is affecting more than 200,000 acres of ohia forest on the Island of Hawaii, and is in an epidemic proportion.

SECTION 2. The sum hereby appropriated is to be expended for the purpose set forth in Section 1 of this Act by the department of land and natural resources.

\*Edited accordingly.

## **ACT 230**

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

(Approved June 14, 1974.)

## **ACT 230**

**H.B. NO. 2482-74**

A Bill for an Act Relating to the Use of Solid Wastes for Agricultural Purposes.

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

**SECTION 1.** Chapter 342, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 342- Solid waste recycling for agricultural purposes; encouraged.** The director shall encourage the recycling of solid wastes, including animal wastes and industrial wastes, for agricultural purposes. The use of treated sludge effluent for fertilizer and other agricultural purposes shall also be encouraged."

**SECTION 2. Appropriation.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$12,000 for fiscal year 1974-1975, or so much thereof as may be necessary, for the purposes of this Act. The sum appropriated shall be expended by the department of health.

**SECTION 3.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 14, 1974.)

## **ACT 231**

**H.B. NO. 2425-74**

A Bill for an Act Relating to Use of Public Lands for Agricultural Purposes.

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

**SECTION 1. Purpose.** The purpose of this Act is to amend the laws relating to the use of public lands for agricultural purposes so as to facilitate the maintenance and growth of agriculture as a primary base of the State's economy. Toward this end, the Act expands the opportunities and incentives for those persons wishing to enter farming through the expansion of eligibility requirements for loans under the new farmer program and the provision of land on which new farm enterprises may be developed. For those who are already farmers, as well as those who would become farmers, the Act broadens the avenues by which public lands may be caused to be used for agricultural purposes and explicitly states that existing public lands may be used for agricultural parks.

\*Edited accordingly.

SECTION 2. Chapter 155, Hawaii Revised Statutes, is amended by amending the following sections as follows:

1. Section 155-1 is amended to read:

**"Sec. 155-1 Definitions.** Whenever used in this chapter:

- (1) "Farm land" means land in the State used for agricultural purposes, including general farming, cane growing, fruit growing, flower growing, grazing, dairying, the production of any form of livestock or poultry, and any other form of agricultural activity. It includes land required for an adequate farm dwelling and other essential farm buildings, roads, wasteland.
- (2) "Qualified farmer" means a person of proven farming ability who operates his own farm on land owned by him in fee or on land rented or leased from others and who is presently devoting, has recently devoted, or intends to devote at least one-third of his time or derive at least one-third of his net cash income from direct participation in farming in its broadest sense. It includes Hawaii partnerships controlled to the extent of seventy-five per cent by persons who would qualify individually and would meet the eligibility requirements of section 155-10. It also includes small corporations where at least seventy-five per cent of each class of stock issued by the corporation is owned by persons who qualify individually and would meet the eligibility requirements of section 155-10 and where seventy-five per cent of the directors are qualified farmers.
- (3) "New farmer program" means a new farm enterprise for qualified new farmers, including persons who are displaced from employment in an agricultural production enterprise, college graduates in agriculture, community college graduates in agriculture, and members of the Hawaii Young Farmer Association and Future Farmer of America graduates with farming projects who otherwise meet the eligibility requirements of section 155-10.
- (4) "Cooperative" means a nonprofit association of farmers organized under chapter 421.
- (5) "Mortgage" includes such classes of liens on farm land and other authorized security as are approved by the department of agriculture and the credit instruments secured thereby.
- (6) "Private lender" includes banks, savings and loan associations, mortgage companies, and other qualified companies whose business includes the making of loans in the State."

2. Section 155-10 is amended to read:

**"Sec. 155-10 General eligibility requirements for loans.** To be eligible for loans under this chapter, an applicant shall be:

- (1) A qualified farmer, or a person under the new farmer program;
- (2) A citizen of the United States who has resided in the State for at least three years, or any alien who has resided in the State for at least five years; provided, that this requirement shall not apply to applicants for class "D" loans who otherwise qualify. In the case of

partnerships and corporations, the residence requirement must be met by seventy-five per cent of the members or stockholders who are qualified farmers;

- (3) A sound credit risk with the ability to repay the money borrowed; and
- (4) Willing to carry out recommended farm management practices."

SECTION 3. Chapter 171, Hawaii Revised Statutes, is amended as follows:

1. Section 171-65 is amended to read:

**"Sec. 171-65 Leases, leases with option to purchase, sales permitted; when.** Land intended for disposition as farm lot for truck crops or for horticultural, pasture, or special livestock use, may be disposed of by lease, lease with option to purchase, or in fee simple. Such disposition may be by drawing of lot, without recourse to public auction, notwithstanding any other provision in this chapter to the contrary; provided, that the right to any values in the land not attributable to these agricultural uses shall be reserved to the State.

Dispositions under this section shall be made only to individuals who satisfy the requirements established by the board and then only if the individual, either himself or whose spouse, or both, does not already own lands of comparable use in the State."

2. Part V is amended to read:

## PART V. LANDS FOR AGRICULTURAL PURPOSES

**Sec. 171-111 Legislative findings.** The legislature finds that there is a growing scarcity of agricultural lands throughout the State caused by urban encroachment which has made it difficult for agricultural enterprises to survive and has caused the erosion of the agricultural base of the economy; that urban encroachment has caused the unplanned relocation of livestock operations many times in the past twenty years; that urban plans have not placed the necessary emphasis on agriculture and location of agricultural enterprises to insure the survival of agriculture; that there is a need for agricultural land-use planning, particularly, the planning of alternative uses for lands such as Kahuku which have been phased out of sugar without clear use alternatives; that the acquisition of private property for agricultural purposes is a public purpose or use necessary to facilitate sound agricultural land-use planning.

**Sec. 171-112 Acquisition.** The board of land and natural resources is hereby authorized to acquire by lease, exchange, direct purchase, or eminent domain private property for disposition for agricultural purposes, including but not limited to agricultural parks.

**Sec. 171-113 Definition of agricultural park.** For the purposes of this part, agricultural park shall mean any planned agricultural complex which combines and concentrates in a common location a number of agricultural activities for the purpose of realizing production and distribution economies. Agricultural buildings, farm residences, and employee dwellings necessary

to the production and distribution of agricultural commodities shall be considered part of the agricultural park.

**Sec. 171-114 Disposition.** Any provision of this chapter to the contrary notwithstanding, the board of land and natural resources may directly dispose of such land by negotiation or by drawing of lot or by public auction; provided that a reasonable portion of such disposition may be to farmers who qualify under the new farmer program pursuant to section 155-1(3). All such dispositions shall be by lease only and shall be subject to the requirements set forth in Article X, section 4 of the State Constitution and in sections 171-33, 171-34, 171-35, 171-36, 171-37, and 171-66 and subject also to the following limitations:

- (1) The property shall be disposed of for agricultural purposes only;
- (2) The lessee shall derive the major portion of his total annual income from his activities on the premises;
- (3) The lessee must comply with all Federal and State laws regarding environmental quality control;
- (4) Other terms and conditions as may be set by the board.

The violation of any provision herein contained shall be sufficient cause for the board after notice as provided in section 171-20 to cancel said lease and take possession of said land.

**Sec. 171-115 Applicants.** A person shall be eligible to apply for a lease hereunder if he meets the qualifications set forth in section 171-68, or if he qualifies under the new farmer program pursuant to section 155-1(3).

**Sec. 171-116 Preference right.** A displaced farmer who is otherwise qualified to take a farm lot, any farmer whose farm is located in a zoning district where such use is a nonconforming use, or any farmer who qualifies under the new farmer program pursuant to section 155-1(3), shall be given preference in obtaining a lot.

**Sec. 171-188 Public lands; agricultural park lands.** Public lands may be used for agricultural parks under this part."

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 material, or the underscoring.\*

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

(Approved June 14, 1974.)

A Bill for an Act Relating to Plant and Non-Domestic Animal Quarantine.

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

SECTION I. Section 150A-5, Hawaii Revised Statutes, is amended to read:

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\*Edited accordingly.

**"Sec. 150A-5 Conditions of importation.** The importation of any of the following articles, viz., nursery-stock, tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain, cereal, or legume in the natural or raw state; moss, hay, straw, dry-grass, or other forage; unmanufactured log, limb, or timber, or any other plant-growth or plant-product, unprocessed or in the raw state; soil, live bird, reptile, bacteria, fungus, nematode, virus, insect or other animal in any stage of development (that is in addition to the so-called domestic animal, the quarantine of which is provided for in other sections); box, vehicle, baggage, barrel, or crate or other container in which such articles have been transported or contained or any packing material used in connection therewith, into the State, shall be made and conducted in the manner and subject to the conditions herein set forth:

- (1) Notification of arrival. Any person, who receives for transport, brings or causes to be brought to the State, as freight, air freight, baggage, or otherwise, for the purpose of debarkation or entry therein, or as ship's stores, any of the articles enumerated, shall, immediately upon the arrival thereof, notify the department, in writing, of the arrival, giving the waybill number, container number, name and address of the consignor, name and address of the consignee or his responsible agent in the State, marks, number of packages, description of contents of each package, port at which laden, and any other information that may be necessary to locate or identify the same, and shall hold such articles on the dock, pier, wharf, airport, air terminal, or other places, where they are first received or discharged, in such a manner that they will not spread or be likely to spread any infestation or infection of insects or diseases that may be present until inspection and examination can be made by the inspector, to determine whether or not any article, or any portion thereof, is infested, infected with or contains any pest.

In addition, by rules and regulations, the department shall designate restricted articles that shall require a permit to be obtained from the department in advance of importation. The restricted articles shall include, but not be limited to, fungi, bacteria, virus, or living insects. Failure to obtain such permits in advance shall result in the articles being refused entry, or confiscated or destroyed. Any expense or loss in connection therewith shall be borne by the owner or his responsible agent in the State.

- (2) Individual passengers, officers and crew.
  - (A) It shall be the responsibility of the transportation company to distribute the State of Hawaii plant and animal declaration forms to each passenger, officer and crew member of any aircraft or vessel originating from the United States or its possession, or from any other areas not under the jurisdiction of the appropriate federal agency prior to arrival in order that the passenger, officer and crew member can comply with the directions and requirement appearing thereon.

Any adult, guardian of minor or transiting passenger, officer and crew member bringing or causing to be brought for entry into the State the items listed on the form shall complete the declaration. Any person who defaces the declaration form required under this section, gives false information, or fails to declare restricted materials in his possession or luggage or fails to declare in cargo manifests shall be in violation of this section.

- (B) Such completed forms shall be collected by the transportation company and be delivered to the inspector at the first airport or seaport of arrival.
- (3) Plant and animal declaration form. Such forms will include directions for declaring domestic and other animals cited in chapter 142, in addition to the articles enumerated in this chapter.
- (4) Labels. Each and every case, box, package, crate, bale, or bundle containing any of the articles above enumerated, imported into the State, shall have plainly and legibly marked thereon, in a conspicuous manner and place, the name and address of the shipper or owner forwarding or shipping the same, the name or mark of the person to whom the same is forwarded or shipped or his responsible agent, the name of the country, state, or territory and locality therein where the product was grown or produced and a statement of the contents of the package. Upon failure to comply with this paragraph the importer or carrier shall be liable to suffer the penalty for the violation of this section.
- (5) Authority to inspect. Whenever he has good cause to believe that the provisions of this chapter are being violated, the inspector may:
  - (A) Enter any aircraft, ship, vessel, or other carrier, at any time after its arrival within the boundaries of the State, whether offport, off-shore, at the dock, pier, wharf, airport or air terminal.
  - (B) Enter into or upon any dock, pier, or wharf, warehouse or depot, airport or air terminal, or any other place in the State, where any of the above-mentioned articles are moved or stored, for the purpose of ascertaining, by inspection and examination, whether or not any of the items listed in this section is infested or infected with any pest or contaminated with soil.
  - (C) Inspect any baggage and personal effects of disembarking passengers, officers and members of crews on aircraft, ships, vessels, or other surface craft arriving into the State to ascertain if they contain any of the articles or pests enumerated in this chapter.

Such baggage inspection shall be made at the discretion of the inspector, on the dock or on the ship, vessel, other surface craft or aircraft or in any quarantine or inspection area. No baggage or other personal effects of the passengers or crew members shall be released until said effects have been passed.

Whenever he has good cause to believe that the provisions of this chapter are being violated, the inspector may require that any box, bale, crate, bundle, package, truck, bag, suitcase, or other container carried as ship's stores, cargo or otherwise, by any ship, vessel, other surface craft or aircraft, moving between the continental United States and Hawaii, or between the Hawaiian Islands be opened for inspection to determine whether any article or pest prohibited by this chapter or by regulations promulgated pursuant thereto is present. If any prohibited article or any pest or any plant, fruit or vegetable infested with plant pests is found, the department may order the return of the article to the place of origin or otherwise dispose of it or such part thereof as necessary to comply with this chapter.

Any expense or loss in connection therewith shall be borne by the owner or his responsible agent in the State.

- (6) Request for importation and inspection. In addition to requirements of the United States customs authorities concerning invoices or other formalities incident to importations into the State, the importer shall be required to file a written statement with the department, signed by himself or his responsible agent in the State, setting forth his desire to import certain of the articles above enumerated, into the State, and giving the following additional information: the kind (scientific name), quantity, and description of same; the locality where same were grown or produced; the certification that all animals to be imported are the progeny of captive populations or have been specifically approved for importation by the board; the port from which the same were last shipped; the name of the shipper; and the name of the consignee thereof. The statement shall also contain:
  - (A) A request that the department, by its duly authorized agent, examine the articles described;
  - (B) An agreement by the importer to be responsible for all costs, charges, or expenses; and
  - (C) A waiver of all claims for damages incident to the inspection or the fumigation, disinfection, quarantine, or destruction of the articles, or any of them, as hereinafter provided for, if any treatment is adjudged necessary.

Failure or refusal to file a statement, including the agreement and waiver, shall be held to be a violation of this section and may, in the discretion of the department, give sufficient cause for refusing to permit the entry of the articles into the State.

- (7) Place of inspection. If, in the judgment of the inspector, it is deemed necessary or advisable to move any of the articles above enumerated or any portion thereof, to a place more suitable for inspection than the dock, pier, wharf, airport, air terminal, depot or other place where they are first received or discharged, authority

therefor is granted, and all costs and expenses incident to the movement and transportation of the articles to such place shall be borne by the importer or his responsible agent in the State owning or having charge thereof.

- (8) Disinfection or quarantine. If upon inspection, any article so received or brought to the State for the purpose of debarkation or entry therein is found to be infested or infected, or there is reasonable cause to presume that it is infested or infected and the infestation or infection can, in the judgment of the inspector, be eradicated, a treatment shall be given such article. The treatment shall be at the expense of the owner or his agent, and the treatment shall be as prescribed by the department. The article shall be held in quarantine at the expense of the owner or his responsible agent, at a satisfactory place approved by the department, for a sufficient length of time to determine that eradication has been accomplished. If the infestation or infection is of such nature or extent that it cannot be effectively and completely eradicated in the manner described above, or if it is a potentially destructive pest, or not widespread in the State, or after treatment it is determined that the infestation or infection is not completely eradicated, the article, or any portion thereof, together with all packing and containers, may, at the discretion of the inspector be destroyed or sent out of the State at the expense of the owner or his responsible agent in the State. Such destruction or exclusion shall not be made the basis of a claim against the department or the inspector for damage or loss incurred.
- (9) Disposition. At the time of arrival, or at any time thereafter, should any article be held for inspection, treatment or quarantine, the inspector shall upon completion of inspection, affix to the article or the container or to the delivery order in a conspicuous place thereon, a tag, label, or stamp to indicate the article has been inspected and passed. This action shall in effect be a permit to bring the article into the State.
- (10) What constitutes importation. The landing of any of the articles for the purpose of inspection or quarantine is not, nor shall it be construed to be, an importation in the sense of giving to the articles so landed any status, or the owner thereof any right or privilege, incident to articles which have actually been imported into the State; but in legal effect the articles so landed for the purpose of inspection shall be construed to be still without the State seeking entry thereinto, and shall not, in whole or in part, be considered suitable for importation into the State unless a tag, label, or stamp has been affixed thereon by the inspector as provided in section 150A-5(9).
- (11) Exceptions to right to import. Nothing in this chapter contained shall permit the importation of any animal or article, from any particular place, if the same, or any of them, has, by special rule or regulation of the department been prohibited.

- (12) Ports of entry. None of the articles enumerated in this section shall be allowed entry into the State except through the air and sea ports in the State designated and approved by the board.
- (13) Enforcement; citation and summons; penalty. Any officer or employee of the department, authorized and designated by the board to enforce the provisions of this chapter, and all rules and regulations promulgated and adopted by the department pursuant thereto, may issue a citation to any person for violation of any provision of this chapter or of any rule or regulation promulgated and adopted pursuant thereto, and issue to him a summons summoning him to appear at a certain place at a time within seven days of such citation, to answer the charges against him.
  - (A) Form of citation and summons. There shall be printed a form of citation and summons for use in citing violators of this chapter and regulations promulgated pursuant thereto. The form and contents of such citation and summons shall be as adopted or prescribed by the district courts.

In every case when a citation and summons are issued the original of the same shall be given to the accused; provided that, the district courts may prescribe the issuance to the accused of a carbon copy of the citation and summons and provide for the disposition of the original and any other copies. Every citation and summons shall be consecutively numbered and each carbon copy shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

- (B) Administration of oath. When a complaint is made to any prosecuting officer of the violation of the provisions of this chapter or the rules and regulations promulgated and adopted pursuant thereto, the officer or employee who issued the citation and summons shall subscribe to the complaint under oath.
- (C) Penalty. Any person who violates any section of this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both."

SECTION 2. Sec. 150A-6, HRS, is amended to read:

**"Sec. 150A-6 Soil, snakes, injurious insects, etc., importation prohibited.** All persons are prohibited from receiving for transportation, bringing, or causing to be brought to the State, for the purpose of debarkation or entry thereinto, any of the following named articles:

- (1) Soil, provided that limited quantities of soil may be imported into the State for experimental or other scientific purposes, under permit with conditions prescribed by the department.
- (2) Rocks, plants, plant products, or any commodity with soil adhering thereto.
- (3) Any live snake, flying fox, fruit bat, Gila monster, injurious insect, or eels of the order Anguilliformes, or any other animal in any stage

of development that is detrimental or potentially harmful to agriculture or horticulture or animal or public health, or natural resources including native biota or has an adverse effect on the environment as determined by the board; provided that a government agency may bring into and maintain in the State not more than two live, nonvenomous snakes of the male sex solely for the purposes of exhibition in a public zoological park, but only after the board is presented with satisfactory evidence that the sex of the snakes was established to be male prior to the shipment, and after the board gives written approval conditioned upon such terms as the board may deem necessary, which terms shall include the continuing supervision and control by the board and shall provide that the board may determine the manner in which such snakes shall be disposed of or destroyed. In case of the death of one or both snakes, the government agency may import and maintain replacements subject to the above conditions.

- (4) The board shall maintain either a list of animals and plants which may be imported into the State or a list of animals and plants which are prohibited entry into the State."

SECTION 3. Section 150A-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 150A-8 Transporting in State.** No fungi, bacteria, virus, living insect or soil, nursery stock, tree, sugarcane, shrub, plant, flowers, vine, graft, scion, bud, seed, root, fruit, fruit pit, vegetable, leaf, nut, or moss, known to be infested with a pest, shall be transported from one island within the State to another island therein, or to one locality from another on the same island or along the highway thereof, unless approved by the department.

Certain animals specified by rules and regulations of the department shall not be moved from one island to another island within the State or from one locality to another on the same island except by a permit issued by the department."

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 material, or the underscoring.\*

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

(Approved June 14, 1974.)

A Bill for an Act Relating to Misbranding.

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

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\*Edited accordingly.

SECTION 1. Chapter 486, Hawaii Revised Statutes, is amended as follows:

(a) Section 486-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 486-1 Definitions.** As used in this chapter unless the context otherwise requires:

- (1) 'Advertising' or 'advertising medium' includes all publicity, mass media, signs, banners, posters, placards, labels, streamers, marks, brands, grades, descriptions, or displays.
- (2) 'Commodity in package form' means a weight or measure of a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, is a commodity in package form.
- (3) 'Consumer commodity' means any article, product, good or commodity of any kind that is customarily produced or distributed for sale through mercantile or retail sales outlets for consumption or use by individuals, including but not limited to food products and consumer packages.
- (4) 'Consumer package' means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.
- (5) 'Director', 'deputy director', and 'deputy to the chairman' mean, respectively, the State director of weights and measures, the State deputy director of weights and measures, and the deputy to the chairman of the board of agriculture.
- (6) 'Gasoline' means any petroleum product which conforms to the standards set forth in D-439 of the American Society for Testing Materials, except that (A) vapor pressure specification may be omitted, and (B) a distillation end point specification of 437 degrees F maximum shall be added.
- (7) 'Holding tank' means any tank, other than vehicle tank, intended to hold, store, or otherwise contain, any product for commercial use, either as a measure per se or as a container.
- (8) 'Inspector' means any qualified State officer or employee designated by the director as an inspector of weights and measures.
- (9) 'Intrastate commerce' means any and all commerce or trade begun, carried on, and completed wholly within the limits of the State.

- (10) 'Introduced into intrastate commerce' means the time and place at which the first sale and delivery of a commodity is made within the State, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.
- (11) 'Label' means any written, printed or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer package containing any consumer commodity, for purposes of branding, identifying, or giving any information with respect to the commodity or to the contents of the package.
- (12) 'Lubricating oil' means those products which are intended for use in internal combustion engines and which conform to the specifications of this chapter or the regulations promulgated pursuant to this chapter. In addition to all other requirements of this chapter: (A) Lubricating oil shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the standard test therefor. (B) Lubricating oil containers shall be marked so as to include on the label a designation of the S.A.E. viscosity classification. The viscosity may also be expressed in Saybolt Seconds Universal (SSU) at 210 degrees F. The flash points for the various S.A.E. (Society of Automotive Engineers) classifications shall not be less than the following when tested in accordance with the Standard Test for flash point and fire point by means of the Cleveland open cup:

Viscosity Classification	Minimum Flash Degrees Fahrenheit
SAE 5W	305
SAE 10W	335
SAE 20W	345
SAE 20	345
SAE 30	355
SAE 40	375
SAE 50	400
Grade 60	435
Grade 70	470

- (C) Lubricating oil containers shall be marked so as to disclose whether the contents have previously been used for the lubricating of internal combustion engines or any gearing or shafting attached thereto, or for any other lubricating purposes, or have been re-run, filtered, redistilled, reclaimed, or re-refined.
- (13) 'Manufacturer' includes manufacturers, processors, producers, packers, refiners, importers, dealers, or agents at wholesale or retail level.
- (14) 'Misbranded' includes:
- (A) false, incomplete, incorrect or misleading labeling;
  - (B) misrepresentation as to the identity, quantity, quality or point of origin;

- (C) misrepresentation as to the principal place of business of the manufacturer;
  - (D) misrepresentation by vignette, pictorial display, identifiable geographical location or by any term, word or phrase in juxtaposition to any other information associated with, labeled on or accompanying the consumer commodity which falsely alludes to a specific point of origin, a general locale such as a state, or to historical usage by a people;
  - (E) misrepresentation as to originality or creativity;
  - (F) misrepresentation of the consumer commodity as an imitation to another or as an imitation to a generic product; and
  - (G) misrepresentation in any other manner tending to confuse the prospective purchaser.
- (15) 'Nonconsumer package' means any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.
- (16) 'Octane number or octane rating' means the Research Octane Number (RON) for fuel as defined by the American Society for Testing Materials.
- (17) 'Package' means any container or wrapper enclosing any commodity for sale, delivery or display, but does not include shipping containers or wrappings used solely for the transportation of that commodity.
- (18) 'Petroleum product' includes gasoline, liquefied petroleum gas when used as fuel, distillate, diesel fuel, kerosene, thinner, solvent, or any motor fuel or any oil represented as lubricating or motor oil.
- (19) 'Petroleum product dispenser' means a commercial measuring device subject to this chapter and includes but is not limited to: lubricating oil bottles, measure-containers, containers, and mechanisms or machines designed to measure and deliver liquid by a definite volume. Means may or may not be provided (A) to indicate automatically or on a command signal, one of a series of unit prices or the total money value or cost of the liquid measured, or (B) to make deliveries corresponding to specific money values at a definite unit price.
- (20) 'Sell' and 'sale' include barter and exchange.
- (21) 'Standard test' or 'standard method', means tests or methods conducted or prescribed in accordance with the latest published standards of: The American Society for Testing Materials, The United States of America Standards Institute, The National Bureau of Standards, or any test or method prescribed in this chapter or in accordance with regulations promulgated pursuant to this chapter.
- (22) 'State' means the State of Hawaii.
- (23) 'Vehicle tank', means any tank, which is mounted on a vehicle and is intended for use as a commercial measure.
- (24) 'Weight certificate' means a certificate of quantity issued in compliance with this chapter and shall include certificates of weight,

measure or count, and shall be prima facie evidence of the accuracy of the amount shown.

(25) 'Weights and measures' means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices."

(b) Chapter 486, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 486- Misbranding.** No person shall deliver for introduction, hold for introduction or introduce; or keep, offer or expose for sale; or sell into intrastate commerce, any consumer commodity which is misrepresented or misbranded in any manner.

The director shall pursuant to section 486-9 and chapter 91, adopt rules and regulations relating to misbranding."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 14, 1974.)

A Bill for an Act Relating to Entry of Private Property for Gorse Control.

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

SECTION 1. Section 152-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 152-1 Definitions.** For the purpose of this chapter, unless otherwise required by context:

(1) 'Department' means the department of agriculture.

(2) 'Noxious weed' means gorse and any other plant species which is injurious, harmful or deleterious or which may be likely to become so to the agricultural, horticultural, and livestock industries of the State, as determined and so designated by the department from time to time, by rules and regulations.

(3) 'Landowner' means the possessor of a fee simple absolute title in land or real estate and shall include the State as well as its political subdivisions in their capacities as owners of public lands.

(4) 'Person' means any individual, firm, corporation, association, or partnership."

SECTION 2. Chapter 152, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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\*Edited accordingly.

## ACT 235

**"Sec. 152- Entry of private property for gorse control.** Whenever any member of the department or any member of a county agency duly authorized to maintain a gorse control program determines that there is an infestation of gorse on private property and that such infestation poses a threat to the agricultural, horticultural, or livestock industry of the county in which the property is situated, the department or county agency may enter such property for the purpose of abating, destroying, removing, or controlling such infestation; provided that the county agency or department shall give written notice of such finding to the owner or occupant of such property at least five days prior to entry. If such entry is refused, the member may make a complaint to the district court in the circuit in which such land is located. The district court may thereupon issue a warrant, directed to any police officer of the circuit, commanding him to take sufficient aid, and, being accompanied by a member of the department or county agency, as the case may be, between the hours of sunrise and sunset to examine, abate, destroy, remove, or control, under the directions of the member, the infestation of gorse."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 14, 1974.)

## ACT 235

H.B. NO. 2376-74

A Bill for an Act Establishing the Hawaii Natural Energy Institute and Making an Appropriation for Planning the Structure and Operation Thereof.

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

SECTION 1. The current energy crisis is caused by a global energy shortage which will worsen through the remainder of this decade and may continue to the end of this century. The State of Hawaii, with its total dependence for energy on imported fossil fuel, is particularly vulnerable to dislocations in the global energy market. This is an anomalous situation, as there are few places in the world so generously endowed with natural energy: geothermal, solar radiation, ocean temperature differential, wind, waves, and currents—all potential non-polluting power sources. The purpose of this Act is to establish the Hawaii Natural Energy Institute that will coordinate and undertake the development of non-polluting natural energy sources for Hawaii; and, to make an appropriation for planning the structure and subsequent operation of the Institute. Although the ultimate structure of the Institute will not be determined until after a year of planning and development, its immediate establishment as provided herein will provide

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\*Edited accordingly.

the needed visibility, focus and encouragement for energy related activities directed toward converting Hawaii's natural resources into viable energy systems. These alternative energy systems will:

- (1) Diminish Hawaii's total dependence on imported fossil fuels,
- (2) Meet the State's increasing energy demands with little or no environmental degradation, and
- (3) Contribute to the technology base for finding solutions to the national and global energy shortage.

SECTION 2. The Hawaii Natural Energy Institute is hereby established as a research unit at the University of Hawaii-Manoa. The President of the University of Hawaii will appoint from appropriate University staff an Energy Planning Committee and designate its chairman. This Committee will serve as a steering committee and the Chairman shall be the Acting Director of the Institute during the initial year both for carrying out the operations and functions of the Institute and for planning the ultimate organizational structure. Nationally recognized energy planners may be consulted on specific goals and general organizational structure of the Energy Institute. The President will also appoint a broadly based Policy Advisory Committee to provide interaction between interested segments of the community and the Energy Planning Committee. A report containing recommendations for the structure and subsequent operation of the Energy Institute will be prepared by the Energy Planning Committee for presentation to the Legislature twenty (20) days before the beginning of the 1975 Session.

SECTION 3. There is appropriated out of the general revenues of the State the sum of fifty-five thousand dollars, or so much thereof as may be necessary, to be expended by the University of Hawaii for planning the structure and subsequent operation of the Hawaii Natural Energy Institute, and for the hiring of necessary staff and consultants during the next fiscal year.

SECTION 4. This Act shall take effect July 1, 1974.

(Approved June 14, 1974.)

A Bill for an Act Relating to a State Natural Energy Laboratory.

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

**SECTION 1. Findings and declaration of necessity.** The legislature hereby finds and declares that:

- (1) The energy resources for the United States and the State of Hawaii will require research and development into the future as far as can be seen;
- (2) The ultimate energy resource for the United States and the State of Hawaii will be the natural energy from the sun and the natural geothermal energy of the earth;

- (3) The development of these natural energy resources will require development of national and international institutions which will set the legal, social, environmental, and investment constraints within which the new source of energy shall be developed and distributed;
- (4) There is a high probability that an international institute dedicated to the study and development of such national and international institutions will be established in the Kona region of the island of Hawaii. It would be highly desirable that this institution have available to it the resources and results of research and development of an institution which has and does engage in the technology of natural energy and its by-products (aquaculture, minerals, communication, etc.);
- (5) The islands of the State of Hawaii and in particular the island of Hawaii are uniquely located with respect to available sources of solar energy, i.e., solar insulation, ocean thermal gradients, continuous wind, high amplitude ocean wave, and areas suitable for high intensity agriculture or aquaculture of plant life suitable for energy production (wood, bagasse, kelp, etc.);
- (6) The parcel of land makai of the Keahole airport on the island of Hawaii is, of all island sites, uniquely located with respect to access to each of these natural energy sources and at the same time, to access to port and harbor, airport and communication facilities;
- (7) The legislature therefore finds that the development of a natural energy laboratory on said parcel of land would be in the best interest of the people of the State of Hawaii and of the United States because it will serve as an institution ideally located to research and develop sources of natural energy. In addition, the laboratory could complement and make available the results of such research and development to an international institute which will probably be established in the same area to study and develop natural and international institutions which will set the proper constraints within which the new source of energy shall be developed and distributed.
- (8) The legislature further finds that natural energy by virtue of its location or by virtue of requirements for large quantities of cooling water will be based in or next to the marine environment and ought thereby be developed as a marine resources of the State of Hawaii.

**SECTION 2. Establishment of a State natural energy laboratory.**

There is created a natural energy laboratory of the State of Hawaii to be located on the parcel of state-owned land makai of the Keahole airport on the island of Hawaii. The laboratory shall be under the direction and management of a consortium which may consist of, but is not necessarily limited to, the Department of Land and Natural Resources, the County of Hawaii, the University of Hawaii, and such foundations and enterprises as shall be willing to provide funds, facilities or research for said laboratory. The consortium and its details shall be established by the Marine Affairs Coordinator in accordance with authorities granted to him under section 218-3, Hawaii Revised Statutes, subject to legislative approval at the next legislative session.

**SECTION 3. Appropriation.** There is appropriated from the general revenues of the State of Hawaii the sum of \$50,000, or as much thereof as may be necessary, to be expended by the Marine Affairs Coordinator for the establishment of a natural energy laboratory of the State of Hawaii, provided that such expenditure shall be matched by an equal expenditure from the County of Hawaii.

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

(Approved June 14, 1974.)

**ACT 237**

S.B. NO. 1391-74

A Bill for an Act Creating the Position of Energy Resources Coordinator in the Office of the Governor.

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

**SECTION 1. Findings and declaration of necessity.** The legislature finds that:

(a) There is widespread shortage of petroleum and its derivatives which has caused severe economic hardships throughout the State and which threatens to impair the public health, safety and welfare.

The current energy crisis is caused by a global energy shortage which will worsen through the remainder of this decade and may continue to the end of this century. The State of Hawaii, with its total dependence for energy on imported fossil fuel, is particularly vulnerable to dislocations in the global energy market. This is an anomalous situation, as there are few places in the world so generously endowed with natural energy: geothermal, solar radiation, ocean temperature differential, wind, waves, and currents—all potential non-polluting power sources.

(b) There is a real need for comprehensive planning in the effort towards achieving full utilization of Hawaii's energy resource programs and the most effective allocation of energy resources throughout the State. Planning is necessary and desirable in order that the State may recognize and declare the major problems and opportunities in the field of energy resources. Both short-range and long-range planning will permit the articulation of broad policies, goals, and objectives; criteria for measuring and evaluating accomplishments of objectives; identification and implementation of programs which will carry out such objectives; and a determination of requirements necessary for the optimum development of Hawaii's energy resources. Such planning efforts will identify present conditions and major problems relating to energy resources, their exploration, development, production, and distribution. It will show the projected nature of the situation and rate of change and present conditions for the foreseeable future based on a projection of current trends in the development of energy resources in Hawaii.

(c) There are many agencies of the federal, state, and county governments in Hawaii, as well as many private agencies, engaged in, or expressing an interest in, various aspects of the exploration, research, distribution,

conservation, and production of all forms of energy resources in Hawaii. Some of these agencies include the university of Hawaii, the department of land and natural resources, the department of planning and economic development, the consumer protection, the federal energy office, and various county agencies, as well as the oil companies, gas stations, and other private enterprises.

(d) There is immediate need to coordinate the efforts of all these agencies, establish and coordinate programs to effectuate the conservation of fuel, to provide for the equitable distribution thereof, and to formulate plans for the development and use of alternative energy sources. There is a need for such coordination so that there will be maximum conservation and utilization of energy resources in the State.

**SECTION 2. Definitions.** As used in this Act, unless the context requires otherwise:

- (a) "Coordinator" means the energy resources coordinator.
- (b) "Energy resources" means and includes fossil fuel, nuclear, geothermal, solar, hydropower, wind, and other means of generating energy.

**SECTION 3. Establishment of energy resources coordinator.** The position of energy resources coordinator is established in the office of the governor. The governor shall appoint and remove the coordinator, who shall not be subject to chapters 76 and 77. The salary of the coordinator shall be set by the governor and shall not be more than the salaries of department heads as prescribed in section 26-52(2). The coordinator shall be included in any benefit program generally applicable to the officers and employees of the State.

**SECTION 4. Powers and duties.** Subject to the approval of the governor, the coordinator shall:

(a) Formulate plans, including objectives, criteria to measure accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the optimum development of Hawaii's energy resources;

(b) Conduct systematic analysis of existing and proposed energy resource programs, evaluate the analysis conducted by government agencies and other organizations and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of energy sources;

(c) Formulate and recommend specific proposals, as necessary, for conserving energy and fuel, including the allocation and distribution thereof, to the governor and to the legislature;

(d) Assist public and private agencies in implementing energy conservation and related measures;

(e) Coordinate the State's energy conservation and allocation programs with that of the federal government, other state governments, governments of nations with interest in common energy resources, and the political subdivisions of the State;

- (f) Develop programs to encourage private and public exploration and research of alternative energy resources which will benefit the State;
- (g) Conduct public education programs to inform the public of the energy situation as may exist from time to time and of the government actions taken thereto;
- (h) Serve as consultant to the governor, public agencies and private industry on matters related to the acquisition, utilization and conservation of energy resources;
- (i) Contract for services when required for implementation of this Act;
- (j) Review proposed state actions which he finds to have significant effect on energy consumption and report to the governor their effect on the energy conservation program, and perform such other services as may be required by the governor and the legislature; and
- (k) Prepare and submit an annual report and such other reports as may be requested to the governor and to the legislature on the implementation of this Act and all matters related to energy resources.

**SECTION 5. Appropriation.** There is appropriated from the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary, to be expended by the office of the governor for the purposes of this Act.

**SECTION 6. Effective date.** This Act shall take effect on July 1, 1974.

(Approved June 14, 1974.)

**ACT 238**

H.B. NO. 2995-74

A Bill for an Act Relating to Disclosure by Liquid Fuel Distributors.

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

**SECTION 1.** The legislature finds that during the 1973-1974 energy crisis, the lack of solid information available concerning the distribution of liquid fuel within the State was appalling. This lack of information led to uncertainties and difficulties in the State's efforts to assess and cope with the energy crisis. The legislature further finds that although the crisis may have abated, the problem of fuel shortages will continue into the future. The State needs to develop and have available pertinent information on liquid fuel distributions in order to be prepared for future contingencies. Such information is vital to the safety, health, and welfare of the people.

It is the purpose of this bill to require information concerning liquid fuel distributions to be made available to the State.

**SECTION 2.** Chapter 416, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

**"Sec. 416- Definitions.** Whenever used in sections 416- to 416- :

"Aviation fuel" means and includes all liquid substances of whatever chemical composition usable for the propulsion of airplanes.

"Director" means the director of regulatory agencies.

"Distributor" means and includes:

- (1) Every person who refines, manufactures, produces, or compounds liquid fuel in the State, and sells it at wholesale;
- (2) Every person who imports or causes to be imported into the State any liquid fuel and sells it at wholesale therein; and
- (3) Every person who acquires liquid fuel through exchanges with another distributor.

"Liquid fuel" or "fuel" means and includes all liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power and includes liquefied petroleum gases, all distillates of and condensates from petroleum, natural gas, coal, coal tar, and vegetable ferments, such distillates and condensates being ordinarily designated as a gasoline, naphtha, benzol, benzine, and alcohols so usable but not restricted to such designation. All aviation fuel which is sold at wholesale for use in airplanes is deemed to be "liquid fuel" or "fuel" whether or not coming within the definition contained in the foregoing sentence.

"Month" or "calendar month" means each full month of the calendar year.

"Person", except where the context or sense otherwise requires, means and includes individuals, firms, associations, or corporations.

"Retail dealer" means and includes a person who purchases liquid fuel from a registered distributor, and sells the liquid fuel at retail.

**Sec. 416- Distributors to register.** Every distributor, and any person before becoming a distributor, shall register as such with the department of regulatory agencies on forms to be prescribed, prepared, and furnished by the department.

**Sec. 416- Statements.** Each distributor shall on or before the last day of each calendar month, file with the director, on forms prescribed, prepared, and furnished by him, a notarized statement showing separately for each county and for the islands of Lanai and Molokai within which and whereon liquid fuel is sold or used during the last preceding month of the calendar year, the following:

- (1) The total number of gallons of liquid fuel refined, manufactured, or compounded by the distributor within the State and sold or used by him, and if for ultimate use in another county or on either island, the name of that county or island;
- (2) The total number of gallons of liquid fuel imported by him or sold or used by him, and if for ultimate use in another county or on either island, the name of that county or island;
- (3) The total number of gallons of fuel sold as liquid fuel, aviation fuel, diesel fuel, and such other types of fuel as required by the director; and
- (4) The total number of gallons of liquid fuel and the types thereof sold to: federal, state, and county agencies, ships stores, or base exchanges, commercial agricultural accounts, commercial nonagricultural accounts, retail dealers, and such other customers as required by the director.

All statements submitted to the department of regulatory agencies under this section shall be a public record.

**Sec. 416- Failure to register; to make and file statements; making false statement unlawful; penalty.** It shall be unlawful for any distributor, or any other person, to fail, neglect, or refuse to register or to make and file any statement required by section 416- in the manner or within the time therein provided or to make any such statement which is false in any particular. Any distributor or any other person violating the requirements of this section, or sections 416- and 416- shall be fined not more than \$5,000."

**SECTION 3.** New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 14, 1974.)

ACT 239

H.B. NO. 2997-74

A Bill for an Act Relating to Petroleum Products.

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

**SECTION 1.** Findings and purpose. The legislature finds that the petroleum industry is a paramount industry of this State and that the production and marketing of petroleum products is an enterprise of significant importance to the economy of the State. The legislature further finds that the safety and welfare of consumers should be adequately protected within the constraints of supply and demand and the life style of the consumer of this State not be disrupted needlessly, by assuring that petroleum products are accounted for in an accurate and definitive manner through the establishment of an equitable and uniform base to facilitate such accurate accountability.

The purpose of this chapter is to compel such accountability by establishing the units of measurement to be used for all purposes, public and private, in matters relating to petroleum products.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER  
PETROLEUM PRODUCT ACCOUNTING ACT**

**Sec. -1 Definitions.** As used in this chapter unless the context otherwise requires:

\*Edited accordingly.

- (1) "Petroleum product" includes automotive gasoline, diesel fuels, fuel oils, liquefied petroleum gas both liquid and vapor, residuals, distillates and fractions, kerosene, aviation fuels, turbine fuels, solvents, hydrocarbons or synthetics, crude oil, lubricating oil, or any other oil or distillate of blends of the above or any other product or by-product normally considered a petroleum product, and synthetic natural gas or natural gas and manufactured gas, or blends thereof.
- (2) "U.S. petroleum gallon" means that amount of petroleum product which occupies 231 cubic inches, exactly, when its temperature is sixty degrees fahrenheit.
- (3) "Cubic foot" means that amount of liquefied petroleum product, vapor, or natural gas vapor, or synthetic natural gas vapor, or any blend of the above, which will occupy 1728 cubic inches, exactly, when its temperature is sixty degrees fahrenheit at a pressure of 760 mm of Hg. The density of the Hg shall be 13.5951 grams per cubic centimeter at an acceleration due to gravity of 980.665 centimeters per second, per second.
- (4) "Director" and "deputy director" mean, respectively, the state director of weights and measures and the state deputy director of weights and measures, as provided for in section 486-6.
- (5) "Division" means the state division of weights and measures.

**Sec. -2 Applicability.** This chapter shall apply to the blending, charging, dealing, dispensing, distributing, exchanging, exporting, handling, importing, labeling, loaning, manufacturing, marketing, measuring, packaging, piping, processing, reprocessing, producing, refining or rerefining, retailing, selling, transporting, taxing, or wholesaling, or to any of the variant forms of the above or to the person, equipment, measurements, and calculations incident to such actions or activities.

**Sec. -3 Measurement standard.** (a) Any petroleum product which is in a liquid state under conditions of 760 millimeters of Hg at sixty degrees fahrenheit shall be measured in terms of U.S. petroleum gallons; its multiple or decimal, submultiples, or compatible units of the SI, in addition to any measurement in terms of other units.

(b) Any petroleum product which is in a vapor state under conditions of 258.575 millimeters or less of Hg at sixty degrees fahrenheit shall be measured in terms of cubic feet or its multiple or decimal submultiples, or compatible units of the SI, in addition to any measurement in terms of other units.

**Sec. -4 General powers and duties of director.** The director shall enforce this chapter, through the division of weights and measures. He shall keep accurate records of all petroleum transactions and report on them annually to the governor.

**Sec. -5 Specific powers and duties of director.** (a) The director shall, in accordance with chapter 91, adopt from time to time such rules as are necessary to implement and enforce this chapter.

(b) The director may delegate any of his duties or authority to the deputy director as he deems necessary for the efficient enforcement of this chapter.

(c) The director may exempt any person from compliance with this chapter if he finds compelling reasons for so doing and that such action is in the public's best interest.

**Sec. -6 Violations; penalties.** Any person who commits any of the prohibited acts or omits any of the prescribed acts, herein required or required in any rule adopted by the director shall be guilty of a misdemeanor. Each day that a violation exists, or is continued, or continues to exist, shall be construed as a separate punishable offense.

**Sec. -7 Investigations.** The director may, upon his own initiative, investigate suspected violations of this chapter and shall investigate each complaint registered under this chapter. The director may resort to suitable warnings rather than prosecution for minor offenses or those offenses which have been discontinued should he so elect."

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

(Approved June 14, 1974.)

A Bill for an Act Relating to a State Program for Energy Planning and Conservation.

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

**SECTION 1. Findings.** The Legislature finds that there now exists a serious shortage of petroleum products in the nation and in Hawaii; this shortage is affecting the economy of Hawaii and the daily lives of Hawaii's people. The general public needs to be fully informed of the implications of fuels and energy limitations. Planning needs to be undertaken and methods developed to encourage the resource development and conservation of fuels and energy. It is necessary that the people of Hawaii voluntarily reduce their consumption of fuels and energy and accelerate their efforts to develop new or alternative sources in order to meet their essential needs for the future.

**SECTION 2.** Chapter 201 of the Hawaii Revised Statutes is amended by adding thereto a new section to be appropriately designated and to read:

**"Sec. 201- State program for energy planning and conservation.** The department shall develop a state program for energy planning and conservation. The program shall consist of short- and long-range planning for the development and promulgation of methods to encourage voluntary conservation of gasoline, diesel oil, natural gas, propane, heating oils, other fuels, and electrical energy, and efficient development of new or alternative sources of such fuels and energy. The information resulting from such methods is to be disseminated to the people of Hawaii through all forms of mass communication media, public and private schools, private and civic organizations, and all other appropriate means. Public information offices of other

## **ACT 241**

State and county agencies may be called upon for assistance in the development of such program."

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

(Approved June 14, 1974.)

## **ACT 241**

**H.B. NO. 2197-74**

**A Bill for an Act Relating to Reservation and Disposition of Government Mineral Rights.**

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

**SECTION 1.** Findings and determination. The Legislature of the State of Hawaii finds and declares that the geothermal resources of the State provide an energy potential which may be utilized to supply power economically with minimal adverse environmental effects. It is the intent of the Legislature to establish in law the definition and ownership of the geothermal resources, to encourage their development, and to provide for their administration and management in the public interest.

**SECTION 2.** Section 182-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 182-1 Definitions.** In this chapter, if not inconsistent with the context:

- (1) 'Minerals' means any or all of the oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits whether solid, gaseous, or liquid, including all geothermal resources, in, on, or under any land, fast or submerged; but does not include sand, rock, gravel, and other materials suitable for use and used in general construction.
- (2) 'Board' means the board of land and natural resources.
- (3) 'Reserved lands' means those lands owned or leased by any person in which the State or its predecessors in interest has reserved to itself expressly or by implication the minerals or right to mine minerals, or both.
- (4) 'State lands' includes all public and other lands owned or in possession, use and control of the then Territory of Hawaii or the State of Hawaii, or any of its agencies and this chapter shall apply thereto.
- (5) 'Occupier' means any person entitled to the possession of land under a certificate of occupation, a nine hundred and ninety-nine year homestead lease, a right of purchase lease, a cash freehold agreement, or under a deed, grant, or patent, and any person entitled to possession under a general lease, and also means and includes the assignee of any one of the above.

- (6) 'Force majeure' means any fire, explosion, flood, volcanic activity, seismic or tidal wave, mobilization, war (whether declared or undeclared), act of any belligerent or any such war, riot, rebellion, the elements, power shortages, strike, lock-out, difference of workmen, any cause which prevents the economic mining of the lease, or any other cause beyond the reasonable control of the party affected, whether or not of the nature or character hereinabove specifically enumerated.
- (7) 'Mining operations' means the process of excavation, extraction, and removal of minerals, and the development of any and all geothermal resources, from the ground, design engineering, other engineering, erection of transportation facilities and port facilities, erection of necessary plants, other necessary operations or development approved by the board preceding or connected with the actual extraction of minerals and the development of geothermal resources.
- (8) 'Mining lease' means a lease of the right to conduct mining operations, including geothermal resource development, on state lands and on lands sold or leased by the State or its predecessors in interest with a reservation of mineral rights to the state.
- (9) 'Geothermal resources' shall mean the natural heat of the earth, the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, such natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas or other hydrocarbon substances."

**SECTION 3.** 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 material or the underscoring.\*

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

(Approved June 14, 1974.)

A Bill for an Act Relating to the Siphoning or Taking of Gasoline.

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

**SECTION 1.** The purpose of this Act is to make the siphoning or taking, in any manner, of gasoline, diesel fuel or other related petroleum products used as propellants, theft in the second degree.

**SECTION 2.** Section 832, part IV, chapter 8, Hawaii Penal Code, title 37, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

\*Edited accordingly.

## ACT 243

(1) A person commits the offense of theft in the second degree if he commits theft:

- (a) Of property or services the value of which exceeds \$50; or
- (b) Of gasoline, diesel fuel or other related petroleum products used as propellants of any value not exceeding \$200.

SECTION 3. 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 material, or the underscoring.\*

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

(Approved June 14, 1974.)

## ACT 243

S.B. NO. 1245

A Bill for an Act Relating to Ecology, Environment and Recreation.

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

SECTION 1. Purpose. Given proper resources, opportunities, and motivation, older persons can make a valuable contribution to society. Because of our strong plantation influence, many of our citizens today have a deep interest in agricultural or farming activities. Today however, because of our crisis in housing and available lands, many of the elderly and younger people are housed in high rise buildings or planned unit developments with little or no open space and very seldom any consideration for gardening. Yet when gardens are provided for their use and upkeep, their entire mode of living is improved. They are pleasantly and productively engrossed in a recreational activity that can also provide them with food for consumption. Vacant public lands can be made productive by our citizens in areas like Liliha, Kalihi, Kaimuki, other central urban areas, Haleiwa, Kahuku, leeward Oahu, and places with concentrations of senior citizens. Some of these areas have already been pinpointed as having lands available. Therefore, it is the purpose of this Act to make public lands available for our citizens which could be used for gardening activities.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 171- Agricultural plots.** The department of land and natural resources, in cooperation with the department of agriculture and the city and county of Honolulu, shall adopt rules in accordance with chapter 91 to allow for use of vacant public lands for farming or agricultural recreation."

SECTION 3. The following sum is appropriated out of the general revenues of the State of Hawaii or so much thereof as may be necessary for the purpose stated:

- |  |          |
|--|----------|
| (1) For the purchase of minor equipment and supplies for farm and agricultural use . . . . . | \$50,000 |
|--|----------|

\*Edited accordingly.

SECTION 4. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 5. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

SECTION 6. This Act shall take effect on July 1, 1974.

(Approved June 15, 1974.)

## ACT 244

H.B. NO. 104

A Bill for an Act Establishing Access to and Transit Along Shorelines and Waters Under State Jurisdiction.

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

**SECTION 1. Findings and purpose.** The legislature finds that miles of shorelines and waters under the jurisdiction of the State are inaccessible to the public due to the absence of public rights-of-way; that the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties; that the population of the islands is increasing while the presently accessible beach and shoreline areas remain fixed; and that the absence of public access to Hawaii's shorelines constitutes an infringement upon the fundamental right of free movement in public space and of access to and use of the sea. The purpose of this Act is to guarantee the right of public access to the sea and shorelines and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors along the shorelines in the State.

**SECTION 2. Acquisition of lands for public rights-of-way and public transit corridors.** When the provisions of section 46-6.5 are not applicable, the various counties shall purchase land for public rights-of-way to the shorelines and the sea and for public transit corridors where topography is such that safe transit does not exist along the shoreline.

**SECTION 3. Criteria for public rights-of-way.** A distance at reasonable intervals taking into consideration the topography and physical characteristics of the land the public is desirous of reaching is established as the maximum between public rights-of-way for the purposes of this Act.

**SECTION 4. Right of transit along shorelines.** The right of access to Hawaii's shorelines includes the right of transit along the shorelines under conditions of safety for the public.

**SECTION 5. Transit area and public transit corridor defined.** The right of transit along the shoreline exists below the private property line which is defined as being along the upper reaches of the wash of waves,

\*Edited accordingly.

## **ACT 245**

usually evidenced by the edge of vegetation or by the debris left by the wash of waves. However, in areas of cliffs or areas where the nature of the topography is such that there is no reasonably safe transit for the public along the shoreline below the private property lines, the counties by condemnation shall establish along the makai boundaries of the property lines public transit corridors which shall be not less than six feet wide.

**SECTION 6. Procedure.** The provisions of this Act shall be executed under provisions of chapter 101, Hawaii Revised Statutes.

**SECTION 7. State and county co-sponsorship of programs.** The department of land and natural resources shall enter into agreements with the council of any county providing for the acquisition of public rights-of-way and public transit corridors pursuant to this Act; provided that the county shall match the funds which have been appropriated by the legislature. The development and maintenance of the rights-of-way and public transit corridors shall be the responsibility of the county.

**SECTION 8. Expending agency.** The department of land and natural resources shall expend all sums appropriated for the purposes of this Act and in accordance with section 7 of this Act.

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

(Approved June 15, 1974.)

## **ACT 245**

S.B. NO. 965

A Bill for an Act Relating to State Parks, Historical Objects and Sites, and Outdoor Recreation; Rules and Enforcement.

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

**SECTION 1.** Chapter 184, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 184-5 Rules and Enforcement; penalty.** The department may, subject to chapter 91, make, amend and repeal rules and regulations having the force and effect of law, governing the use and protection of the state park system, including state monuments as established under section 6-12, and including any private property over which there has been granted to the State any right of free public access or use for recreational, park, viewing of any historical, archaeological, natural or scientific feature, object or site, or related purpose, or property thereon, and also governing the use and protection of any recreational, scenic, historical, archaeological, natural, scientific and related resources of state and private lands, and enforce such rules and regulations. Any person who violates any of the rules and regulations so prescribed shall be held liable for restoration of or restitution for any damages to public or private property and shall also be subject to the confiscation of any tools and equipment used in such violation and of any plants, objects or artifacts removed illegally from such properties, and shall be fined not more than \$500, or imprisoned not more than 90 days, or both. Except as other-

wise provided by the department, the more restrictive rules and regulations of the department shall apply in any unit of the state park system or any public use area which is also governed by the rules and regulations of any forest reserve, public hunting ground or other department district or area.

The department may confer on the director of state parks and upon other employees of the division the powers of police officers, including the power to serve and execute warrants and arrest offenders in all matters relating to the enforcement, in any state park, parkway or state monument, or in any private property over which there has been granted to the State any right of free public access or use for recreational, park, viewing of any historical, archaeological, natural or scientific feature, object or site, or related purpose of (1) the laws applicable to the state parks and parkways and to historical objects and sites and the rules and regulations adopted under the provisions of this section and (2) traffic laws and ordinances. Such police powers shall also extend to the enforcement of the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural, and archaeological, scientific and related resources of state and private lands. Such conferring of powers shall include the designation of such employees as state parks enforcement officers."

SECTION 2. Chapter 184, Hawaii Revised Statutes, is amended by adding new sections to be appropriately numbered and to read as follows:

**"Sec. 184- Arrest.** Except when authorized by law to immediately take a person arrested for violation of the state parks, historical objects and sites, and outdoor recreation laws and regulations; traffic laws and ordinances; and the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state and private lands before a magistrate, any state parks enforcement officer upon arresting any person for violation of the state parks, historical objects and sites, and outdoor recreation laws and regulations; traffic laws and ordinances; and laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state and private lands shall take the name, address, social security number and other pertinent information of the person and shall issue to him a summons and citation, printed in the form hereinafter described, mandating warning him to appear and answer to the charge against him at a certain place and at a time within seven days after the arrest.

**"Sec. 184- Summons or Citations.** There shall be a form of summons or citation for use in citing violators of the state parks, historical objects and sites, and outdoor recreation laws and regulations; traffic laws and ordinances; and the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state lands and lands within the conservation district which do not man-

## **ACT 246**

date the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summons or citations 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 regulations of the State. The form and content of the summons or citations shall be as adopted or prescribed by the district courts.

In every case when 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.

**"Sec. 184- Failure to obey summons.** Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the state park enforcement officer upon his arrest for violation of the state parks, historical objects and sites, and outdoor recreation laws and regulations, traffic laws and ordinances; and the laws of the State and the rules and regulations of the department relative to the protection and proper utilization of the recreational, scenic, historical, natural and archaeological, scientific and related resources of state lands and lands within the conservation district, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$500 or be imprisoned not more than six months, or both.

If any person fails to comply with a summons or citation issued to him, or if any person fails or refuses to deposit bail as required and within the time permitted, the officer shall cause a complaint to be entered against the person and secure the issuance of a warrant for his arrest."

**SECTION 3.** 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 material, or the underscoring.\*

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

(Approved June 15, 1974.)

**ACT 246**

H.B. NO. 2067-74

A Bill for an Act Relating to Environmental Impact Statements.

*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:

\*Edited accordingly.

**"CHAPTER  
ENVIRONMENTAL QUALITY COMMISSION  
AND ENVIRONMENTAL IMPACT STATEMENTS**

**Sec. -1 Definitions.** As used in this chapter unless the context otherwise requires:

- (1) 'Acceptance' means a formal determination by an agency, the governor of the State, or the mayor of a county, that the document required to be filed pursuant to section -4 fulfills the definition of an environmental impact statement, adequately describes identifiable environmental impacts, and satisfactorily responds to comments received during the review of the statement.
- (2) 'Action' means any program or project to be initiated by any agency or applicant.
- (3) 'Agency' means any department, office or board or commission of the State or county government which is a part of the executive branch of that government.
- (4) 'Applicant' means any person that, pursuant to statute, ordinance, rule, or regulation, officially requests approval for a proposed action.
- (5) 'Commission' means the environmental quality commission.
- (6) 'Environmental impact statement' or 'statement' means an informational document prepared in compliance with applicable rules and regulations promulgated under section -5 and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic and social welfare of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.
- (7) 'Person' includes any individual, partnership, firm, association, trust, estate, private corporation, or other legal entity other than agencies.
- (8) 'Significant effect' means the sum of those effects that affect the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State's environmental policies or long-term environmental goals as established by law, or adversely affect the economic or social welfare.

**Sec. -2 Public records and notice.** All statements and other documents prepared under the provisions of this chapter shall be made available for inspection by the public during established office hours.

The commission shall inform the public of notices filed by agencies of determinations that statements are required or not required, of the availability of statements for review and comments, and of the acceptance or non-acceptance of statements. The commission shall inform the public by the publication of a periodic bulletin to be available to persons requesting this information through its office and through public libraries.

**Sec. -3 Environmental quality commission.** There is established in the office of the governor an environmental quality commission which shall administer this chapter. The commission may delegate to any person such power or authority vested in the commission as it deems reasonable and proper for the effective administration of this chapter, except the power to make, amend, or repeal rules and regulations. The commission shall be composed of ten members appointed by the governor as provided in section 26-34. The term of each member shall be four years, provided that of the members initially appointed four members shall serve for four years, four members shall serve for three years, and the remaining two members shall serve for two years. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments. At least part of the membership shall include representatives of labor, management, the construction industry, environmental interest groups, real estate groups, and the architectural, engineering, and planning professions. The director of environmental quality control shall serve as ex officio voting member. The governor shall appoint the chairman. The members shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties.

**Sec. -4 Applicability and requirements.** (a) Except as otherwise provided, an environmental impact statement shall be required for:

- (1) Any action which will probably have significant effects and which proposes the use of State or county lands or the use of State or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies.
- (2) Any action within the classes of action specified below:
  - (A) All actions proposing any use within any land classified as conservation district by the State land use commission under chapter 205 which will probably have significant environmental effects.
  - (B) All actions proposing any use within the shoreline area as defined in section 205-31, Hawaii Revised Statutes or within 300 feet seaward of it which will probably have significant environmental effects.
  - (C) All actions proposing any use within any historic site as designated in the National Register or Hawaii Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or chapter 6, Hawaii Revised Statutes which will probably have significant environmental effects.
  - (D) All actions proposing any use within the Waikiki-Diamond Head area of Oahu, the boundaries of which are delineated on the development plan for the Kalia, Waikiki, and Diamond Head areas (map designated as portion of 1967 city and county of Honolulu General Plan Development Plan Waikiki-Diamond

Head [Section A]), which will probably have significant environmental effects.

- (E) All actions proposing any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation, and which will probably have significant environmental effects, except all actions proposing any new county general plan or amendments to any existing county general plan initiated by a county.

(b) Whenever an agency proposes to implement an action proposing the use of State or county lands or the use of State or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted or funded, which is not included in any of the lists referred to in section -5, that agency shall assess such action at the earliest practicable time to determine whether an environmental impact statement shall be required; provided that the statement shall be required only if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the commission which shall, in turn, publish the agency determination for the public's information pursuant to section -2. The statement, if required, shall be made available for public review and comment through the commission. The commission shall inform the public of the availability of the statement for public review and comments pursuant to section -2. The agency shall respond in writing to comments received during the review. Following this review by the public and any subsequent revision by the agency, the commission, when requested by the agency, may make a recommendation as to the acceptability of the statement. The final authority to accept such a statement shall rest with:

- (1) The governor, or his authorized representative, whenever an action proposes the use of State lands or the use of State funds; or
- (2) The mayor, or his authorized representative, of the respective county whenever an action proposes only the use of county lands or county funds.

Acceptance of a required statement shall be a condition precedent to the use of State or county lands or of State or county funds in implementing the proposed action. Upon acceptance or non-acceptance of the statement, the governor or mayor, or his authorized representative, shall file notice of such determination with the commission. The commission shall, in turn, publish the determination of acceptance or non-acceptance of the statement pursuant to section -2.

(c) Whenever an applicant proposes to implement an action specified by sec. -4(a) (2) and which requires approval of an agency, the agency receiving the request for approval shall assess such proposed action at the earliest practicable time to determine whether an environmental impact statement shall be required; provided that the statement shall be required only if the agency finds that the proposed action may have a significant effect on the environment. The agency shall file notice of such determination with the commission which shall, in turn, publish the agency determination

for the public's information pursuant to section -2. The statement, if required, shall be prepared by the applicant who shall file the statement with the agency. The statement shall be made available for public review and comments through the commission. The commission shall inform the public of the availability of the statement for public review and comments pursuant to section -2. The applicant shall respond in writing to comments received during the review. Following the review by the public and any subsequent revision by the applicant, the commission, when requested by the applicant or agency, may make a recommendation as to the acceptability of the statement. The authority to accept such statement shall rest with the agency initially receiving the request for approval. Acceptance of a required statement shall be a condition precedent to approval of the request and commencement of the proposed action. Upon acceptance or non-acceptance of the statement, the agency shall file notice of such determination with the commission. The commission shall, in turn, publish the determination of acceptance or non-acceptance of the statement pursuant to section -2. The agency receiving the request shall, within sixty days of receipt of the statement, notify the applicant and the commission of the acceptance or non-acceptance of the statement. The statement shall be deemed to be accepted if the agency fails to accept or not accept the statement within sixty days after receipt of the statement.

In any acceptance or non-acceptance, the agency shall provide the applicant with the specific findings and reasons for its determination. An applicant may, within sixty days after non-acceptance of a statement by an agency, appeal the non-acceptance to the environmental quality commission, which shall, within thirty days of receipt of the appeal, notify the applicant of its determination. In any affirmation or reversal of an appealed non-acceptance, the commission shall provide the applicant and the agency with specific findings and reasons for its determination. The agency shall abide by the commission's decision.

(d) Whenever an applicant simultaneously requests approval from two or more agencies and there is a question as to which agency has responsibility of complying with subsection (c) with respect to a particular action, the commission, after consultation with the agencies involved, shall determine which agency is responsible.

(e) Whenever an agency proposes to implement an action or receives a request for approval, the agency may consider and, where applicable and appropriate, incorporate by reference in whole or in part previous determinations of whether a statement is required and previously accepted statements. The commission shall, by rules and regulations, establish criteria and procedures for the use of previous determinations and statements.

(f) Whenever an action is subject to both the National Environmental Policy Act of 1969 (Public Law 91-190) and the requirements of this chapter, the draft statement for such action shall be submitted to the environmental quality commission for distribution, review, and evaluation at least 30 days prior to submission of the draft statement to the President's Council on Environmental Quality. The final statement for such action shall be first

approved, by the governor or his authorized representative, whenever an action proposes the use of State lands or the use of State funds, or by the mayor, or his authorized representative, of the respective county whenever an action proposes only the use of county lands or the use of county funds, prior to the submission of the statement to the President's Council on Environmental Quality.

(g) A statement that is approved with respect to a particular action shall satisfy the requirements of this chapter and no other statement for that proposed action shall be required.

**Sec. -5 Rules and regulations.** After consultation with the affected agencies, the commission shall make, amend, and repeal rules and regulations to implement the provisions of this chapter. The adoption, amendment, and repeal of all rules and regulations shall be subject to chapter 91. At least one public hearing shall be held in each county prior to the final adoption, amendment, or repeal of such rules and regulations. The rules and regulations shall:

- (a) Prescribe the contents of an environmental impact statement;
- (b) Prescribe procedures whereby a group of proposed actions may be treated by a single statement;
- (c) Prescribe procedures for the submission, distribution, review, and approval or disapproval of a statement;
- (d) Prescribe procedures for the applicant to appeal a determination to the environmental quality commission;
- (e) Establish criteria to determine whether a statement is acceptable or not;
- (f) Establish a list of classes of action within the actions specified in section -4(a) (1) and section -4(a) (2) which, because such action will probably have minimal or no significant effect on the environment, shall be exempt from the preparation of a statement;
- (g) Establish a list of classes of action, within the actions specified in section -4(a) (1) and section -4(a) (2), which provide essential public utility services and which, because such action will probably have minimal or no significant effect on the environment, shall be exempt from the preparation of a statement;
- (h) Prescribe procedures for informing the public of determinations that a statement is either required or not required under section -4(b) and (c), and for informing the public of the availability of statements for review and comments, and for informing the public of the acceptance of non-acceptance of the statement.

**Sec. -6 Limitation of actions.** (a) Any judicial proceeding, the subject of which is the lack of determination that a statement is or is not required for a proposed action not otherwise exempted, shall be initiated within one hundred eighty days of the agency's decision to carry out or approve the action, or if a proposed action is undertaken without a formal determination by the agency that a statement is or is not required, a judicial proceeding

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shall be instituted within one hundred eighty days after the proposed action is started.

(b) Any judicial proceeding, the subject of which is the determination that a statement is or is not required for a proposed action, shall be initiated within sixty days after the public has been informed of such determination pursuant to section -2.

(c) Any judicial proceeding, the subject of which is the acceptability of a statement, shall be initiated within sixty days after the public has been informed pursuant to section -2 of the acceptance of such statement; provided that only affected agencies, or persons who will be aggrieved by a proposed action and who provided written comments to such statement during the designated review period shall have standing to file suit; further provided that contestable issues shall be limited to issues identified and discussed by the plaintiff in the written comments.

**Sec. -7 Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application; and to this end, the provisions of this chapter are declared to be severable."

**SECTION 2.** 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 material, or the underscoring; provided that the section "[Section A]" and the brackets around the section shall not be deleted.\*

**SECTION 3. Effective date.** This Act shall take effect upon its approval. This Act is not retroactive and shall not apply to those actions which have received approvals from appropriate agencies authorized to approve actions covered by this Act. For those actions pending approval as of the effective date of this Act or for which an applicant requests approval prior to the effective date of initial rules and regulations adopted by the commission, the agency authorized to approve such action, at its discretion, may require a statement from the applicant; provided, that any statement which has been accepted on or before the effective date of rules and regulations shall be deemed to be in compliance with this Act and no further statement shall be required.

(Approved June 15, 1974.)

## **ACT 247**

H.B. NO. 2547-74

A Bill for an Act Relating to Environmental Policy.

*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:

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\*Edited accordingly.

## “CHAPTER STATE ENVIRONMENTAL POLICY

**Sec. -1. Purpose.** The purpose of this Act is to establish a state policy which will encourage productive and enjoyable harmony between man and his environment, promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man, and enrich the understanding of the ecological systems and natural resources important to the people of Hawaii.

**Sec. -2. Definitions.** As used in this chapter unless the context otherwise requires:

- (1) ‘Agency’ means any department, office, board, or commission of the State or county government that is a part of the executive branch of that government.
- (2) ‘Environment’ means the complex of physical and biological conditions that influence human well being, including land, air, water, minerals, flora, fauna, energy, noise, and places of historic or aesthetic significance.

**Sec. -3. Environmental policy.** It shall be the policy of the State, through its programs, authorities, and resources to:

(a) Conserve the natural resources, so that land, water, mineral, visual, air and other natural resources are protected by controlling pollution, by preserving or augmenting natural resources, and by safeguarding the State’s unique natural environmental characteristics in a manner which will foster and promote the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of the people of Hawaii.

(b) Enhance the quality of life by:

- (1) Setting population limits so that the interaction between the natural and man-made environments and the population is mutually beneficial;
- (2) Creating opportunities for the residents of Hawaii to improve their quality of life through diverse economic activities which are stable and in balance with the physical and social environments;
- (3) Establishing communities which provide a sense of identity, wise use of land, efficient transportation, and aesthetic and social satisfaction in harmony with the natural environment which is uniquely Hawaiian; and
- (4) Establishing a commitment on the part of each person to protect and enhance Hawaii’s environment and reduce the drain on non-renewable resources.

**Sec. -4.** In pursuance of the state policy to conserve the natural resources and enhance the quality of life, all agencies, in the development of programs shall, insofar as practicable, consider the following guidelines:

**(a) Population.**

- (1) Recognize population impact as a major factor in environmental degradation and adopt guidelines to alleviate this impact and minimize future degradation;
- (2) Recognize optimum population levels for counties and districts within the State, keeping in mind that these will change with technology and circumstance, and adopt guidelines to limit population to the levels determined.

**(b) Land, Water, Mineral, Visual, Air and Other Natural Resources.**

- (1) Encourage management practices which conserve and fully utilize all natural resources;
- (2) Promote irrigation and waste water management practices which conserve and fully utilize vital water resources;
- (3) Promote the recycling of waste water and solid wastes;
- (4) Encourage management practices which conserve and protect watersheds and water sources, forest, and open space areas;
- (5) Establish and maintain natural area preserves, wildlife preserves, forest reserves, marine preserves, and unique ecological preserves;
- (6) Maintain an integrated system of state land use planning which coordinates the state and county general plans.

**(c) Flora and fauna.**

- (1) Protect endangered species of indigenous plants and animals and introduce new plants or animals only upon assurance of negligible ecological hazard;
- (2) Foster and planting of native as well as other trees, shrubs, and flowering plants compatible to the enhancement of our environment.

**(d) Parks, Recreation, and Open Space.**

- (1) Establish, preserve and maintain scenic, historic, cultural, park and recreation areas, including the shorelines, for public recreational, educational, and scientific uses;
- (2) Protect the shorelines of the State from encroachment of man-made improvements, structures, and activities;
- (3) Promote open space in view of its natural beauty not only as a natural resource but as an ennobling, living environment for its people.

**(e) Economic Development.**

- (1) Encourage industries in Hawaii which would be in harmony with our environment;
- (2) Promote and foster the agricultural industry of the State; and preserve and conserve productive agricultural lands;
- (3) Encourage federal activities in Hawaii to protect the environment;
- (4) Encourage all industries including the fishing, aquaculture, oceanography, recreation, and forest products industries to protect the environment;
- (5) Establish visitor destination areas with planning controls which shall include but not be limited to the number of rooms.

(f) **Transportation.**

- (1) Encourage transportation systems in harmony with the life-style of the people and environment of the State;
- (2) Adopt guidelines to alleviate environmental degradation caused by motor vehicles;
- (3) Encourage public and private vehicles and transportation systems to conserve energy, reduce pollution emission, including noise, and provide safe and convenient accommodations for their users.

(g) **Energy.**

- (1) Encourage the efficient use of energy resources.

(h) **Community Life and Housing.**

- (1) Foster life-styles compatible with the environment; preserve the variety of life-styles traditional to Hawaii through the design and maintenance of neighborhoods which reflect the culture and mores of the community;
- (2) Develop communities which provide a sense of identity and social satisfaction in harmony with the environment and provide internal opportunities for shopping, employment, education, and recreation;
- (3) Encourage the reduction of environmental pollution which may degrade a community;
- (4) Foster safe, sanitary, and decent homes;
- (5) Recognize community appearances as major economic and aesthetic assets of the counties and the State; encourage green belts, plantings, and landscape plans and designs in urban areas; and preserve and promote mountain-to-ocean vistas.

(i) **Education and Culture.**

- (1) Foster culture and the arts and promote their linkage to the enhancement of the environment;
- (2) Encourage both formal and informal environmental education to all age groups.

(j) **Citizen Participation.**

- (1) Encourage all individuals in the State to adopt a moral ethic to respect the natural environment; to reduce waste and excessive consumption; and to fulfill the responsibility as trustees of the environment for the present and succeeding generations; and
- (2) Provide for expanding citizen participation in the decision-making process so it continually embraces more citizens and more issues."

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

(Approved June 15, 1974.)

A Bill for an Act Relating to Environmental Quality Control.

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

## ACT 249

SECTION 1. Section 341-6 of the Hawaii Revised Statutes is amended to read as follows:

**"Sec. 341-6 Functions of the environmental council.** The council shall serve as a liaison between the director and the general public by soliciting information, opinions, complaints, recommendations and advice concerning ecology and environmental quality through public hearings or any other means and by publicizing such matters as requested by the director pursuant to section 341-4(b) (4). The council may make recommendations concerning ecology and environmental quality to the director and shall meet at the call of the director. The council shall monitor the progress of State, county, and federal agencies in achieving the State's environmental goals and policies and shall make an annual report with recommendations for improvement to the governor, the legislature, and the public no later than January 31 of each year. All State and county agencies shall cooperate with the council and assist in the preparation of such a report by responding to requests for information made by the council."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.\*

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

(Approved June 15, 1974.)

## ACT 249

H.B. NO. 2065-74

A Bill for an Act Relating to Soil Erosion and Sediment Control.

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

SECTION 1. **Purpose and findings.** (a) The purpose of this Act is to establish a means whereby soil erosion and sediment control measures can be enacted by the Department of Health and the various counties.

(b) The Legislature finds that erosion continues to be a serious problem throughout the State of Hawaii; urban and highway construction and unprotected agricultural lands have all contributed to increased erosion and sediment problems; the deposition of sediment in coastal waters is detrimental to navigation, recreation, and aquatic resources; the State Department of Health enforces the water quality standards of the State; soil and water conservation districts, established under Chapter 180, HRS, provide voluntary conservation and protection of land and water resources; all counties have adopted or are preparing ordinances for soil erosion and sediment control; the City and County of Honolulu requires the Department of Health to approve all grading work; and there is a need for a state-wide comprehensive and coordinated soil erosion and sediment control law for the protection of the land, water, and other resources of the State of Hawaii.

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\*Edited accordingly.

It is therefore declared that the policy of this Act is to strengthen and extend the present erosion and sediment control activities and programs of the State of Hawaii; to conserve and protect the land, water, and other resources of the State; to encourage all counties to enact ordinances for soil erosion and sediment control; and to require all State agencies to conform to the soil erosion and sediment control ordinances adopted by the various counties.

**SECTION 2.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

## **"CHAPTER SOIL EROSION AND SEDIMENT CONTROL"**

### **Sec. -1. Definitions.**

- (1) 'Land Disturbing Activity' means any land change which may result in soil erosion from water or wind and the movement of sediment into state waters or onto lands in the State including, but not limited to, tilling, clearing, grading, excavating, transporting, and filling of land other than federal lands, except that the term shall not include such minor land disturbing activities as home gardens and individual home landscaping, repairs, and maintenance work.
- (2) 'Persons' means any individual, partnership, firm, association, joint-venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, municipality, and other political subdivisions of the State, any interstate body or any other legal entity.
- (3) 'State Waters' means all waters, fresh, brackish or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as a part of a pollution control system are excluded.
- (4) 'Conservation Plan' or 'Plan' means a plan for the control of soil erosion and sediment resulting from a land-disturbing activity.
- (5) 'Conservation Standards' or 'Standards' means standards adopted within 90 days of the passage of this Act by the Department of Health.
- (6) 'Department of Health' or 'Department' shall mean the Department of Health of the State of Hawaii.
- (7) 'Soil and Water Conservation Districts' or 'District' means a governmental subdivision of this State, and a public body corporate and politic, organized under Chapter 180, HRS.
- (8) 'County' means all the County Governments of Honolulu, Maui, Kauai, or Hawaii.

**Sec. -2. Erosion and sediment control.** (a) The County Governments, in cooperation with the Soil and Water Conservation Districts and other

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appropriate State and Federal agencies, shall enact ordinances for the purpose of controlling soil erosion and sediment.

(b) The ordinance for erosion and sediment control shall include but not be limited to the following:

- (1) Be based on relevant physical and developmental information concerning the watersheds and drainage basins of the county and/or State including but not limited to data relating to land use, soil, hydrology and geology, size of land area being disturbed, approximate water bodies and their characteristics, transportation, and public facilities and services.
- (2) Include such survey of land and waters as may be deemed appropriate by the County or required by any applicable law to identify areas including multi-jurisdictional and watershed areas with critical erosion and sediment problems; and
- (3) Contain standards for various types of soil and land uses, which standards shall include criteria, techniques, and methods for the control of erosion and sediment resulting from land-disturbing activities.
- (4) Include a provision whereby standards shall be deemed met if it can be shown that the land is being managed in accordance with soil conservation practices acceptable to the applicable soil and water conservation district directors, and that a comprehensive conservation program is being actively pursued.

**Sec. -3. Limitation of enactment of ordinances.** The counties shall enact ordinances within one year from the date of this law.

**Sec. -4. Department of Health.** The department of health shall adopt conservation standards within 90 days after passage of this Act. Upon the failure of any county or counties to enact soil erosion and sediment control ordinances within one year from the date of this bill, the department of health shall then, promulgate rules and regulations within 180 days, to be effective within those counties failing to enact such ordinances.

**Sec. -5. Separability.** If any provision of this Act is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions of this Act."

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

(Approved June 15, 1974.)

**ACT 250**

H.B. NO. 2860-74

A Bill for an Act Relating to Environmental Quality.

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

**SECTION 1.** Section 342-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-11 Penalties.** (a) Violation of the vehicular noise control regulations and vehicular smoke emission regulations promulgated by the department pursuant to this chapter shall constitute a violation as defined in the Hawaii Penal Code, Sec. 107, Session Laws of Hawaii 1972 and shall be enforceable by police officers. The fine for this violation shall be not less than \$25 nor more than \$2500 for each separate offense. Each day of violation shall constitute a separate offense.

(b) Violation of the open burning control regulations promulgated by the department pursuant to this chapter shall constitute a violation as defined in the Hawaii Penal Code, Sec. 107, Session Laws of Hawaii 1972 and shall be enforceable by police officers. The fine for this violation shall not exceed \$10,000 for each separate offense. Each day of violation shall constitute a separate offense.

(c) Any person who violates this chapter or any rule or regulation, other than vehicular noise control, vehicular smoke emission control and open burning control regulations, shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection, other than the penalty imposed for violations of vehicular noise control, vehicular smoke emission and open burning regulations, shall be considered a civil action.

(d) Any person who willfully or negligently violates part III of this chapter or any rule or regulation promulgated by the department pursuant to Part III of this chapter shall be punished by a fine of not less than \$2,500 nor more than \$25,000, per day of violation or by imprisonment for not more than one year, or both.

(e) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building or place which he is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

SECTION 2. Section 342-22, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-22 Powers and duties, specific.** In addition to any other power or duty prescribed by law in this part, the director shall prevent, control, and abate air pollution in the State. In the discharge of this duty, the director may:

- (1) Establish by rule or regulation the control of open burning, and the control of vehicular smoke emission;
- (2) Establish by rule or regulation other specific areas for control of air pollution, thereby allowing for varying conditions;
- (3) Require private persons or agencies or governmental agencies engaged or desiring to engage in operations which result or may result in air pollution to secure a permit prior to installation or operation or continued operation. The director shall refuse to issue the permit unless it appears that the operations would be in compliance with the

rules and regulations of the department and the state ambient air quality standards. The director may also require the persons or agencies to submit plans and the filing of reports by the persons or agencies containing the information relating to location size of outlet, height of outlet, rate incurred at emission and composition of discharge and such other matters relative to air pollution as the department shall prescribe to be filed;

- (4) Require the owner or operator of any emission source to:
  - (A) Establish and maintain such records;
  - (B) Make such reports;
  - (C) Install, use and maintain such monitoring equipment or methods;
  - (D) Sample such emission; and
  - (E) Provide such other information as the department may require;
- (5) Conduct and supervise research programs for the purpose of determining the causes, effects, hazards or means to monitor or abate sources of air pollution;
- (6) Conduct and supervise state-wide educational and training programs on air pollution prevention, control, and abatement, including the preparation and distribution of information relating to air pollution;
- (7) Appoint a master or masters to conduct investigations and hearings;
- (8) Receive or initiate complaints on air pollution, hold hearings in connection with air pollution, and institute legal proceedings in the name of the state for the prevention, control, or abatement of air pollution;
- (9) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the state or from private sources for the study and control of air pollution;
- (10) Establish ambient air quality standards for the state as a whole or for any part thereof;
- (11) Require the installation, use and proper maintenance of air pollution control equipment for motor vehicles; and
- (12) Establish and carry out a program of inspection and testing of all modes of transportation except aircraft, to enforce compliance with applicable emission limitations when necessary and practicable and to control or limit the operation of motor vehicular and other modes of transportation when the director finds pursuant to standards established by rules and regulations such modes of transportation are producing or pose an immediate danger of producing unacceptable levels of air pollutants or when such control is necessary to meet applicable ambient air quality standards."

SECTION 3. Section 342-42, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-42 Powers and duties, specific.** In addition to any other duty prescribed by law and in this part, the director shall prevent, control, and

abate excessive noise in the State. In the discharge of his duty, the director may:

- (1) Establish by rule or regulation the control of vehicular noise;
- (2) Establish by rule or regulation other specific areas for control of excessive noise, thereby allowing for varying conditions;
- (3) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of excessive noise and the means whereby noise may be monitored, controlled, or abated;
- (4) Conduct and supervise state educational and training programs on noise prevention, control, and abatement, including the preparation and distribution of information relating to excessive noise;
- (5) Appoint a master or masters to conduct investigations and hearings;
- (6) Receive or initiate complaints of excessive noise, hold hearings in connection with excessive noise, and institute legal proceedings in the name of the State for the prevention, control or abatement of excessive noise; and
- (7) With the approval of the governor, cooperate with, and receive money from, the federal government, or any political subdivision of the State or from private sources for the study and control of excessive noise."

SECTION 4. Chapter 342, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 342- . Citation.** Any person who commits a violation of the noise control regulations, vehicular smoke emission regulations and open burning control regulations promulgated by the department pursuant to this chapter may be issued a summons or citation for such violation by any person authorized to enforce such regulations, hereinafter referred to as enforcement officer. The summons or citation shall be printed in the form hereinafter described, warning such person to appear and answer to the charge against him at a certain place and at a time within seven (7) days after the issuance of such summons or citation.

The summons or citation shall be designed to provide for all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district courts.

The original of a summons or citation shall be given to the purported violator and the other copy or copies distributed in the manner prescribed by the district courts; provided that the district courts may prescribe alternative methods of distribution of the original and any other copies.

Summons and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

In the event any person fails to comply with a summons or citation issued to such person, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest. Failure to comply with a summons or citation is a misdemeanor.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not

## **ACT 251**

include the brackets, the bracketed material or the underscoring.\*

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

(Approved June 15, 1974.)

## **ACT 251**

S.B. NO. 459

A Bill for an Act Relating to the Hawaii Foundation for History and the Humanities.

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

**SECTION 1.** Sections 6-16.1 and 6-16.2, Hawaii Revised Statutes, are repealed and replaced with two new sections thereto to read as follows:

**"Sec. 6-16.1 Establishment of the Hawaii foundation for history and the humanities; board of trustees.** There is created an educational, nonprofit public corporation to be known as the Hawaii foundation for history and the humanities which (hereinafter referred to as the 'foundation') shall be headed by a board of trustees.

The board shall consist of eleven members of which the chairman of the State foundation on culture and the arts shall serve as an ex officio voting member of the board. The remaining members shall be chosen by the membership of the foundation at any regular meeting. Each member of the board other than the ex officio member shall serve for a term of five years from the expiration of his predecessor's term. A vacancy on the board shall be filled for the balance of the unexpired term as described in the rules and regulations of the foundation. The chairman of the board shall be elected by a majority vote of the members of the board. No compensation shall be paid to members of the board of trustees for their services as such members, but they may be reimbursed for travel and actual and reasonable expenses necessarily incurred by them, in attending board meetings and performing other official duties on behalf of the foundation at the direction of the board. Membership shall be open to any resident of Hawaii upon payment of such reasonable fees as the board of trustees may prescribe. The foundation shall be administratively assigned to the department of budget and finance. The foundation may employ a director who shall be exempt from the provisions of chapters 76 and 77, and select necessary additional staff who shall be exempted from chapters 76 and 77.

**Sec. 6-16.2 Powers and duties.** The foundation shall have the following powers and duties:

- (1) To have succession until dissolved by act of the legislature, in which event title to the properties of the Hawaii foundation shall, insofar as consistent with existing contractual obligations and subject to all

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\*Edited accordingly.

- legally enforceable claims or demands by or against the Hawaii foundation, pass to and become vested in the State of Hawaii;
- (2) To sue or be sued in its corporate name;
  - (3) To adopt, alter, and use a corporate seal;
  - (4) To adopt rules and regulations, not inconsistent with the laws of the State, as it deems necessary for the administration of its functions, including among other matters, rules and regulations governing visitations to facilities under its control, administration of corporate funds, and the organization and procedure of the board of trustees;
  - (5) To accept, hold, and administer funds and properties from private or governmental agencies for purposes for which the foundation is created and in accordance with such conditions as the transferring agency or the legislature may prescribe under the law;
  - (6) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, in trust, for the purposes for which the foundation is created. Unless otherwise restricted by the terms of the bequest or gift, the foundation is authorized to sell, exchange, or otherwise dispose of, and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, shall be placed in the special account and shall be subject to expenditure by the foundation for its corporate purposes;
  - (7) To acquire by gift, devise, purchase, and to hold in trust, properties, for the State and for the people of Hawaii unless otherwise restricted by the terms of the gift or devise, as may be necessary and proper in carrying into effect the purposes of the foundation;
  - (8) To conduct research, studies, and investigations in the field of ethno history and the humanities, including archaeology and museum support programs, and to make, publish, and distribute the contributions of individual ethnic groups in their relationship to the makeup of Hawaii;
  - (9) To establish within the State, a centralized repository and information resource center and clearinghouse for State and private organizations, agencies, and individuals to further the purposes of this chapter;
  - (10) To enter into contracts and to execute all instruments necessary and appropriate to carry out the purposes of the foundation; and
  - (11) To establish within the foundation a review board for the Hawaii register of historic places which meets the requirements of Public Law 89-665. The review board shall be appointed by the board of trustees of the foundation and no more than two members of the board of trustees shall be appointed to the review board. Trustee-members of the review board may be reimbursed at the same rate as other members of the review board for official duties performed while serving on the review board.

The review board shall:

- (A) Order and enter historic properties into the Hawaii register of historic places on the basis of their value to Hawaii's heritage.
- (B) Evaluate and nominate historic properties to the national register of historic places.
- (C) Approve and evaluate all designations of historic properties as places of historical interest.
- (D) Review the state survey of historic properties undertaken in accordance with this chapter.
- (E) Review the content of the state preservation plan developed in accordance with this chapter.
- (F) Elect a chairman and vice-chairman and establish such rules of procedure as it deems necessary.
- (G) Maintain the Hawaii register of historic places, including all those listed on the national register of historic places, and a program of notification and publication regarding properties on the register."

SECTION 2. Chapter 6, Hawaii Revised Statutes, is amended by adding three new sections thereto to read as follows:

**"Sec. 6-16 Hawaii foundation excepted from certain State laws.** In order to promote cooperative research projects with private firms or persons, the corporation shall be granted flexibility in hiring other temporary personnel and in handling and disbursing moneys by being excepted from the following State laws:

- (1) Sections 36-27 and 36-30, relating to special fund reimbursement to the State general fund;
- (2) Sections 103-22 and 103-42 relating to advertising for bids and purchases to be made in Hawaii whenever public moneys are expended;
- (3) Chapter 76, relating to civil service; and
- (4) Section 78-1, relating to employment.

**Sec. 6-16 Special account.** Notwithstanding any other law to the contrary, the corporation shall be authorized to set up a special account for depositing moneys received from either public or private contracts, or from private or public grants, awards, or gifts. All disbursements shall be drawn on such account upon warrants signed by the president and one other trustee and upon the presentation of vouchers duly approved by the executive director or some other person authorized by the board of trustees.

**Sec. 6-16 Multi cultural programs.** To establish a multi cultural studies program which shall be responsible for:

- (1) Recording Hawaii's social and cultural history through collection and preservation of oral or written communications with kamaaina Hawaiians and experts;
- (2) Encouraging the ethno historical and multi cultural activities of all ethnic groups; and

(3) Creating a centralized repository for multi cultural studies and materials."

**SECTION 3. Transition.** This Act shall not affect the prior transactions of the Hawaii foundation on history and the humanities, and the members, except ex officio members, of the existing board of trustees of the Hawaii foundation on history and the humanities shall continue in office until their terms expire.

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

(Approved June 17, 1974.)

## ACT 252

S.B. NO. 218

A Bill for an Act Relating to the Department of Health.

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

**SECTION 1.** Section 26-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 26-13 Department of health.** The department of health shall be headed by a single executive to be known as the director of health.

There shall be within the department of health, a commission to be known as the board of health which shall sit in an advisory capacity to the director of health on matters within the jurisdiction of the department of health. The commission shall consist of eleven members, one from each senatorial district and three at large, and the director of social services as an ex officio nonvoting member.

The department shall administer programs designed to protect, preserve, care for, and improve the physical and mental health of the people of the State. Without limit to the generality of the foregoing, the programs shall include the administration and enforcement of matters and laws of public health of the State, including the program for Waimano home and for the state hospital, but excluding assistance and care for the indigent and the medically indigent.

The functions and authority heretofore exercised by the board of health (excluding assistance and care for the indigent and the medically indigent) and the department of institutions with respect to Waimano home and the state hospital and the dental health treatment function of the department of public instruction as heretofore constituted are transferred to the department of health established by this chapter.

The governor shall define and differentiate dental health treatment from dental health instruction and shall provide for the gradual transfer of any personnel within the definition of dental health treatment to the department of health. This section shall not be construed to require the transfer from the department of education to the department of health of any dental

## **ACT 253**

hygienist having a teacher's certificate and employed by the department of public instruction immediately prior to November 25, 1959."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 17, 1974.)

**ACT 253**

H.B. NO. 2999-74

A Bill for an Act Relating to Radiologic Technology.

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

SECTION 1. **Purpose.** The legislature finds that the use of x-rays and the consequent exposure of people to ionizing radiation is increasing. The legislature further finds that the public health and welfare requires that the people of the State be protected from unnecessary and excessive exposure to x-rays. The legislature further finds that state standards of education, training, and experience for persons who use x-rays on humans are needed in order to prevent such unnecessary and excessive exposure to x-rays. It is the purpose of this Act to so provide.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **“CHAPTER RADIOLOGIC TECHNOLOGY”**

**Sec. -1 Definitions.** As used in this chapter:

- (1) ‘Approved school for radiologic technologists’ means a school determined and accredited by the board as providing a course of instruction in radiologic technology which is adequate in order to meet the purposes of this chapter.
- (2) ‘Board’ means board of radiologic technology.
- (3) ‘Radiologic technology’ means the application of x-rays on human beings for diagnostic or therapeutic purposes.
- (4) ‘Radiologic Technologist’ means any person who applies x-rays to human beings for diagnostic or therapeutic purposes.
- (5) ‘Supervision’ means responsibility for, and control of, quality, radiation safety, and technical aspects of all x-ray examinations and procedures.

\*Edited accordingly.

**Sec. -2 Board of radiologic technologists; appointment, powers and duties.** The governor shall appoint and may remove in the manner prescribed in section 26-34 a board of radiologic technologists, to be placed in the department of health for administrative purposes.

The board shall consist of seven members. The appointed membership shall be composed of two persons licensed to practice medicine pursuant to Chapter 453 and certified in radiology and four persons with at least five years' experience and certified in the practice of radiologic technology, two of whom shall be persons engaged in the hospital practice of radiology.

The governor shall reduce the initial terms of those initially appointed so as to provide for the expirations of an equal number of terms each year. The director of health or his designated representative shall be the seventh ex-officio voting member of the board.

The board shall:

- (1) Select its own chairman;
- (2) Adopt, amend, or repeal such rules pursuant to chapter 91 as are necessary to effectuate the purposes of this chapter;
- (3) Determine minimum standards for and approve such educational institutions which provide a course of instruction in radiologic technology which meets the requirements of this chapter;
- (4) Withdraw approval or deny approval of educational institutions for failure to meet prescribed standards;
- (5) Examine, license, and grant, deny, or revoke the licenses of qualified applicants;
- (6) Keep a record of all its proceedings; and
- (7) Make an annual report to the governor.

Members of the board shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

**Sec. -3 Executive secretary; other assistants.** (a) Subject to chapters 76 and 77 the department of health may employ and remove such administrative and clerical assistants as the board may require and prescribe their powers and duties.

(b) The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77. The executive secretary shall be:

- (1) Employed with due regard to his fitness, thorough administrative ability, and knowledge of and experience in the field of radiologic technology;
- (2) Under the supervision of the board, and shall administer this chapter and the rules and orders established hereunder and perform such other duties as the board may require;
- (3) In charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to radiologic technology.

**Sec. -4 Licenses required.** No person shall practice or offer to practice as a radiologic technologist without an appropriate license previously obtained and in compliance with this chapter and the rules of the board. After the effective date of this section, it shall be unlawful for any person not appropriately licensed under this chapter to practice or offer to practice radiologic technology.

Every person licensed as a radiologic technologist shall be subject to an annual license fee (initial and renewal) of \$10. The annual period shall commence on July 1 of each year, and the failure of any licensee to pay his fee shall be grounds for revocation of his license. All fees collected by the board shall be deposited into the general fund.

**Sec. -5 Radiologic technologists; qualifications; licenses; examination.** (a) An applicant for a license to practice as a radiologic technologist shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

- (1) Has satisfactorily completed a course in an approved school for radiologic technologists;
- (2) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency.

(b) The board shall adopt rules pursuant to chapter 91 to further define and regulate the practices authorized by radiologic technologists.

(c) Licenses shall be granted by examination. The applicant shall be required to pass a written examination and a practical examination to be administered by the board. The practical examination shall consist of examination of the following areas:

- (1) Film critique;
- (2) Proper positioning of the patient and the x-ray tube;
- (3) Setting of technique for a patient;
- (4) Protection of patient from unnecessary exposure to radiation;
- (5) Knowledge of contrast media and other related materials and supplies;
- (6) Knowledge of use of special equipment such as portable x-ray units; and

(7) Such other subjects as the board shall determine.

The examination shall cover such subjects as the board shall determine and shall measure the applicant's knowledge of the principles, theories, and procedures involved in producing quality radiographs for the class of license involved; provided that the board may accept in lieu of the examination a certificate of another agency or organization which certifies radiologic technologists, if such certificate was issued on the basis of an examination reasonably equivalent to the examination administered by the board.

(d) A person who, on the effective date of this section, is actively engaged or was actively engaged in this State in the last five years in the practice of radiologic technology and has satisfactorily completed a course in radiologic technology in an approved school for radiologic technologists or

has had three years of practical experience and training in radiologic technology shall, without a requirement of examination, receive a license.

(e) The applicant applying for a license to practice as a radiologic technician shall pay a fee of \$10.00 to the board and a fee of \$2.00 for each re-examination. All fees received by the board and moneys collected under this chapter shall be deposited with the director of finance to the credit of the general fund.

(f) Any person who holds a license to practice as a radiologic technologist shall have the right to use the title 'certified radiologic technologist', and the abbreviation C.R.T. No other person shall assume such title or use such abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a certified radiologic technologist.

(g) The form of every license shall be prescribed by and issued in the name of the board.

**Sec. -6 Persons exempted.** (a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for licensed medical practitioners in radiology, licensed doctors of dentistry, dental technicians, dental hygienists and students in an approved school for radiologic technologists and in schools of medicine, podiatry, dentistry, or chiropractic, when such students are operating x-ray machines under the direct supervision of a licensed technologist and/or a qualified person pursuant to this chapter.

(b) The board may issue special temporary permits upon request to unlicensed technologists working in shortage areas.

**Sec. -7 Radiologic technology education programs.** (a) An institution desiring to conduct an education program to prepare certified radiologic technologists shall apply to the board and submit evidence that it is prepared to meet such standards as shall be established by law and by the board.

(b) From time to time as deemed necessary by the board, it shall be the duty of the board, through its authorized representative, to survey radiologic technology education programs in the State. Written reports of the surveys shall be submitted to the board. If the board determines that any accredited radiologic technology education program is not maintaining the standards required by law and by the board, notice thereof in writing specifying the discrepancies shall be immediately given to the institution conducting the program. A program which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after a hearing held in conformance with chapter 91.

**Sec. -8 Denial, revocation, or suspension of license.** (a) The board shall have the power to deny, revoke, or suspend any license issued by the board or applied for in accordance with this chapter, upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice as a radiologic technologist;
- (2) Is mentally incompetent;
- (3) Is guilty of unprofessional conduct; or

(4) Has wilfully or repeatedly violated any of the provisions of this chapter.

(b) Before denying, suspending or revoking any license, the board shall furnish the licensee a notice in writing as prescribed by section 91-9 and shall afford the licensee an opportunity to be heard in person and by or with counsel. Any order denying a license, or suspending or revoking a license shall be rendered not later than fifteen days after the hearing, and any aggrieved person may appeal the order as provided in chapter 91.

**Sec. -9 Violations of chapter; penalties.** It shall be a misdemeanor for any person, including any corporation, association, or individual to:

- (1) Sell or fraudulently obtain or furnish any radiologic technologist's diploma, license, renewal, or record or aid or abet therein;
- (2) Practice radiologic technology as defined by this chapter under cover of any license or record illegally or fraudulently signed or issued unlawfully or under fraudulent representation;
- (3) Practice radiologic technology unless licensed to practice under this chapter;
- (4) Use in connection with his or her name any designation tending to imply that he or she is a certified radiologic technologist unless licensed to practice under this chapter;
- (5) Practice radiologic technology during the time his or her license issued under this chapter is suspended or revoked;
- (6) Violate any of the provisions of this chapter.

**Sec. -10 Injunctive relief.** The practice of radiologic technology by any person who has not been issued a license under this chapter or whose license has been suspended or revoked or has expired is declared to be inimical to the public welfare and to constitute a public nuisance. The board may, through the attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a license or whose license has been suspended, revoked, or expired, from practicing radiologic technology. Upon the filing of a verified petition in court, the court or any judge thereof, if satisfied by affidavit, or otherwise, that such person is or has been practicing as a radiologic technologist without having been issued a license, or after his license has been suspended, revoked, or expired, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing as such radiologic technologist. A copy of the verified petition shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it be established that the defendant has been or is practicing as a radiologic technologist without having been issued a license or has been or is practicing as a radiologic technologist after his license has been revoked, or expired, the court, or any judge thereof, may enter a decree perpetually enjoining the defendant from further practicing as a radiologic technologist. In case of violation of any injunction issued under this section, the court, or any judge thereof, may summarily try and punish the offender for contempt of court.

Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter."

**SECTION 3.** This Act shall take effect on July 1, 1974.

(Approved June 17, 1974.)

**ACT 254**

H.B. NO. 2300-74

A Bill for an Act Relating to Agricultural Development Bonds.

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

**SECTION 1.** Chapter 48, Hawaii Revised Statutes, is amended as follows:

1. The title of chapter 48 is amended to read "ECONOMIC DEVELOPMENT BONDS."

2. Section 48-1 is amended to read:

**"Sec. 48-1 Definitions.** As used in this chapter:

- (1) "Economic development bond" means any general or revenue bond issued by any political subdivision of the State for the purpose of financing the purchase or lease of land; the purchase or construction, including reconstruction, improvement, expansion, extension, and enlargement, of buildings and appurtenances; and the purchase and installation of machinery, equipment, or fixtures, when the purchases or leases are made primarily for sale or continuing lease to a private individual, partnership, or corporation for use in connection with the development of an agricultural, industrial, commercial, or hotel enterprise;
- (2) "Political subdivision" means a county or other political subdivision created by the legislature pursuant to article VII, section 1, of the Constitution of the State;
- (3) "Governing body" means the body, council, or board charged with exercising the legislative authority of a political subdivision of the State; and
- (4) "Department" means the department of planning and economic development."

3. Section 48-3 is amended to read:

**"Sec. 48-3 Certificate of convenience and necessity.** No political subdivision may issue economic development bonds without first having been issued a certificate of convenience and necessity therefor. The certificate shall be issued by the department of planning and economic development upon a petition of the governing body of the political subdivision proposing to issue economic development bonds upon the department finding:

- (1) That the political subdivision has a contract, approved by its governing body, with an individual, partnership, or corporation to lease the property to be acquired with the proceeds of the economic development bonds for occupancy and use in connection with the conduct of an agricultural, industrial, commercial, or hotel enterprise for a period of years, and for the lessee to pay an annual rental adequate to meet interest and principal payments falling due during the term of the lease;
- (2) That the lessee of the property is a responsible party;
- (3) That the contract for lease of the property provides for:
  - (A) The reasonable maintenance, less normal wear and tear, or the property by the lessee;
  - (B) Insurance to be carried on the property and the use and disposition of insurance moneys; and
  - (C) The rights of the political subdivision and the lessee respecting the disposition of the property financed by the proposed economic development bonds upon retirement of the bonds or termination of the contract by expiration or failure to comply with any of the provisions thereof;
- (4) In addition to the above, the contract may provide for the rights of the bondholders, the care and disposition of rental receipts, and such other safeguards as are deemed to be necessary by the department;
- (5) That opportunities for employment are inadequate in the area from which the proposed development plan would reasonably draw its labor force and that there exists in that area a condition of substantial and persistent unemployment or underemployment;
- (6) That the proposed project will provide employment having a reasonable relationship to the volume of the bonds issued as compared to investment per employee of comparable facilities elsewhere in the private sector;
- (7) That financing by banks, other financial institutions, or other parties, of the property required by the lessee is not readily available to lessee on ordinary commercial terms in adequate amounts either on the local or the national market;
- (8) That no portion of the proposed economic development bond issues will be purchased by the lessee or any affiliate or subsidiary of the lessee at the time of the initial marketing;
- (9) That the facility offered the lessee is intended to accommodate expansion of an enterprise located elsewhere or a new enterprise and not primarily the relocation of an existing facility;
- (10) That adequate provision is being made to meet any increased demand upon community public facilities that might result from the proposed project; and
- (11) That the issuance of the proposed bonds and the operation of the enterprise of the lessee will not disrupt the fiscal stability of the issuing political subdivision in the event it should become necessary for

it to assume responsibility for payment of the interest and principal of the proposed economic development bonds."

SECTION 2. 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 material, or the underscoring.\*

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

(Approved June 17, 1974.)

ACT 255

H.B. NO. 521

A Bill for an Act Relating to Unfair and Deceptive Practices by Commercial Mail Order Buying Clubs.

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

SECTION 1. Chapter 481B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 481B-1.5 Same, commercial mail order buying clubs.** (a) Any person who is regularly engaged in the business of selling or offering for sale goods, property, or merchandise through a mail order scheme whereby the purchaser contracts or promises to buy a certain quantity of such goods, property, or merchandise periodically over a certain period of time with an option to make certain purchases or to choose alternative goods, property, or merchandise shall, for each separate order and before delivery of any item, supply the purchaser with an order form stating the various options available to the purchaser. No such person shall send to any purchaser such goods, property, or merchandise except pursuant to an order duly made by the purchaser on such an order form.

(b) The receipt of any goods, property, or merchandise sent in violation of subsection (a) shall for all purposes be deemed an unconditional gift to the recipient who may use or dispose of the same in any manner he sees fit without any obligation on his part to the sender. Violation of subsection (a) is unlawful and shall be subject to the penalty provided in Section 481B-4."

SECTION 2. Section 481B-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 481B-4 Penalty.** Any person who violates this chapter shall be fined not more than \$500 for each violation or imprisoned not more than one year or both."

SECTION 3. 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 material, or the underscoring.\*

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

(Approved June 17, 1974.)

\*Edited accordingly.



# PROPOSED CONSTITUTIONAL AMENDMENT

## Proposed Constitutional Amendment

S.B. 1943-74

A Bill for an Act Proposing an Amendment to Article III, Section 17, of the Constitution of the State of Hawaii to Exclude from the Item Veto Items which are Appropriated to be Expended by the Judicial and Legislative Branches.

*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 17, of the Constitution of the State of Hawaii to exclude from the item veto items which are appropriated to be expended by the judicial and legislative branches. The amendment is designed to safeguard the judicial and legislative branches from being dominated by a governor. At the same time, the principle of checks and balances is retained by allowing the governor to veto, as a whole, bills which appropriate funds to be expended by the judicial and legislative branches.

SECTION 2. Article III, Section 17, of the Constitution of the State of Hawaii is amended to read as follows:

“Section 17. Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses and shall thereupon be presented to the governor. If he approves it, he shall sign it and it shall become law. If the governor does not approve such bill, he may return it, with his specific objections to the legislature. Except for items appropriated to be expended by the judicial and legislative branches, he may veto any specific item or items in any bill which appropriates money for specific purposes by striking out or reducing the same; but he shall veto other bills, if at all, only as a whole.

The governor shall have ten days to consider bills presented to him ten or more days before the adjournment of the legislature sine die, and if any such bill is neither signed nor returned by the governor within that time, it shall become law in like manner as if he had signed it.”

SECTION 3. Constitutional 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 material, or the underscoring.\*

SECTION 4. This amendment shall take effect upon compliance with Article XV, section 3, of the Constitution of the State of Hawaii.

(Passed final reading in the Senate on March 27, 1974, and in the House of Representatives on April 10, 1974.)

\*Edited accordingly.



**1974**  
**SPECIAL SESSION**  
**LAWS**



**SESSION LAWS OF HAWAII  
PASSED BY THE  
SEVENTH STATE LEGISLATURE  
SPECIAL SESSION  
1974**

**ACT 1**

**H.B. NO. 2428-74**

A Bill for an Act Relating to the Administration of General Assistance to Needy Persons.

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

SECTION 1. Section 346-71, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 346-71 General assistance.** The department of social services and housing shall administer public assistance to those needy persons not otherwise provided for under this chapter, who for reasons satisfactory to the department are unable to provide sufficient support for themselves or those dependent upon them provided that such persons are residents of this State.

The department shall not provide general assistance to any person who is physically fit, able to work and employable provided that the department shall provide general assistance to such person where the department finds that:

- (1) He is unemployed for reasons other than voluntary separation without good cause or for misconduct; and
- (2) He is actively and diligently seeking gainful employment; and
- (3) He has not refused to accept employment when offered; and
- (4) He has registered and is available for work as required by Section 383-29; and
- (5) He has exhausted all of his benefits under Chapter 383 provided, however, should the benefits of any person under Chapter 383 be less than those for which he would otherwise be eligible hereunder, he shall be eligible for supplementary general assistance; and provided further, that this provision of exhaustion shall not apply to those persons not entitled by law to such benefits.

The department shall by rules adopted pursuant to chapter 91, establish criteria and standards for the foregoing conditions and requirements. The department shall further require such persons, as a condition to receiving general assistance, to register for work on public work projects and to accept an assignment to work under section 346-31 or to accept such employment as may be offered to them by the department under section 346-102 or by an employer. The term "public work projects" includes any kind of labor under the department of accounting and general services of the State or the department of public works of any county, or under any other department, board, commission, or agency of the State or any county. All such agencies may employ persons registering under this section. Payment for the work shall

## **ACT 1**

not be made from the funds of the agency employing such persons but shall be made from the funds of the department. The department shall promulgate such rules and regulations as it deems necessary to enforce and carry out this section."

Recipients disqualified for failure to comply with any of the department's work requirements under the provisions of this section shall be excluded from general assistance for a period not to exceed twelve months.

**SECTION 2.** Section 346-102, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The department of social services and housing shall be responsible for providing employment on public works projects as defined in section 346-71, for persons:

- (1) Receiving full or partial public assistance from the State; or
- (2) Receiving unemployment compensation benefits from the State whose benefits thereunder are within the last two weeks of eligibility and who upon termination of unemployment compensation benefits will be eligible for full partial public assistance from the State; or
- (3) Who reside on an island where the primary economic base providing employment for such persons is lost or is in danger of being lost.

Public assistance recipients participating in public service employment shall be considered to be employees of the department; provided however that except for coverage under the workmen's compensation law, laws relating to civil service, classification, retirement, vacation, sick leave, and other matters relating to regular public employees shall not apply to such persons."

**SECTION 3.** 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 material, or the underscoring.\*

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

(Approved June 21, 1974.)

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\*Edited accordingly.

# **TABLES SHOWING EFFECT OF ACTS**

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## **GENERAL INDEX**

**TABLES SHOWING EFFECT OF ACTS**  
**SEVENTH LEGISLATURE,**  
**REGULAR AND SPECIAL SESSIONS OF 1974**  
**STATE OF HAWAII**

**Key:** Am = Amended

N = New

R = Repealed

Ren = Renumbered

\_\_\_\_ = Section number to  
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