

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

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**REGULAR SESSION**  
**1980**

Convened on Wednesday, January 16

and

Adjourned sine die on Monday, April 28

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Honolulu, Hawaii

## **AUTHORITY**

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

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

## **PREFACE**

This volume contains all the laws of the Regular Session of 1980. In the preparation of the volume, the text of the laws as enacted has been followed except for palpable clerical errors, which have been corrected; and the text has been printed in full except for laws amending existing statutes.

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

HIDEHIKO UYENOYAMA  
Revisor of Statutes

Honolulu, Hawaii  
July 11, 1980

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**Session Laws of Hawaii  
Passed By The  
Tenth State Legislature  
Regular Session  
1980**

**ACT 1**

**S.B. NO. 1826-80**

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 \$1,776,992 or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the Senate up to and including June 30, 1981, including but not limited to the 1980 regular session, Tenth 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 1980 and 1981 regular sessions.

**SECTION 2.** There is hereby appropriated from the general revenues of the State the sum of \$2,298,674 or so much thereof as may be necessary, for defraying any and all session and non-session expenses of the House of Representatives up to and including June 30, 1981, including but not limited to the 1980 regular session, Tenth 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 1980 and 1981 regular sessions.

**SECTION 3.** Payment of expenses of the Senate during the interim between the 1980 and 1981 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 1980 and 1981 regular sessions shall be made only with the approval of the Speaker of the House of Representatives.

**SECTION 4.** Before January 16, 1981, 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 16, 1981.

**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 other-

## **ACT 2**

wise prescribed by law, the expenses of such member shall be \$45 per day and authorized by the President of the Senate and the Speaker of the House of Representatives, respectively.

**SECTION 6.** There is hereby appropriated from the general revenues of the State the sum of \$1,315,102 to the office of the legislative auditor for the following expenses: (a) the sum of \$1,065,082 or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1980-81, (b) the sum of \$100,020 or so much thereof as may be necessary, for defraying the expenses of the office of the state ethics commission during the fiscal year 1980-81; (c) the sum of \$150,000 or so much thereof as may be necessary, to be expended upon approval of this Act, for (1) performing special studies, (2) improving capabilities for planning, programming and budgeting, (3) fulfilling other special requests made of the legislative auditor by the Legislature or jointly by the President of the Senate and the Speaker of the House of Representatives, (4) interim legislative studies and for contractual services for such studies, (5) 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 (6) such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives.

**SECTION 7.** There is hereby appropriated from the general revenues of the State the sum of \$1,182,145 or so much thereof as may be necessary, to the legislative reference bureau for defraying the expenses of the bureau during the fiscal year 1980-81, including equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material.

**SECTION 8.** There is hereby appropriated from the general revenues of the State the sum of \$294,015 or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1980-81.

**SECTION 9.** As of the close of business on June 30, 1981, the unexpended or unencumbered balance of any appropriation made by this Act shall lapse into the general fund.

**SECTION 10.** Each section of this Act is hereby declared to be severable from the remainder of this Act.

**SECTION 11.** This Act shall take effect upon its approval.

(Approved February 7, 1980.)

**ACT 2**

S.B. NO. 1946-80

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

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

**PART I**

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

SECTION 2. The purpose of this Act is to appropriate or authorize, as the case may be, funds necessary to cover the cost of collective bargaining cost items in the agreements negotiated with the various collective bargaining units representing the public officers and employees for the fiscal biennium 1979-81. The intent of this Act is to provide the necessary fund authorizations and appropriations to allow for the immediate and retroactive implementation of collective bargaining agreements that have been effected for the fiscal biennium beginning July 1, 1979.

**PART II**

SECTION 3. There is hereby appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums or so much thereof as may be necessary to fund for the fiscal biennium 1979-81 all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13:

	<b>FY 1979-80</b>	<b>FY 1980-81</b>
General Funds	\$24,943,812	\$55,044,518
 Federal Funds	 3,302,199	 6,707,949
 Special Funds	 5,027,395	 10,260,886
 Other Funds	 303,039	 603,720

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

**PART III**

SECTION 5. There is hereby appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums or so much thereof as may be necessary to fund for the fiscal biennium 1979-81 all collective bargaining cost items in the agreements negotiated with the exclusive bargaining representatives of collective bargaining units 1, 3, 4, 9, 10, and 13:

## **ACT 3**

	<b>FY 1979-80</b>	<b>FY 1980-81</b>
General Funds	\$771,715	\$1,504,927
Special Funds	41,763	80,502
Federal Funds	3,882	10,665

**SECTION 6.** Funds appropriated or authorized by this Part shall be allotted by the chief justice in the respective fiscal years for the purposes of this Part.

### **PART IV**

**SECTION 7.** Salary increases provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special or other funds, shall be paid wholly or proportionately, as the case may be, from the funds.

**SECTION 8.** Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1980, and June 30, 1981, of the respective fiscal years shall lapse as of those dates.

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

(Approved February 19, 1980.)

## **ACT 3**

S.B. NO. 1947-80

A Bill for an Act Making Appropriations for Adjustments Authorized by Chapter 89C, Hawaii Revised Statutes.

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

### **PART I**

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

**SECTION 2.** The purpose of this Act is to appropriate or authorize, as the case may be, funds for the fiscal biennium 1979-81, to cover the adjustments authorized by chapter 89C, Hawaii Revised Statutes, for State officers and employees excluded from collective bargaining. The intent of this Act is to provide the necessary fund authorization and appropriations to allow for the immediate and retroactive implementation of comparable salary increases and other cost adjustments to excluded State officers and employees for the fiscal biennium beginning July 1, 1979.

**PART II**

SECTION 3. There is appropriated or authorized from the sources of funding indicated below to Program Planning, Analysis, Budgeting (BUF 101) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1979–81, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for State officers and employees excluded from collective bargaining:

	<b>FY 1979–80</b>	<b>FY 1980–81</b>
General Fund	\$2,259,577	\$4,692,777
Federal Funds	195,118	396,716
Special Funds	352,742	755,095
Other Funds	18,279	37,172

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

**PART III**

SECTION 5. There is appropriated or authorized from the sources of funding indicated below to Administrative Director Services (JUD 201) the following sums, or so much thereof as may be necessary, to fund for the fiscal biennium 1979–81, the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, by the chief justice for officers and employees excluded from collective bargaining:

	<b>FY 1979–80</b>	<b>FY 1980–81</b>
General Fund	\$81,979	\$166,034

SECTION 6. The sums appropriated or authorized by this Part shall be allotted by the chief justice in the respective fiscal years for the purposes of this Part.

**PART IV**

SECTION 7. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special or other funds, shall be paid wholly or proportionately, as the case may be, from the respective funds.

## ACT 4

SECTION 8. Funds appropriated or authorized by this Act which are not expended or encumbered by June 30, 1980, and June 30, 1981, of the respective fiscal years shall lapse as of those dates.

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

(Approved February 19, 1980.)

## ACT 4

H.B. NO. 1982-80

A Bill for an Act Relating to Disposition of Public Lands.

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

SECTION 1. Section 171-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 171-13 Disposition of public lands.** Except as otherwise provided by law and subject to other provisions of this chapter, the board may:

- (1) Dispose of public land in fee simple, by lease, lease with option to purchase, license, or permit; and
- (2) Grant easement by direct negotiation or otherwise for particular purposes in perpetuity on such terms and conditions as may be set by the board, subject to reverter to the State upon termination or abandonment of the specific purpose for which it was granted, provided the sale price of such easement shall be determined pursuant to section 171-17(b)."

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

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

(Approved April 2, 1980.)

## ACT 5

S.B. NO. 1115

A Bill for an Act Relating to Motor Vehicle Insurance Rates.

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

SECTION 1. Section 294-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 294-16 Annual report of the commissioner; publication of premium rates.** (a) 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

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

**ACT 7**

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.

(b) The commissioner shall publish annually in a newspaper of general circulation in the State a list of all motor vehicle insurers with representative annual premiums for motor vehicle insurance."

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

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

(Approved April 9, 1980.)

**ACT 6**

H.B. NO. 1802-80

A Bill for an Act Relating to the Militia.

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

**SECTION 1.** Section 121-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 121-3 Government employees.** In case of a state of war, insurrection, rebellion, or of resistance to the execution of the laws of the United States, or of the State, proclaimed by the President or by the governor as appropriate, all employees of the State and political subdivisions thereof who are not physically disabled and who are not members of the national guard, naval militia, or state guard shall, upon the order of the governor, report for duty with organizations designated by the governor."

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

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

(Approved April 9, 1980.)

**ACT 7**

H.B. NO. 1803-80

A Bill for an Act Relating to the Hawaii State Guard.

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

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

**"Sec. 122-1 Authority; name.** Whenever any part of the national guard of the State is in active federal service or when Congress consents thereto, the governor may organize and maintain within the State during this period, under such regulations as

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

## ACT 8

the secretary of the army of the United States may prescribe for discipline in training, such military forces as the governor may deem necessary to defend this State. The forces shall be composed of officers commissioned or assigned, and such able-bodied citizens of the State as may volunteer for service, supplemented if necessary by members of the unorganized militia enrolled by draft or otherwise as provided by law. The forces shall be additional to and distinct from the national guard and shall be known as the "Hawaii State Guard." These forces shall be uniformed."

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

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

(Approved April 9, 1980.)

## ACT 8

H.B. NO. 1826-80

A Bill for an Act Relating to Pension and Retirement Systems.

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

SECTION 1. Section 88-41, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 88-41 Limitation of other statutes.** No other provision in any other statute which provides wholly or partly at the expense of the State or any county for pensions or retirement benefits for employees of the State or of any county, their surviving spouses or other dependents shall apply to members, retirants, or beneficiaries of the system established by this part, their surviving spouses or other dependents, except such benefits as may be provided under Title II of the Social Security Act."

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

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

(Approved April 9, 1980.)

## ACT 9

H.B. NO. 1957-80

A Bill for an Act Relating to the Certification of Civil Service Eligibles.

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

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

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

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

Whenever there is a position to be filled, the appointing authority shall request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the recall lists, third the reemployment lists, and fourth the open-competitive lists; provided that laid-off regular employees shall be placed on an appropriate recall list; provided further that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. Where there is more than one vacant position in a class to be filled, the director may certify an additional eligible for each additional vacancy. The director shall submit eligibles in the order that they appear on the eligible list before applying veterans preference; provided that veterans whose examination scores, after addition of applicable preference, are equal to or exceed the examination score of the fifth eligible certified, shall also be certified; and further provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy; and further provided that, for each eligible without resident preference certified, a resident who has filed a resident income tax return within the State or who has been claimed as a dependent on such a return, as provided by section 78-1, shall also be certified.

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

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

## ACT 10

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

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

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

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

(Approved April 9, 1980.)

## ACT 10

H.B. NO. 1997-80

A Bill for an Act Relating to the Board of Social Services.

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

SECTION 1. Section 26-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 26-14 Department of social services and housing.** The department of social services and housing shall be headed by a single executive to be known as the director of social services.

There shall be within the department of social services and housing a commission to be known as the board of social services which shall sit in an advisory capacity to the director of social services on matters within the jurisdiction of the department of social services and housing. The board shall consist of [nine] the following members, one from each senatorial district and three at large, and the director of health as an ex officio nonvoting member.

There shall also be within the department a commission to be known as the board of vocational rehabilitation which shall sit in an advisory capacity to the head of that division charged with the administration of vocational rehabilitation laws and allied services. The board shall consist of eleven members, one from each judicial circuit and four at large, with the directors of health and labor, and the superintendent of education, as ex officio voting members.

The department shall administer programs designed to improve the social well-being and productivity of the people of the State. Without limit to the generality of the foregoing, the department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child and adult welfare, economic assistance (including costs of medical care), rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of adult and juvenile offenders, public housing, and other related programs as provided by law.

The Hawaii housing authority, as now constituted by chapter 356 shall be a constituent corporate unit of the department of social services and housing with the director of social services as an additional commissioner, ex officio, of the housing authority, serving for a term consistent with his appointment. Notwithstanding any other provisions of this chapter, but subject to the administrative control of the director of social services, the functions, duties, and powers of the housing authority, as heretofore provided by law, shall be vested in the Hawaii housing authority.

The Hawaii paroling authority is placed within the department of social services and housing for administrative purposes only.

The functions and authority heretofore exercised by the department of public welfare, the department of institutions (except for Waimano home and the state hospital transferred to the department of health), the boards of prison inspectors, the bureau of sight conservation and work with the blind (except for the transcription services program transferred to the department of education), the council on veterans' affairs, and any other agency of the state or county governments with respect to the assistance and care of the indigent and medically indigent as heretofore constituted are transferred to the department of social services and housing established by this chapter."

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

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

(Approved April 9, 1980.)

ACT 11

H.B. NO. 2163-80

A Bill for an Act Relating to Holidays.

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

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

**"Sec. 8-1 Holidays designated.** The following days of each year are set apart and established as state holidays:

The first day of January, New Year's Day;

The third Monday in February, Presidents' Day;

The twenty-sixth day of March, Prince Jonah Kuhio Kalanianaole Day;

The Friday preceding Easter Sunday, Good Friday;

The last Monday in May, Memorial Day;

The eleventh day of June, King Kamehameha I Day;

The fourth day of July, Independence Day;

The third Friday in August, Admission Day;

The first Monday in September, Labor Day;

The second Monday in October, Discoverers' Day;

The eleventh day in November, Veterans' Day;

The fourth Thursday in November, Thanksgiving Day;

The twenty-fifth day of December, Christmas Day;

## **ACT 12**

All election days, except primary and special election [day,] days, in the county where in the election is held;

Any day designated by proclamation by the President of the United States or by the Governor as a holiday."

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

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

(Approved April 9, 1980.)

## **ACT 12**

H.B. NO. 2174-80

A Bill for an Act Relating to the Expungement of Arrest Records.

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

**SECTION 1.** Section 831-3.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) The attorney general, or his duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with but not convicted of a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not issue (1) in the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture[,]; (2) for a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture; and (3) in the case of an arrest of any person for any offense where conviction has not been obtained because he has rendered prosecution impossible by absenting himself from the jurisdiction.

Any person entitled to an expungement order hereunder may by written application also request return of all fingerprints or photographs taken in connection with his arrest. The attorney general or his duly authorized representative within the department of the attorney general, within [60] 120 days after receipt of such written application, shall, when so requested, deliver, or cause to be delivered, all such fingerprints or photographs of such person, unless such person has a prior record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding such records."

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

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

(Approved April 9, 1980.)

## **ACT 13**

H.B. NO. 2178-80

A Bill for an Act Relating to the Limitation of Fees.

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

SECTION 1. Section 383-162, Hawaii Revised Statutes, is amended to read:

**"Sec. 383-162 Limitation of fees.** No individual shall be charged fees of any kind in any proceeding under this chapter by the department of labor and industrial relations or its representatives, or the referee, or by any court or any officer thereof, and no costs shall be awarded by the referee on an appeal. Any individual claiming benefits in any proceeding before the department or the referee may be represented by counsel or other duly authorized agent, but no such counsel or agent shall either charge or receive for such services more than an amount approved by the department or referee, and such amount shall in no case exceed ten per cent of the sum of the average benefit duration for the prior calendar year as computed by the department of labor and industrial relations multiplied by the claimant's weekly benefit amount, payable as a result of such proceeding. For the purposes of this section, the term "average benefit duration" shall mean the average actual duration of benefits computed by dividing the total number of weeks compensated during a year by the corresponding number of first payments made during the year.

Any person who violates this section shall, for each such offense, be fined not less than \$50 nor more than \$500 or imprisoned not more than six months, or both."

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

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

(Approved April 9, 1980.)

ACT 14

S.B. NO. 2093-80

A Bill for an Act Relating to the Board of Barbers.

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

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

**"Sec. 26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 439 (Board of Cosmetology)
  - (3) Chapter 447 (Dental Hygienists)
  - (4) Chapter 463 (Board of Private Detectives and Guards)
  - (5) Chapter 468J (Travel Agencies)
  - (6) Chapter 471 (Board of Veterinary Examiners)

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

## ACT 15

- [(7)Chapter 438 (Board of Barbers)]
- (8)[(7) Chapter 443 (Collection Agencies Board)]
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E (Board of Speech Pathology and Audiology)
  - (8) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)
  - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry).
  - (3) Chapter 438 (Barbering, Practice of)
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board).
  - [[2]] Chapter 440 (Boxing Commission)."

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

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

(Approved April 12, 1980.)

ACT 15

S.B. NO. 2097-80

A Bill for an Act Relating to the Board of Cosmetology.

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

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

**"Sec. 26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - [2] Chapter 439 (Board of Cosmetology)
  - [3] Chapter 447 (Dental Hygienists)
  - [4] Chapter 463 (Board of Private Detectives and Guards)
  - [5] Chapter 468J (Travel Agencies)
  - [6] Chapter 471 (Board of Veterinary Examiners)
  - [7] Chapter 438 (Board of Barbers)
  - [8] Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E (Board of Speech Pathology and Audiology)
  - (8) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)
  - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry).
  - (3) Chapter 439 (Beauty Culture)

## ACT 16

(g) The following chapters are hereby repealed effective December 31, 1985:  
(1) Chapter 437 (Motor Vehicle Industry Licensing Board).  
[[](2)[]] Chapter 440 (Boxing Commission).

SECTION 2. Section 439-17, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

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

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

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

(Approved April 12, 1980.)

## ACT 16

H.B. NO. 1685

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Chapter 346, Part I, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read:

**"Sec. 346- Real property liens.** (a) The department of social services and housing may require of any person applying for or currently receiving assistance under the department's programs, including but not limited to Aid to Families with Dependent Children, Medicaid, Food Stamps, and General Assistance, who owns or has any interest in real property, that the person shall enter into an agreement with the department that future grants of assistance shall be and constitute a lien against the interest in real property, and shall remain a lien until satisfied and discharged, except that the obligation based on a lien held by the department on home property lived on by the assistance household shall not exceed \$20,000.

(b) The agreement shall be recorded in the bureau of conveyances, or filed in the office of the assistant registrar of the land court. When the agreement for the lien is recorded in the bureau of conveyances, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. From and after the recording in the bureau of conveyances the lien shall attach to all interests in real property then owned by the person and not registered in the land court, and from and after the filing thereof in the office of the assistant registrar of the land court the lien

shall attach to any such interest in land then registered therein. The lien shall be for all amounts of assistance, unless otherwise provided by rules and regulations promulgated under chapter 91, then or thereafter paid in accordance with the aforementioned programs from which the person receives assistance, except that the obligation based on a lien held by the department on home property lived on by the assistance household shall not exceed \$20,000.

(c) The department shall issue certificates of release or partial release upon satisfaction or partial satisfaction of the lien. Certificates of release or partial release of any real property lien issued by the director of the department or his authorized representative shall be recorded in the bureau of conveyances. The registrar shall forthwith cause the same to be indexed in the general indexes in a like manner as the original lien. No fee shall be charged for any of the recording. The lien herein provided for shall take priority over any other lien subsequently acquired or recorded except tax liens and except that, in the estate of a beneficiary, the actual funeral expenses, the expenses of the last sickness, the cost of administration of the estate, and any allowance made to the surviving spouse and children for their support during administration of the estate, shall have priority and preference over the lien herein imposed, and over any claim against an estate filed under section 346-37.

The lien shall be enforceable by the department by suit in the appropriate court or shall be enforceable as a claim against the estate of the recipient under section 346-37, having priority over all other debts except taxes, the actual funeral expenses, the expenses of last sickness, the cost of administration of the estate, and any allowance made to the surviving spouse and children for their support during administration of the estate.

The lien shall not be enforced against the home of a beneficiary while it is being occupied by the beneficiary or by any surviving spouse who has not remarried, or by any surviving minor child or any physically or mentally handicapped child of the recipient, and such other persons as the department may by regulation designate pursuant to chapter 91. The lien shall be enforceable as a claim under section 346-37 against the estate of a recipient under any circumstances if the estate is admitted to probate at the instance of any interested party other than the department.

Whenever the department is satisfied that the collection of the amount of assistance paid a recipient will not be jeopardized or that the release or waiver of the priority of the lien against his property, in whole or in part, is necessary to provide for the maintenance or support of the recipient, his spouse, or any minor or incapacitated child, it may release or waive the priority of the lien with respect to all or any part of the real property.

The recipient, his heirs, personal representatives, or assigns may discharge the lien at any time by paying the amount thereof to the department which shall execute a satisfaction thereof. The department may at its discretion compromise the collection of any such lien, but such compromise shall be made only when the recipient, his heirs, personal representative or assigns prove that the collection of the full amount of the lien or claim would cause undue hardship or the lien or claim is otherwise uncollectible.

The proceeds from the enforcement, payment, or compromise of the lien shall be paid into the treasury of the State. If the amount of assistance reflected by the proceeds was paid in part by federal funds, the proper portion of these funds shall be

## **ACT 17**

paid by the director of finance to the treasury of the United States. The director of finance shall thereupon report such payment to the department of social services. If the federal funds are not paid directly into the treasury of the United States, these federal funds shall be credited by the director of finance to the department of social services for expenditure for assistance without need for further appropriation.

If at any time the federal government, or any agency or instrumentality thereof, requires, as a condition to any grant of assistance, the performance of conditions inconsistent with this section, or desisting from actions provided by this section, the governor may, upon a finding to that effect and to the extent of such requirement, suspend any provisions of this section to the end that such federal assistance may be received.

The department shall submit an annual report to the legislature, which shall include a list of liens held by the department on real property. This report shall include, but not be limited to a description of the value of the liens, the legal status of the liens and when the liens were initiated.

The department shall promulgate rules and regulations under chapter 91 to implement this section."

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

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

(Approved April 12, 1980.)

## **ACT 17**

H.B. NO. 1804-80

A Bill for an Act Relating to Public Lands.

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

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

"(e) Interests, descent; certificate of occupation or homestead lease. In case of the death of any occupier or lessee under an existing certificate of occupation or existing homestead lease, all the interest of the occupier or lessee, any conveyance, devise, or bequest to the contrary notwithstanding, in land held by the decedent by virtue of such certificate of occupation or homestead lease shall vest and pass in accordance with the line of succession set forth in sections 560:2-102, 560:2-103, and 560:2-105.

All the successors, except the State, shall be subject to the performance of the unperformed conditions of the certificate of occupation, or the homestead lease, in like manner as the decedent would have been subject to the performance if the decedent had continued alive; provided that if a widow or widower in whom the interest shall have vested, shall thereafter marry again and decease leaving a widower or widow and a child or children of the first marriage surviving, the interest of the deceased shall vest in such child or children; and provided further that in case two or

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

more persons succeed together to the interest of any occupier or lessee, according to the foregoing provisions, they shall hold the same by joint tenancy so long as two or more shall survive, but upon the death of the last survivor, the estate shall descend as provided above.

The provisions of this subsection shall not apply to matters relating to persons who died, and rights accrued prior to its effective date."

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

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

(Approved April 12, 1980.)

**ACT 18**

H.B. NO. 1805-80

A Bill for an Act Relating to the State Forester.

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

**SECTION 1.** Section 183-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a)The board of land and natural resources shall:
- (1) Appoint a superintendent of forestry, to be known as the state forester, who shall have charge, direction, and control (subject to the direction and control of the board) of all matters relating to forestry, mentioned in or coming within the scope of chapters 183 to 185 and 187 to 192, and such other matters as the board may from time to time direct. The state forester shall be a trained and educated forester, who shall have made the subject of forestry a special study, and if such a [man] person is available, one who has had practical training and experience in connection with forestry in a tropical country;
  - (2) Appoint and commission in each district of the State one or more foresters, and the same at its pleasure remove, who shall serve without pay, to assist the board to carry out the terms and intent of this law;
  - (3) Appoint and remove assistant foresters and forest rangers, who shall have police powers in and concerning all matters relating to or connected with forests or forest reservations and the enforcement of any of the provisions of chapters 183 to 185 and 187 to 192, and such other persons as the board may employ."

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

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

(Approved April 12, 1980.)

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

A Bill for an Act Relating to the Safety of Boilers, Elevators and Amusement Rides.  
*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  
BOILER AND ELEVATOR SAFETY LAW"**

**Sec. -1 Short title.** This chapter shall be known as the Boiler and Elevator Safety Law.

**Sec. -2 Findings and purpose.** The legislature finds that the Hawaii occupational safety and health law does not adequately provide for the safe operation and use of boilers, pressure systems, amusement rides, and elevators and kindred equipment. The purpose of this law is to assure the safe operation and use of such apparatus in Hawaii.

**Sec. -3 Definitions.**

"Appeals board" means the department of labor and industrial relations appeals board.

"Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated or any combination thereof by the direct application of heat. The term "boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and complete within themselves.

"Contractor" means any person, firm or corporation installing, repairing or servicing and responsible for the safe operation of any boiler, pressure system, amusement ride, and elevator and kindred equipment or structure inspected pursuant to this chapter.

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Division" means the division of occupational safety and health.

"Elevator" means a hoisting and lowering mechanism permanently installed in a structure, designed to carry passengers or authorized personnel, equipped with a car or platform which moves in fixed guides and serves two or more fixed landings.

"Elevators and kindred equipment" as used in this chapter means elevators, escalators, dumbwaiters, moving walks, stage lifts, mechanized parking elevators, manlifts, inclined lifts, personnel hoists, aerial tramways, permanently installed material lifts, personal automatic trains and any other similar mechanized equipment used to convey people in places other than a public right-of-way.

"National Board" means the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.

"Owner" means any person, firm or corporation with legal title to any boiler, pressure system, amusement ride, and elevator and kindred equipment inspected pursuant to this chapter who may or may not be the user.

"Pressure piping" means piping systems specified in the American National Standard Code for Pressure Piping developed and promulgated by the American Society of Mechanical Engineers.

"Pressure systems" means both pressure vessels and pressure piping as defined in this section.

"Pressure vessel" means a closed vessel in which pressure is obtained from an external source or by the direct application of heat from a direct or indirect source.

"User" means any person, firm or corporation legally in possession and responsible for the safe operation of any boiler, pressure system, amusement ride, and elevator and kindred equipment inspected pursuant to this chapter.

"Vendor" means any person, firm or corporation that sells or distributes any boiler, pressure system, amusement ride, and elevator and kindred equipment required to be inspected pursuant to this chapter.

**Sec. -4 Powers and duties.** (a) Administration.

- (1) The department of labor and industrial relations shall establish a boiler and elevator inspection bureau for the enforcement of the rules and regulations promulgated by the authority of this chapter and such other duties as assigned.
- (2) The department shall:
  - (A) Implement and enforce the requirements of this chapter.
  - (B) Keep adequate and complete records of the type, size, location, identification data and inspection findings for boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter.
- (3) The department shall formulate definitions and adopt and enforce standards, rules and regulations pursuant to chapter 91 as may be necessary for carrying out the purposes and provisions of this chapter. Definitions, rules and regulations adopted in accordance with chapter 91 under the authority of chapter 396, prior to the adoption of this chapter that pertain to boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter, shall be continued in force under the authority of this chapter.
- (4) Emergency temporary standards may be promulgated without conforming to chapter 91 and without hearings to take immediate effect upon publication of a notice of such emergency temporary standards in a newspaper of general circulation in the State or upon such other date as may be specified in the notice. An emergency temporary standard may be adopted, if the director determines:
  - (A) That the public or individuals are exposed to grave danger from exposure to hazardous conditions or circumstances; and
  - (B) That such emergency standard is necessary to protect the public or individuals from such danger.Emergency temporary standards 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.
- (5) Variances from standards promulgated under this chapter may be granted

upon application of an owner, user, contractor, or vendor. Application for variances must correspond to procedures set forth in the rules and regulations adopted pursuant to this chapter. The director may issue an order for variance, if he determines that the proponent of the variance has demonstrated that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide substantially equivalent safety as that provided by the standards.

(6) Permits.

- (A) The department shall not issue a "permit to operate" regarding any boiler, pressure system, or elevator and kindred equipment unless they are found to be safe by a qualified inspector.
  - (B) The department may immediately revoke any "permit to operate" any boiler, pressure system, or elevator and kindred equipment found to be in an unsafe condition or where a user, owner or contractor ignores prior department orders to correct specific defects or hazards and continues to use or operate the abovementioned apparatus without abating the hazards or defects.
  - (C) The department shall reissue a "permit to operate" to any user, owner or contractor who demonstrates that he is proceeding in good faith to abate all nonconforming conditions mentioned in department orders and the boilers, pressure systems, and elevators and kindred equipment are safe to operate.
  - (D) The department shall establish criteria for the periodic reinspection and renewal of the permits to operate, and may provide for the issuance of temporary permits to operate while any non-complying boiler, pressure system, and elevator and kindred equipment are being brought into full compliance with the applicable standards and regulations promulgated pursuant to this chapter.
- (7) Certificates of inspection shall be issued for amusement rides after each inspection, if the rides are found to be safe for use.
- (8) No boiler, pressure system, amusement ride, or elevator and kindred equipment which are required to be inspected by this chapter or by any rule or regulation promulgated pursuant to this chapter shall be operated, except as necessary to install, repair, or test, unless a permit to operate or certificate of inspection has been authorized or issued by this department and remains valid.
- (9) The department may, upon the application of any owner or user 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 for cause petition the department for an extension of time.
- (b) Inspection and investigation.
- (1) Authorized representatives of the director shall have the right to enter without delay during regular working hours and at other reasonable times any place, establishment or premises in which are located boilers, pressure systems, amusement rides, and elevators and kindred equipment requiring inspection pursuant to this chapter.

- (2) The department shall inspect for the purpose of insuring compliance with the purposes and provisions of this chapter 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 other construction projects or facilities.
  - (3) The department shall review plans and make inspections, and investigations of boilers, and pressure systems, and the premises appurtenant to each at times and at intervals determined by the director for the purpose of insuring compliance with the purpose and provisions of this chapter. This section shall not apply to single family dwellings or multiple dwelling units of less than 6 living units.
  - (4) The department shall review plans and make inspections, and investigations of elevators and kindred equipment and the premises appurtenant to each at times and at intervals determined by the director for the purpose of insuring compliance with the purposes and provisions of this chapter. This section shall not apply to single family dwelling.
  - (5) The department shall inspect, at least semi-annually 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.
  - (6) The department may investigate accidents involving boilers, pressure systems, amusement rides, and elevators and kindred equipment inspected under this chapter and may issue orders and recommendations with respect to the elimination and control of the cause factors.
  - (7) The department shall have the right to question any employer, owner, operator, agent or employee in investigation, enforcement, and inspection activities covered by this chapter.
  - (8) Any employee of the State acting within the scope of his office, employment, or authority under this chapter shall not be liable in or made a party to any civil action growing out of the administration and enforcement of this chapter.
- (c) Education and training.
- (1) The department may disseminate through exhibitions, pictures, lectures, pamphlets, letters, notices, and any other method of publicity, to owners, users, vendors, architects, contractors, employees, and the general public information regarding boilers, pressure systems, amusement rides, and elevators and kindred equipment required to be inspected pursuant to this chapter.
  - (2) Where appropriate, the department may undertake programs in training and consultation with owners, users, property management firms, vendors, architects, contractors, employees, and the general public regarding the safety requirements of this chapter and the rules and regulations.
- (d) Enforcement.

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- (1) Whenever right of entry to a place to inspect any boiler, pressure system, amusement ride, or elevator and kindred equipment required by this chapter to be inspected is refused to an authorized representative of the director, the department may apply to the circuit court where such place 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 the construction of or the operation of any boiler, pressure system, amusement ride, or elevator and kindred equipment required to be inspected by this chapter is not safe, or that any practice, means, method, operation or process employed or used is unsafe or is not in conformance with the rules and regulations promulgated pursuant to this chapter, the department shall issue an order to render the construction or operation safe or in conformance with this chapter or rules and regulations and deliver the same to the contractor, owner, or user. Each order shall be in writing and may be delivered by mail or in person. 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 insure compliance with the purposes and provisions of this chapter. The owner, or user, or contractor shall obey and observe all orders issued by the department or be subject to appropriate civil penalties.
- (3) Whenever in the opinion of the department the condition of, or the operation of boilers, pressure systems, amusement rides, or elevators and kindred equipment required to be inspected by this chapter, or any practice, means, method, operation, or process employed or used, is unsafe, or is not properly guarded or is dangerously placed, the use thereof may be prohibited by the department, an order to that effect shall be posted prominently on the equipment, or near the place or condition referred to in the order. The order shall be removed when a determination has been made by an authorized representative of the department that the boilers, pressure systems, amusement rides, or elevators and kindred equipment are safe and the required safeguards or safety devices are provided.
- (4) When in the opinion of the department the operation of boilers, pressure systems, amusement rides, or elevators and kindred equipment, required to be inspected by this chapter or any practice, means, method, operation or process employed or used constitutes an imminent hazard to the life or safety of any person, or to property, the department may apply to the circuit court of the circuit in which such boilers, pressure systems, amusement rides, or elevators and kindred equipment are situated or such practice, means, method, operation or process is employed for an injunction restraining the use or operation 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 a standard, rule, regulation, variance, or order of the department and constitutes an imminent hazard to the life or safety of any person or to property and accompanied by a copy of the standard, rule, regulation, variance, or applicable order, 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 representative 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 the court and may take depositions and certify to official acts. The circuit court of any circuit upon application by the director shall have the 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, 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 materials, books, papers, correspondences, 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 involving any boiler, pressure system, amusement ride, or elevator and kindred equipment required to be inspected by this chapter 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 take steps to obtain abatement by informing the owners, users, contractors, and all persons in harms way of such hazard by meeting, posted notice, or otherwise;
  - (B) Take steps to immediately obtain abatement through direct control or elimination of the hazard if after reasonable search, the user, owner or contractor or their representative is not available; and
  - (C) Take steps to obtain immediate abatement when the nature and imminency of the danger or hazard does not permit a search for the owner, user, or contractor; and
  - (D) Where appropriate, initiate necessary legal proceedings to require abatement by the owner, user or contractor.
- (7) The department may prosecute, defend and maintain actions in the name of the department for the enforcement of the provisions of this chapter, including the enforcement of any order issued by it, the appeal of any administrative or court decision, and other actions necessary to enforce this chapter.

**Sec. -5 Fees.** (a) The director may prescribe reasonable fees to be charged

## **ACT 19**

for inspection, examination, other services rendered and for permits, certificates, or licenses, the issuance of which are required by this chapter or by any rule or regulation of the department promulgated pursuant to this chapter, and for:

- (1) Inspection by department of any boiler, pressure system, amusement ride, and elevator and kindred equipment for which a permit or certificate is required for its installation, operation or use and which is required to be inspected by this chapter or by any rule or regulation of the department; and
- (2) Examination of any person applying for permits, certificates or licenses as required by this chapter or by any rule or regulation of the department.

(b) All fees received by the department pursuant to this section shall be paid into the general fund of the State.

**Sec. -6 Safety inspection by qualified inspectors.** (a) All safety inspections required under this chapter of boilers and pressure systems shall be performed by deputy boiler inspectors in the employ of the department who are qualified boiler inspectors and, when authorized by the director, may be performed by special inspectors who are qualified boiler inspectors in the employ of insurance companies insuring boilers or pressure systems in this State.

(b) A qualified boiler inspector is a person eligible for or in possession of a valid commission issued by the National Board of Boiler and Pressure Vessel Inspectors and who has received from the director or his authorized agent briefings and instructions regarding the rules and regulations pertaining to boilers and pressure systems in this State.

(c) All safety inspections required under this chapter of elevators and kindred equipment shall be performed by deputy elevator inspectors of the department who are qualified elevator inspectors and who are employed primarily for purposes of elevator and related inspection work.

(d) A qualified elevator inspector is a person who has worked at least five years as an elevator mechanic or who has satisfied requirements established by the department of labor and industrial relations; provided that these experience requirements shall not apply to any person who was serving as an elevator inspector or a supervisor elevator inspector for the department of labor and industrial relations on May 22, 1974.

**Sec. -7 Complaints to the department.** (a) 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.

(b) Names of all complainants and witnesses shall be held in confidence by the department unless prior permission has been given by the complainant or witness to release his name or unless it has been determined by the attorney general that disclosure is necessary for enforcement and review of this chapter.

**Sec. -8 Violations and penalties.** (a) 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 gravity of the violation, the good faith of the owner, user, contractor, or vendor and the history of previous violations.

(b) Any owner, user, contractor, or vendor who violates this chapter, or any safety standard promulgated hereunder or any rule or regulation issued under the

authority of this chapter, or who violates or fails to comply with any 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, safeguard, notice, order, or warning required by this chapter or by any rule or regulation of the department shall be assessed a civil penalty of not more than \$1,000 for each such violation.

(c) Each day a violation continues shall constitute a separate violation except during an abatement period.

(d) 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.

(e) 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 brought in the district or circuit court for the circuit where the violation is alleged to have occurred or where the owner, user, contractor or vendor has his principal office.

(f) Criminal offenses committed against any employee of the State acting within the scope of his office, or employment, or authority under this chapter shall be subject to the penalties set forth in the Hawaii Penal Code provided that:

- (1) Ten years shall be added to the maximum term of imprisonment (unless life imprisonment is imposed) and \$10,000 shall be added to the maximum fine imposed for conviction under a Class A felony.
- (2) Five years shall be added to the maximum term of imprisonment and \$5,000 shall be added to the maximum fine imposed for conviction under a Class B felony.
- (3) Three years shall be added to the maximum term of imprisonment and \$1,000 shall be added to the maximum fine for conviction under a Class C felony.
- (4) One year shall be added to the maximum term of imprisonment and \$500 shall be added to the maximum fine for conviction for a misdemeanor.
- (5) The maximum term of imprisonment and maximum fines prescribed for misdemeanors under the Hawaii Penal Code shall apply to convictions for a petty misdemeanor.

**Sec. -9 Review and appeal.** Any order of the director shall be final and conclusive against the owner, user, vendor, or contractor unless the owner, user, vendor, or contractor files with the director a written notice of contest of the order, the abatement period stated in the order, or the penalty stated in the order within twenty days after receipt of such order.

The owner, user, vendor, or contractor may petition the director for modification of the abatement requirements in an order. The owner, user, vendor, or contractor shall file said petition no later than the close of the next business day following the date on which abatement is required or under exceptional circumstances and for good cause shown at a later date. The petition for modification may be filed after the twenty-day period for contesting the order has expired where the initial abatement period stated in the order expires after the twenty-day period for filing a notice of contest has run.

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The director shall issue an order either affirming or modifying the abatement requirement. The director may issue an order modifying the abatement requirement upon a showing by the owner, user, vendor, or contractor of a good faith effort to comply with the abatement requirements of an order and that abatement has not been completed because of factors beyond his reasonable control.

The director shall advise the appeals board of a notice of contest upon receiving any such notice.

The appeals board shall afford an opportunity for a hearing on any notice of contest. Such hearings before the appeals board shall be de novo except where rules and regulations require a prior formal hearing at the department level, the proceedings of which are required to be transcribed, in which case review before the appeals board shall be confined to the record only.

The appeals board may affirm, modify, or vacate the order or continue the matter upon such terms and conditions as may be deemed necessary, or remand the case to the director with instructions for further proceedings or direct such other relief as may be appropriate.

**Sec. -10 Judicial review.** Except where an order has already become final for failure to contest, the decision and order of the appeals board shall be final and conclusive, unless the director or any party to the proceedings before the appeals board obtains a review thereof in the manner provided in chapter 91 by instituting proceedings in the circuit court of the circuit in which the boiler, pressure system, amusement ride, or elevator and kindred equipment is situated or such practice, means, method, operation, or process is employed. The hearing on review shall be on the record and the department shall be deemed a party to any such proceedings. The court shall give precedence to such proceedings over all other civil cases.

**Sec. -11 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, the appeals board, or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

**Sec. -12 Evidence.** No record or determination of any administrative proceeding under this chapter or any statement or report of any kind obtained or received in connection with the administration or enforcement of this chapter shall be admitted or used whether as evidence, or as discovery, in any civil action growing out of any matter mentioned in the record, determination, statement or report other than an action for enforcement or review under this chapter."

SECTION 2. Section 396-4(b) Hawaii Revised Statutes, is amended to read as follows:

"(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 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;
  - (5) The department shall have the right to question privately any employer, owners, operator, agent or employee in investigation, enforcement and inspection activities;
  - (6) 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.
  - (7) An employee of the State acting within the scope of his office, employment, or authority under this chapter shall not be liable in or made a party to any civil action growing out of the administration or enforcement of this chapter."

**SECTION 3.** Section 396-5, Hawaii Revised Statutes, is repealed.

**SECTION 4.** Section 396-5.5, Hawaii Revised Statutes, is repealed.

**SECTION 5. Transfer of functions.** All rights, powers, functions, and duties of the technical inspection and compliance branch of the division of occupational safety and health of the department of labor and industrial relations are transferred to the boiler and elevator inspection bureau of the department of labor and industrial relations.

**SECTION 6. Transfer of personnel.** All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having civil service status shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

**SECTION 7. Transfer of records and equipment.** All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the technical inspection and compliance branch of the division of occupational safety and

## ACT 20

health of the department of labor and industrial relations relating to the functions transferred to the boiler and elevator inspection bureau of the department of labor and industrial relations shall be transferred with the functions to which they relate.

**SECTION 8.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 9. Effective date.** This Act shall take effect upon its approval.

(Approved April 12, 1980.)

## ACT 20

S.B. NO. 1519

A Bill for an Act Relating to Hawaii Bank Act of 1931.

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

**SECTION 1.** Section 403-53, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 403-53 Branch banks.** No bank or any officer or director, agent, or employee thereof, shall open or maintain any branch in the State or receive deposits or pay checks other than at its principal place of business or its established branches or such subsidiary collection offices as the director of regulatory agencies may approve, except as hereinafter authorized; provided that this section shall not apply to branch banks existent on July 1, 1931, and authorized to do business in the State; and provided further that nothing in this section shall authorize any bank to change the location of any branch bank except as authorized by the procedure hereinafter outlined for opening of branch banks.

Except as provided in section 403-56, no bank shall be permitted to open or maintain in the district of Honolulu, in addition to the main office of the bank more than [four] five branch banks (whether designated as branch banks or collection offices) within each of the zones described:

Zone I: extending from the eastern† side of Nuuanu Avenue to the western limits of the district of Honolulu;

Zone II: extending from the eastern limits of Zone I to a line beginning at the sea and running along Kapahulu Avenue to the intersection of Kapahulu Avenue and Waialae Road, and thence following easterly on Waialae Road to St. Louis Drive, and thence along St. Louis Drive and Dole Street extension to the boundary between Manoa Valley and Palolo Valley, and thence along the boundary to the Koolau range;

Zone III: extending from the eastern limits of Zone II to the eastern limits of the district of Honolulu."

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

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

(Approved April 17, 1980.)

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

†In section prior to amendment, the word "eastern" was "western".

## ACT 21

S.B. NO. 2066-80

A Bill for an Act Relating to Liquor.

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

SECTION 1. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 281- Pool buying.** (a) No holder of a wholesale dealer's or manufacturer's license shall refuse to sell liquor to two or more licensees pursuant to any pool buying agreement between the licensees which has been filed with the commission having jurisdiction over the licensees; provided that

- (1) The pool buying agreement is in writing and designates one of the licensees as the agent of the others for the purpose of pool buying;
  - (2) Any order for pool buying from the holder of a manufacturer's or wholesale dealer's license shall be placed by the agent and payment for that order shall be made by the agent;
  - (3) The holder of a manufacturer's or wholesale dealer's license in selling to the agent shall follow invoice, record keeping, and delivery procedures which are in compliance with this chapter and the rules of the commission of each county having jurisdiction over the seller; and
  - (4) Each pool buying transaction shall be completed on the day transacted.
- (b) As used in this section, "pool buying" means two or more licensees sharing the cost of a single purchase of liquor.
- (c) Nothing in this section shall be deemed to exempt any licensee entering into any pool buying agreement from any antitrust laws."

SECTION 2. New statutory material is underscored.\*

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

(Approved April 17, 1980.)

## ACT 22

S.B. NO. 3085-80

A Bill for an Act Relating to Environmental Impact Statements.

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

SECTION 1. Section 343-5, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Except as otherwise provided, an environmental assessment shall be required for actions which:

- (1) Propose 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 for† projects which the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real

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

†Probably should read "or".

property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies.

- (2) Propose any use within any land classified as conservation district by the state land use commission under chapter 205.
- (3) Propose any use within the shoreline area as defined in section 205-31.
- (4) Propose 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 6E.
- (5) Propose 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).
- (6) Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county.

(b) Whenever an agency proposes an action which falls within the categories in subsection (a), other than feasibility or planning studies for possible future programs or projects which the agency has not approved, adopted, or funded, or other than the use of state or county funds for the acquisition of unimproved real property, which is not included in any of the specific types of actions referred to in section 343-6, that agency shall prepare an environmental assessment for such action at the earliest practicable time to determine whether an environmental impact statement shall be required. A statement shall be required 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 343-3. 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 343-3. 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, whenever a state agency proposes an action within the categories in subsection (a); 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 implementation of the proposed action. Upon acceptance or nonacceptance 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 nonacceptance of the statement pursuant to section 343-3."

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

underscored.

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

(Approved April 17, 1980.)

**ACT 23**

S.B. NO. 3131-80

A Bill for an Act Relating to Mortuaries and Funerals.

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

**SECTION 1.** Chapter 441, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"Sec. 441- Mortuary authority; disclosure of price.** (a) No funeral services and related commodities shall be furnished unless a mortuary authority provides to a prospective purchaser a written estimated price for the funeral services and related commodities which the prospective purchaser desires to purchase, and the purchaser approves of the funeral services and related commodities and the estimated price, and the prospective purchaser signs the estimate.

(b) No mortuary authority shall charge a price for funeral services and related commodities which is greater than the price on the estimate which the purchaser has signed, unless the purchaser requests an additional item and approves the higher price.

**Sec. 441- Mortuary authority; price list to be furnished.** (a) Each mortuary authority shall provide to every prospective purchaser a current price list, which shall contain separately stated prices for each type of service or item which is a part of the funeral services and related commodities which the mortuary authority offers.

Any mortuary authority may use the format for a price list as established by the rules adopted by the board.

(b) The price list specified in subsection (a) shall be provided to each prospective customer before that prospective customer approves the written estimated price, as required by section 441- ."

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

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

(Approved April 17, 1980.)

**ACT 24**

H.B. NO. 2418-80

A Bill for an Act Relating to Energy Production Facilities in Agriculture Districts.

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

**SECTION 1.** The purpose of this Act is to allow the establishment of wind energy facilities as a permitted use in agriculture districts.

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

SECTION 2. Section 205-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 205-2 Districting and classification of lands.** There shall be four major land use districts in which all lands in the State shall be placed: urban, rural, agricultural, and conservation. The land use commission shall group contiguous land areas suitable for inclusion in one of these four major districts. The commission shall set standards for determining the boundaries of each district, provided that:

- (1) In the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included;
- (2) In the establishment of boundaries for rural districts, areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre and a minimum lot size of not less than one-half acre shall be included, except as herein provided;
- (3) In the establishment of the boundaries of agricultural districts the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation; and
- (4) In the establishment of the boundaries of conservation districts, the "forest and water reserve zones" provided in section 183-41 are renamed "conservation districts" and, effective as of July 11, 1961, the boundaries of the forest and water reserve zones theretofore established pursuant to section 183-41, shall constitute the boundaries of the conservation districts; provided that thereafter the power to determine the boundaries of the conservation districts shall be in the commission.

In establishing the boundaries of the districts in each county, the commission shall give consideration to the master plan or general plan of the county.

Urban districts shall include activities or uses as provided by ordinances or regulations of the county within which the urban district is situated.

Rural districts shall include activities or uses as characterized by low density residential lots of not more than one dwelling house per one-half acre in areas where "city-like" concentration of people, structures, streets, and urban level of services are absent, and where small farms are intermixed with the low density residential lots except that within a subdivision, as defined in section 484-1, the commission for good cause may allow one lot of less than one-half acre, but not less than 18,500 square feet, or an equivalent residential density, within a rural subdivision and permit the construction of one dwelling on [said] such lot, provided that all other dwellings in the subdivision shall have a minimum lot size of one-half acre or 21,780 square feet. Such petition for variance may be processed under the Special Permit Procedure. These districts may include contiguous areas which are not suited to low density residential lots or small farms by reason of topography, soils, and other related characteristics.

Agricultural districts shall include activities or uses as characterized by the cultivation of crops, orchards, forage, and forestry; farming activities or uses related to animal husbandry, aquaculture, game and fish propagation; aquaculture, which means the production of aquatic plant and animal life for food and fiber within ponds and other bodies of water; wind generated energy production for public, private and

commercial use; services and uses accessory to the above activities including but not limited to living quarters or dwellings, mills, storage facilities, processing facilities, and roadside stands for the sale of products grown on the premises; wind machines and wind farms; agricultural parks; and open area recreational facilities.

These districts may include areas which are not used for, or which are not suited to, agricultural and ancillary activities by reason of topography, soils, and other related characteristics.

Conservation districts shall include areas necessary for protecting watersheds and water sources; preserving scenic and historic areas; providing park lands, wilderness, and beach reserves; conserving endemic plants, fish, and wildlife; preventing floods and soil erosion; forestry; open space areas whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding communities, or would maintain or enhance the conservation of natural or scenic resources; areas of value for recreational purposes; [and] other related activities; and other permitted uses not detrimental to a multiple use conservation concept."

SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Within the agricultural district all lands with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class A or B shall be restricted to the following permitted uses:

- (1) Cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber;
- (2) Game and fish propagation;
- (3) Raising of livestock, including but not limited to poultry, bees, fish, or other animal or aquatic life that are propagated for economic or personal use;
- (4) Farm dwellings, employee housing, farm buildings, or activity or uses related to farming and animal husbandry;  
Farm dwelling as used [herein shall mean] in this paragraph means a single-family dwelling located on and used in connection with a farm or where agricultural activity provides income to the family occupying the dwelling[.];
- (5) Public institutions and buildings which are necessary for agricultural practices;
- (6) Public and private open area types of recreational uses including day camps, picnic grounds, parks, and riding stables, but not including drag strips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps;
- (7) Public, private, and quasi-public utility lines[,] and roadways, transformer stations, communications equipment building, solid waste transfer stations, and appurtenant small buildings such as booster pumping stations, but not including offices or yards for equipment, material, vehicle storage, repair or maintenance, treatment plants, and major storage tanks not ancillary to agricultural practices, or corporation yards, or other like structures;
- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites

## ACT 25

- of historic or scenic interest;
- (9) Roadside stands for the sale of agricultural products grown on the premises;
- (10) Buildings and uses, including but not limited to mills, storage and processing facilities, maintenance facilities that are normally considered direct accessory to the abovementioned uses; [or]
- (11) Agricultural parks[.]; or
- (12) Wind energy facilities, including the appurtenances associated with the production and transmission of wind generated energy; provided that such facilities and appurtenances are compatible with agriculture uses and cause minimal adverse impact on agricultural land."

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

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

(Approved April 17, 1980.)

## ACT 25

S.B. NO. 1871-80

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

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

SECTION 1. Chapter 307, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 307- Research vessel safety requirements.** Notwithstanding any law to the contrary, prior to the charter or use of any research or other ocean-going vessel by the research corporation or any agent thereof, the research corporation shall insure that the vessel meets the research vessel standards recommended by the guidelines of the university national oceanographic laboratory systems."

SECTION 2. New statutory material is underscored.\*

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

(Approved April 22, 1980.)

## ACT 26

S.B. NO. 1992-80

A Bill for an Act Relating to Trademarks, Prints, Labels, and Trade Names.

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

SECTION 1. Chapter 482, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated as and to read:

**"Sec. 482-1 Definitions.** As used in this chapter, unless the context otherwise requires:

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

- (1) "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others.
- (2) "Trademark" means a mark used by a person to identify goods and distinguish them from the goods of others.
- (3) "Trade name" means a word or name used by a person to identify his business, vocation or occupation and distinguish it from the business, vocation or occupation of others.
- (4) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity."

SECTION 2. Section 482-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 482-2 Certificate.** (a) Any person desiring to secure the exclusive use of any print, label, or trademark intended to be attached or applied to any goods or manufactured articles or to bottles, boxes, or packages containing the goods or manufactured articles to indicate the name of the manufacturer, and any person desiring to secure the exclusive use of a service mark, or a trade name, may obtain a certificate of the registration of the print, label, trademark, service mark or trade name in the manner hereinafter provided.

(b) Before any person may receive a certificate of registration of a print, label or trademark, he shall file in the office of the director of the regulatory agencies an application for the registration of such print, label or trademark, with a declaration, certified by the applicant, stating that he is the sole and original proprietor or the assign of such proprietor of this print, label or trademark, and describing the goods or manufactured articles for which the print, label or trademark is used, and stating the manner in which the print, label or trademark is used. Before any person may receive a certificate of registration of a service mark or trade name, he shall file in the office of the director an application for the registration thereof, with a declaration, certified, as aforesaid, stating that he is the sole and original proprietor of the service mark or trade name, or the assign of the proprietor and setting forth the nature of the business in which the service mark or trade name is used. The application shall be accompanied by two exact copies of the print, label, trademark, service mark or trade name. Upon filing the application, the applicant shall pay to the director a fee of \$10."

SECTION 3. Section 482-2, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 482-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 482-3 Record; issuance and effect of certificate.** Upon receiving the application so accompanied and the payment of the fee, the director of regulatory agencies shall cause the print, label, trademark, service mark or trade name to be recorded and shall issue to the applicant a certificate of registration under the seal of the director; and the certificate of registration shall secure to the applicant the exclusive use of the print, label, trademark, service mark or trade name throughout the State, for the term of ten years from the date thereof; provided that the print, label, trademark, service mark, or trade name is continued in actual use by the applicant in the State or elsewhere in the United States or is registered in the name of the applicant in the patent office of the United States."

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SECTION 5. Section 482-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 482-4 Certain prints, labels, trademarks, service mark, union labels and trade names not to be adopted or used.** (a) It is unlawful for any person to adopt or use a print, label, trademark, service mark or trade name, which is identical with any registered print, label, trademark, service mark or trade name or so similar as to be confused therewith, or any print, label, trademark, service mark or trade name identical with or similar to the name of any copartnership or corporation registered in accordance with chapter 416 or chapter 418 or chapter 425; and the director of regulatory agencies shall not register any such print, label, trademark, service mark or trade name.

(b) When a bona fide labor union, or association of employees has adopted a device in the form [of]† a label, brand, mark, name, or other character for the purpose of designating the products of the members of the union or association and the device has been registered pursuant to sections 482-2 and 482-3, then it shall be unlawful for any person to adopt, print, distribute, or otherwise use the device or one so similar as to be confused therewith, and the director of regulatory agencies shall not register any such similar device. Any person, except the director of regulatory agencies, found to be in violation of this subsection may, in addition to any other penalty assessed or otherwise imposed by law, be required to pay all costs and attorney's fees incurred in seeking enforcement of this subsection, and may be ordered by the court to pay damages to the bona fide labor union or association of employees involved in such amount as may be determined by the court; provided that the damages ordered shall not be less [than]†† \$250 nor more than \$5,000."

SECTION 6. Section 482-5, Hawaii Revised Statutes, is amended to read:

**Sec. 482-5 Penalty.** Any person using such identical or similar print, label, trademark, service mark or trade name as set forth in section 482-4, shall be fined not more than \$1,000."

SECTION 7. Section 482-6, Hawaii Revised Statutes, is amended to read:

**"Sec. 482-6 Revocation of certificate; nonuse.** If any print, label, trademark, service mark or trade name is not used by the registrant in accordance with the declaration either in the State or elsewhere in the United States for a period of three hundred and sixty-five consecutive days, and the print, label, service mark, trademark, or trade name has not been registered in the name of the registrant in the patent office of the United States, the certificate of registration shall be subject to revocation.

Any person desiring such revocation shall file a verified petition in the office of the director of regulatory agencies, setting forth facts indicating such nonuse for a period of three hundred and sixty-five consecutive days immediately preceding the date of the filing of the petition, and alleging the nonregistration in the patent office of the United States. The petitioner shall at his expense notify the registrant of the hearing in the manner prescribed by the director and section 91-9.5, and the registrant shall be given the opportunity of a full hearing in accordance with chapter 91.

†Bracketed word added by Revisor.

††"Than" substituted for "then" to correct obvious clerical error.

After granting an opportunity for hearing to the petitioner and the registrant, the director shall grant or deny the petition for revocation, as the facts shall warrant."

SECTION 8. Section 482-7, Hawaii Revised Statutes, is amended to read:

**"Sec. 482-7 Application of law; reissue on nonuser.** Sections 482-1 to 482-9 are applicable to all registrations filed in the office of the director of regulatory agencies; the intent hereof being that all prints, labels, trademarks, service marks, or trade names not used by the applicant in the State or elsewhere in the United States and not registered in the name of the applicant in the patent office of the United States may be immediately reissued to such applicant who is actually using the same.

The fact that a print, label, trademark, service mark, or trade name has not been used in the State for a period of one year shall be *prima facie* proof of the fact that the same has not been used elsewhere for such period."

SECTION 9. Section 482-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 482-8 Revocation of certificate; ownership.** Any person claiming to be the owner of a print, label, service mark, trademark, or trade name for which a certificate of registration pursuant to this chapter has been issued to any other person shall file a verified petition in the office of the director of regulatory agencies for the revocation of the registration of such print, label, service mark, trademark, or trade name. The petition shall set forth facts in support of the ownership by such petitioner of such print, label, service mark, trademark, or trade name and in support of the claim of the petitioner that the certificate of registration should be revoked.

The petitioner shall at his expense notify the registrant of the hearing in the manner prescribed by the director and section 91-9.5 and the registrant shall be given the opportunity of a full hearing in accordance with chapter 91.

After granting an opportunity for hearing to the petitioner and the registrant, the director shall grant or deny the petition for revocation, as the facts warrant."

SECTION 10. Section 482-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 482-9 Appeal.** Any person aggrieved by any action of the director of regulatory agencies under this chapter in issuing a certificate of registration of a print, label, trademark, service mark, or trade name or in revoking any such certificate of registration or in denying an application may, within thirty days after the action by the director, or in the event no order has been entered either granting or denying the application within four months after the filing of the application, commence proceedings to obtain judicial review thereof by the circuit court of the first circuit by filing in the court a notice of appeal. The trial by the circuit court of any such proceeding shall be *de novo*. Proceedings for review by the supreme court may be had and taken in the same manner as is provided for a review of a judgment of a circuit court."

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 12. This Act shall take effect upon approval.

(Approved April 22, 1980.)

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

**ACT 27**

**ACT 27**

S.B. NO. 2003-80

A Bill for an Act Relating to Motor Carrier Safety Law.

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

**SECTION 1. Purpose.** The purpose of this Act is to clarify the applicability of the motor carrier safety law to certain private carriers of passengers.

**SECTION 2.** Section 286-201, Hawaii Revised Statutes, is amended by amending the definition of "motor carrier" to read:

"(4) "Motor carrier" as used in this part means any person who owns a motor vehicle used in, or engages in the transportation of persons or property by motor vehicle on the public highways in the furtherance of any commercial, industrial, or educational enterprise."

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

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

(Approved April 22, 1980.)

**ACT 28**

S.B. NO. 2004-80

A Bill for an Act Relating to Highway Safety.

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

**SECTION 1.** Chapter 286, Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read:

**"Sec. 286- Boat dealers; trailers without plates.** Notwithstanding any other law to the contrary, a manufacturer of or dealer in boats having an established place of business in the State may move a boat trailer without license number plates upon the public highways during the initial continuous movement of the boat trailer and any boat being transported on the trailer from its point of entry into the State to a storage, display, or sales area selected by the manufacturer or dealer.

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

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

(Approved April 22, 1980.)

**ACT 29**

S.B. NO. 2188-80

A Bill for an Act Relating to Articles of Incorporation.

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

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

SECTION 1. Section 416-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 416-11 Creation by articles of incorporation.** Any number of persons not less than one desiring to form a corporation shall execute articles of incorporation and acknowledge the same before any officer authorized to take acknowledgments. The articles shall contain the following particulars:

- (1) The name of the corporation, which shall include as the last word thereof the word "Limited", "Incorporated", or "Corporation" or the abbreviation "Ltd.", "Inc.", or "Corp.;"
- (2) The place of its principal office in Hawaii and also the specific street address and zip code of its initial office; provided that where, because of its rural geographic location, no specific street address is available or used, a rural route post office number or post office box designated or made available by the United States Postal Service may be used;
- (3) The purposes and powers of the corporation;
- (4) The number of shares of each class of stock that the corporation is authorized to issue, the aggregate par value, if any, of each class of stock, and the par value of each share or that the shares are without par value; and, if the privilege of subsequent extension of the authorized capital stock is reserved, the limit of the extension;
- (5) The number of directors, which shall be not less than one, and the names and residence addresses of the initial officers and directors; provided that where, because of its rural geographic location, no specific residence street address is available or used, a rural route post office number or post office box designated or made available by the United States Postal Service may be used;
- (6) If the corporation is to issue initially more than one class of stock, the preferences, privileges, powers, rights, and qualifications of the shares other than common shares having full voting rights;
- (7) Any other lawful provisions which may be desired by the corporation for the purpose of defining, limiting, or regulating the powers of the corporation and the powers and duties of its board of directors."

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

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

(Approved April 22, 1980.)

ACT 30

S.B. NO. 2515-80

A Bill for an Act Relating to Contractors.

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

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

## **ACT 31**

**SECTION 1.** Section 444-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The biennial fee or inactive license fee shall be paid to the contractors license board on or before April 30 of each even-numbered year. Failure, neglect, or refusal of any licensee to pay the biennial renewal fee before such date shall constitute a forfeiture of his license. Any such license may be restored upon written application therefor within sixty days from such date and the payment of the required fee plus an amount equal to ten per cent thereof.

Upon written request of a licensee, the board may place that person's active license in an inactive status. The license, upon payment of the inactive license fee, may continue inactive for the biennial period. Failure, neglect, or refusal of any licensee in inactive status to pay the inactive license fee shall constitute a forfeiture of the license. The license may be reactivated at any time during the biennial period by making written request to the board and by fulfilling all the requirements, including the payment of the appropriate fees."

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

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

(Approved April 22, 1980.)

**ACT 31**

S.B. NO. 2740-80

A Bill for an Act Relating to Shares Without Par Value.

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

**SECTION 1.** Section 416-59, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any corporation organized under the laws of the State, except as provided in subsection (i) of this section, may issue shares of stock with par value or shares of stock without par value or both, of any class or classes, to the extent that the articles of association so permit; provided, that no corporation may have shares of a class with par value and also shares of the same class without par value. In case of the issue of two or more classes of stock without par value or the issue of any series of any class without par value, then the preferences, voting powers, restrictions, and qualifications thereof shall be set forth in the articles of association or shall be determined as provided in section 416-58. Where the articles of association permit the issuance of shares without par value, the statement in the articles of association of the amount of the capital stock of the corporation and of the limit of the extension thereof shall state the number of shares of stock without par value and the limit of the extension of the number of shares, and may but need not contain provisions relating to the consideration or considerations for which shares without par value may be issued and relating to the capital to be attributable to shares without par value."

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

**SECTION 2.** Section 416-59, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Rights on dividends and assets, etc. All fully paid shares of stock without par value of the same series of any class shall be entitled to the same dividends and to the same assets upon dissolution and shall have the same preferences, voting powers, restrictions and qualifications, notwithstanding that some of the shares may have been issued for different considerations than others.”

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

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

(Approved April 22, 1980.)

**ACT 32**

S.B. NO. 3026-80

A Bill for an Act Relating to Temporary Disability Insurance.

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

**SECTION 1.** Section 392-3(8), Hawaii Revised Statutes, is amended by amending the definition of “wages” to read:

“(8) “Wages” means all remuneration for services from whatever source, including commissions, bonuses, tips or 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 and reported to the employer for payroll tax deduction purposes, and the cash value of all remuneration in any medium other than cash.

The director may issue regulations for the reasonable determination of the cash value of remuneration in any medium other than cash.

Wages do not include the amount of any payment specified in section 383-11.”

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

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

(Approved April 22, 1980.)

**ACT 33**

H.B. NO. 1827-80

A Bill for an Act Relating to Partnerships.

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

**SECTION 1.** Section 425-125, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

“(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this part and to any agreement

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

## ACT 34

between the partners, has an equal right with the other partners to possess specific partnership property for partnership purposes; but the partner has no right to possess such property for any other purpose without the consent of the other partners.

- (b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.
- (c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.
- (d) On the death of a partner the partner's right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when the deceased's right in such property vests in the deceased's legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.
- (e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to surviving spouses, heirs, or next of kin."

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

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

(Approved April 22, 1980.)

## ACT 34

H.B. NO. 2127-80

### A Bill for an Act Relating to the Impoundment of Vessels.

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

SECTION 1. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 266- Mooring of unauthorized vessel in state harbors; impoundment and disposal proceedings.** (a) No person shall moor a vessel in a state harbor without obtaining a use permit; nor shall a person continue to moor a vessel in any state harbor, if the use permit authorizing the vessel to moor has expired or otherwise been terminated. A vessel moored without a use permit or with a use permit that has expired or been terminated is an unauthorized vessel and is subject to subsections (b) to (e) of this section.

(b) The department shall cause to be placed upon, or as near to the unauthorized

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

vessel as possible, a notice to remove vessel, which shall indicate that the vessel is in violation of section 266- , the date and time the notice was posted, and that the vessel must be removed within seventy-two hours from the time the notice was posted.

(c) An unauthorized vessel may be summarily and administratively impounded by the department at the sole cost and risk of the owner of the vessel, if such a vessel is not removed after the seventy-two hour period or if during said period the vessel is removed and re-moored in said harbor or any other state harbor without a use permit. The notice and hearing requirements of chapter 91 shall not be prerequisite to an administrative impoundment.

(d) Custody of an unauthorized vessel shall be returned to the person entitled to possession upon payment of all fees and costs due, and fines levied by a court.

(e) Any unauthorized vessel impounded under this section, which remains unclaimed by the person entitled to possession, the registered owner or a lien holder for more than thirty days, may be sold by the department at public auction in accordance with the procedures set forth in chapter 267A."

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

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

(Approved April 22, 1980.)

**ACT 35**

H.B. NO. 2351-80

A Bill for an Act Relating to Employment Practices.

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

**SECTION 1.** Chapter 378, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 378- Action against labor organization, limitation.** Any complaint, whether founded upon any contract obligation or for the recovery of damage or injury to persons or property, by an employee against a labor organization for its alleged failure to fairly represent the employee in an action against an employer shall be filed within ninety days after the cause of action accrues, and not thereafter.

Where the alleged failure to fairly represent an employee arises from a grievance, the cause of action shall be deemed to accrue when an employee receives actual notice that a labor organization either refuses or has ceased to represent the employee in a grievance against an employer. Where the alleged failure is related to negotiations or collective bargaining, the cause of action shall be deemed to accrue when the applicable collective bargaining agreement or amendment thereto is executed."

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

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

(Approved April 22, 1980.)

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

A Bill for an Act Relating to Consumer Transactions.

*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 LANGUAGE OF CONSUMER TRANSACTIONS”**

**Sec. -1 Plain language in consumer transactions.** (a) Every written agreement entered into on or after July 1, 1981:

- (1) To which a consumer is a party, which involves less than \$25,000, and which is the subject of a transaction for personal, family or household purpose; or
- (2) Which is for the lease of space to be occupied for residential purposes, shall be written in a clear and coherent manner using words with common and everyday meanings, and appropriately divided and captioned by its various sections.

(b) Any creditor, seller or lessor who fails to comply with this chapter shall be liable in an amount equal to any actual damages sustained by a suing party or a class in a class action, plus a penalty of fifty dollars. The total class action penalty against any creditor, seller or lessor shall not exceed \$10,000 in any class action or series of class actions arising out of the use by a creditor, seller or lessor of an agreement which fails to comply with this chapter. No right of recovery shall exist for any class by way of a class action, pursuant to this section, on any written agreement executed prior to July 1, 1986.

(c) No action under this chapter may be brought after both parties to the agreement have fully performed their obligations under such agreement, nor shall any creditor, seller or lessor who attempts in good faith to comply with this chapter be liable for such penalties.

(d) This chapter shall not prohibit the use of words or phrases or form of agreement required by state or federal law, rule or regulation.

**Sec. -2 Effect of non-compliance.** Failure to comply with any requirement imposed by this chapter shall not render any agreement void or voidable nor shall it constitute a defense to any action to enforce such agreement or any action for breach of such agreement.

**Sec. -3 Attorney general or director of consumer protection to enforce chapter.** The attorney general or the director of the office of consumer protection may bring an action in the name of the State against any person to restrain and prevent any violation of this chapter.”

SECTION 2. This Act shall take effect upon approval.

(Approved April 23, 1980.)

A Bill for an Act Relating to Trust Companies.

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

SECTION 1. Section 406-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 406-5 Powers of trust companies.** Every trust company shall have power, in addition to the general powers conferred by law upon corporations and joint-stock companies:

- (1) To take, receive, and hold, and repay, reconvey, and dispose of, any effects and property, both real and personal, which may be granted, devised, bequeathed, committed, transferred, or conveyed to it, upon any trust or trusts, at any time or times by any person or persons, including [married women and] minors, body or bodies corporate, or by any state, territorial, federal, or foreign court or judge, and to administer, fulfill, and discharge the duties of the trust or trusts for such remuneration as may be agreed upon or provided by law;
- (2) To act generally as agents or attorneys in the transaction of business or management of estates, the collection of rents, interest, dividends, mortgages, bonds, bills, notes, and securities for money;
- (3) To act as agent for the purpose of buying, selling, issuing, negotiating, registering, transferring, or countersigning the certificates of stock, bonds, or other obligations of any corporation, association, or municipality, and to manage any sinking fund therefor, on such terms as may be agreed upon;
- (4) To accept and to execute the offices of personal representative, trustee, receiver, assignee, or guardian, whether by appointment by will, by a court, or judge, or otherwise;
- (5) To loan money upon real estate and collateral security and to execute and issue its notes and debentures, payable at a future date, and to pledge its mortgages on real estate and other securities as security therefor;
- (6) To take and receive from any individual or corporation, on deposit for safekeeping and storage, gold and silver plate, jewelry, money, stocks, securities, and other valuables and personal property;
- (7) To rent out the use of safes or other receptacles upon such terms and for such compensation as may be agreed upon;
- (8) To lease, purchase, hold, and convey all such personal estate as may be necessary to carry on its business or that it may be necessary to acquire in the enforcement or settlement of any claims or demands arising out of its business transactions;
- (9) To execute and issue in the transaction of its business all necessary receipts, certificates, papers, and contracts which shall be signed by such person or persons as may be designated in the bylaws;
- (10) To lease, purchase, hold, and convey real estate as its corporate property;
- (11) To purchase, hold, and sell the stocks and bonds of other corporations;
- (12) To do a general trust and security business; and

## ACT 38

(13) To transact as agents any other business or undertaking, trust, mercantile, or otherwise, which may be necessary, useful, or convenient to the main purpose of the corporation.

Nothing herein shall be construed as giving the right to issue bills to circulate as money or to discount commercial paper, or to do a general banking business, or to do a savings bank business.

After June 30, 1970, no trust company shall have power to engage, directly or indirectly, in the business of acting as a real estate broker, stockbroker, or insurance agent."

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

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

(Approved April 23, 1980.)

## ACT 38

H.B. NO. 1817-80

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 431-442, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Without the consent of one's spouse, a married person may contract, pay for, take out, and hold a policy on the life or health of one's spouse or children, or against loss by such spouse or children due to disablement by accident. Premiums paid on the policy by a married person shall be held to have been that person's separate estate, and the policy shall inure to the use and benefit of that person and that person's children, free from any claim by the spouse or others."

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

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

(Approved April 23, 1980.)

## ACT 39

H.B. NO. 1969-80

A Bill for an Act Relating to Property.

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

SECTION 1. Section 502-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 502-12 Indexes.** The registrar shall keep indexes for public inspection in

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

such form and manner as is prescribed by the board of land and natural resources. The master index shall be programmed in such manner as to permit the location of all recorded agreement of sale documents by an alphabetical listing of each party to such agreements of sale."

SECTION 2. Section 516-1, Hawaii Revised Statutes, is amended by amending the definition of "lot", "houselot", "residential lot", and "residential houselot" to read as follows:

"(11) "Lot", "houselot", "residential lot", and "residential houselot" mean a parcel of land, two acres or less in size, which is used or occupied or is developed, devoted, intended, or permitted to be used or occupied as a principal place of residence for one or two families."

SECTION 3. Section 516-33, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 516-33 Qualification for purchase.** Except as otherwise provided under section 516-28, no sale of any residential houselot within a development tract shall be made to any person unless he meets the following requirements:

- (1) Is at least eighteen years of age;
- (2) Is a bona fide resident of the State or has a bona fide intent to reside in the development tract if successful in purchasing the lot;
- (3) Has legal title to, or pursuant to an agreement of sale an equitable interest in, a residential structure situated on the leased lot applied for; provided that, for the purposes of this section, the vendor under such agreement of sale shall not be eligible to purchase the lot. An agreement of sale means an executory contract for the sale and purchase of real property which binds one party to sell and the other party to buy property which is the subject matter of the transaction;
- (4) Has a letter of credit, certificate of deposit, proof of funds, or approved application from any lending institution demonstrating that he will be able to promptly pay the authority for the leased fee interest in the lot;
- (5) Submits an application in good faith in such form as is acceptable to the authority;
- (6) Executes a contract for purchase of the fee interest in such form as is acceptable to the authority; and
- (7) Does not own in fee simple lands suitable for residential purposes within the county and in or reasonably near the place of business of such person or has or have pending before the Hawaii housing authority an unrefused application to lease or purchase a lot in a development tract. A person is deemed to own lands herein if he, his spouse, or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) own lands.

In the event of a wilful breach of contract of a lessee to purchase the leased fee interest, the authority may sell or assign its interest without respect to the requirements of this section.

The authority may require additional testimony or evidence under oath in connection with any application. The determination by the authority of any

## ACT 40

applicant's eligibility under this part shall be conclusive as to all persons thereafter dealing with the property; provided that the making of any false statement knowingly by applicants or other person in connection with any application shall constitute perjury and be punishable as such. The authority shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section."

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

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

(Approved April 23, 1980.)

## ACT 40

H.B. NO. 2284-80

A Bill for an Act Relating to Frozen Food Products.

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

SECTION 1. Chapter 328, part III, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 328- Thawed food.** The term "thawed food" means food previously frozen throughout at a temperature of, or below thirty-two degrees fahrenheit."

SECTION 2. Section 328-61, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 328-61 Notifying consumer.** No person shall sell or offer to sell any uncooked thawed food which substantially resembles the physical appearances of the fresh food without a label, as hereinafter described, notifying the purchaser that such food had been frozen and then thawed out; provided that this section shall not apply if the thawed foods are processed by grinding or have been dehydrated before being offered for retail sale."

SECTION 3. Section 328-62, Hawaii Revised Statutes, is amended to read:

**"Sec. 328-62 Description of label.** "Label" means the information required in this part to be placed on any food products by means of a stamp, stencil, or printing by machine, or by attaching to the immediate package, by sign, handbill, placard, or otherwise, the words "PREVIOUSLY FROZEN" in letter size easily seen under customary conditions of purchase."

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

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

(Approved April 23, 1980.)

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

## ACT 41

H.B. NO. 2339-80

A Bill for an Act Relating to Port Pilots.

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

SECTION 1. Section 462A-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 462A-15 Pilot association.** The pilots licensed under this chapter, each of whom shall be deemed an individual contractor, may form a nonprofit association which shall not be deemed a partnership or corporation for liability purposes, in order to provide such arrangements and facilities as may be necessary and desirable for the efficient dispatching of vessels and rendering of pilotage services required under this chapter. The association shall have no control over the selection of persons to be licensed as pilots or their discharge. The association shall have no direction over the manner in which an individual pilot performs his duties. The association may adopt any working rules that are not inconsistent with the law or of the rules of the board."

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

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

(Approved April 23, 1980.)

## ACT 42

H.B. NO. 2487-80

A Bill for an Act Relating to the Department of Education.

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

SECTION 1. Section 296-45, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 296-45 Transportation of school children.** The department of education may provide suitable transportation to and from school and for educational field trips for all children in grades kindergarten to twelve and in special education classes. The department shall adopt such policy, procedure, and program as it deems necessary to provide suitable transportation. In formulating the policy, procedure, and program, the department shall consider the school district, the school attendance area in which a school child normally resides, the distance the school child lives from the school, the availability of public carriers or other means of transportation, the frequency, regularity, and availability of public transportation, and the grade level, physical handicap, or special learning disability of a school child, and it may also consider such conditions and circumstances unique or peculiar to a county or area.

The department shall, in the manner provided in chapter 91, promulgate rules and regulations governing the supervision and administration of the transportation of school children under section 296-45."

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

## ACT 43

SECTION 2. Section 296-46, Hawaii Revised Statutes, is repealed.

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 April 23, 1980.)

## ACT 43

S.B. NO. 1834-80

A Bill for an Act Relating to Annulment of a Marriage.

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

SECTION 1. Section 580-21, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 580-21 Grounds for annulment.** The family court may, by a decree of nullity, declare void the marriage contract for any of the following causes, existing at the time of the marriage:

- (1) That the parties stood in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate;
- (2) That the parties, or either of them, had not attained the legal age of marriage;
- (3) That the husband had an undivorced wife living, or the wife had an undivorced husband living;
- (4) That one of the parties lacked the mental capacity to consent to the marriage;
- (5) That one of the parties was impotent or physically incapable of entering into the marriage state;
- (6) That consent to the marriage of the party applying for annulment was obtained by force, duress, or fraud, and there has been no subsequent cohabitation;
- (7) That one of the parties was a sufferer or afflicted with any loathsome disease and the fact was concealed from, and unknown to, the party applying for annulment."

SECTION 2. Section 580-26, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 580-26 Lack of mental capacity.** The marriage of a person who lacked the mental capacity to consent to the marriage may be annulled on the application of either party, or on the application of a guardian of the party who lacked such capacity; but in such case, no sentence of nullity shall be pronounced if it appears that the

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

parties freely cohabited as husband and wife after the party who lacked such mental capacity attained the mental capacity necessary to consent to marriage."

SECTION 3. Section 580-27, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 580-27 Legitimacy in case of annulment.** Upon the annulment of a marriage on account of nonage, lack of mental capacity of either party to consent to the marriage, or of a marriage that is prohibited on account of consanguinity between the parties, or for any other ground specified in section 580-21, the issue of the marriage shall be legitimate."

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

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

(Approved April 25, 1980.)

**ACT 44**

S.B. NO. 2007-80

A Bill for an Act Relating to Vending from State Highways.

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

SECTION 1. Chapter 264, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**"PART VII. CONTROL OF VENDING**

**Sec. 264- Vending from state highways prohibited.** Any vehicle or structure parked or placed wholly or partly within the right-of-way of any state highway for the purpose of selling the vehicle or structure or of selling therefrom or therein any article, service, or thing, creates a hazardous condition or is a public nuisance and the department of transportation may remove or require the immediate removal of the vehicle or structure from the highway.

**Sec. 264- Penalty.** Any person parking any vehicle or placing any structure wholly or partly within any state highway for the purpose of selling the vehicle or structure or selling therefrom or therein any article, service, or thing is guilty of a misdemeanor."

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

(Approved April 25, 1980.)

**ACT 45**

S.B. NO. 2070-80

A Bill for an Act Relating to No-Fault Insurance.

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

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

**SECTION 1.** Section 294-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(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 be able to 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 [gratuituously.] gratuitously.
  - (D) All commercial uses, second class, defined as any commercial, business, or institutional use other than the transport of passengers as described in subparagraph (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; provided[, however, said] that the licensed drivers are the registered

owners of motor vehicles to be insured under this chapter.

- (B) Any licensed physically handicapped driver, including drivers with any auditory limitation.

Each category of driver-owner under† subparagraph (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.] canceled. 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.

A certificate shall be issued by the department of social services and housing indicating that the person is a bona fide public assistance recipient as defined in subparagraph (A). The certificate shall be deemed a policy for the purposes of chapter 431 upon the issuance of a valid no-fault insurance identification card pursuant to section 294-8.5.

- (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."

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

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

(Approved April 25, 1980.)

**ACT 46**

S.B. NO. 2081-80

A Bill for an Act Relating to Insurance.

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

**SECTION 1.** Section 431-538, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In the case of policies issued on or after the operative date of the Standard Nonforfeiture Law (section 431-561), a provision that after the policy has a cash surrender value and while no premium is in default, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a rate of interest not exceeding eight per cent a year, an amount at the option of the party entitled thereto, not to exceed the loan value less any prior indebtedness on the policy. If the policy shall provide for a rate of return in excess of six per cent a year, the

†The word "under" is new but was not underscored.

## ACT 47

insurance commissioner may require of the insurers that the holders of such policies will benefit through higher dividends or lower premiums. The policy shall provide for a loan value at least equal to the cash surrender value of the policy without indebtedness at the end of the then current policy year, less any unpaid balance of the premium for the current policy year, and less interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor is made. This subsection shall not apply to term policies nor to term insurance benefits provided by rider or supplemental policy provisions."

SECTION 2. This Act does not affect the present six per cent interest ceiling on policy loans in effect at the time of the effective date of this Act.

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

SECTION 4. This Act shall take effect on June 1, 1980.

(Approved April 25, 1980.)

## ACT 47

S.B. NO. 2186-80

A Bill for an Act Relating to Number Plates.

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

SECTION 1. Section 249-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 249-7 Number plates.** Upon receipt of the tax the director of finance shall number and register the vehicle in the owner's name in a permanent record or book to be kept by him for this purpose, and shall furnish the owner thereof with a receipt showing upon its face the license number issued for the vehicle and the fact that the license tax has been paid thereon for the whole of the remainder of the current year in which the receipt is issued. The director of finance shall also furnish the owner, upon the original registration of the vehicle, two number plates for the vehicle or one plate in the case of trailers, semi-trailers, or motorcycles with the registration number marked thereon. The rear number plate shall have impressed thereon the year for which that series of number plates was first issued and during that year the number plates alone shall be evidence of the payment of the license tax. For original registration in subsequent years and upon the payment of the tax for each year subsequent to the year of original registration, a tag or emblem bearing a serial number and with the

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

year of issue marked thereon, or both. Transfer of current number plates, tag, or emblem, except as authorized by this chapter or by chapter 286, is declared a misdemeanor, punishable by a fine of not more than \$50 for each offense.

Upon an original registration the director of finance shall fix, and shall charge to the owner, a fee equal to the cost of the number plate and tag or emblem plus the administrative cost of furnishing such plate and tag or emblem and effecting the registration. Upon the issuance of a new series of number plates as determined by the lieutenant governor, the director of finance shall charge the owner a fee equal to the costs of the number plate plus the administrative cost of furnishing such plates. Upon issuing a tag or emblem in subsequent years, the director of finance shall charge the owner a fee of 50 cents. The owner shall securely fasten the number plates on the vehicle, one on the front and the other on the rear thereof, in such a manner as to prevent the plates from swinging and at a minimum of twelve inches from the ground. Number plates shall at all times be displayed entirely unobscured and be kept reasonably clean. In the case of trailers, semi-trailers or motorcycles, one plate shall be used and it shall be fastened to the rear thereof.

Upon the issuance of the tag or emblem in any year in which the number plates do not evidence the payment of the current year's tax and for each year subsequent to the year of the initial payment of the tax and the original registration of the vehicle, the owner shall affix the tag or emblem to the rear number plate[.], except that all vehicles owned by the State of Hawaii, any county government, any Board of Water Supply, and official representatives of any foreign governments shall be issued registrations which need be renewed only in the new plate issue year.

After the initial payment of the tax and the original registration of a vehicle as herein specified, a motor vehicle shall not be required to be reweighed in any succeeding year unless it has been so altered or changed as to increase or diminish its weight. No new number plates shall, however, be issued to a new owner except as provided in section 249-8.

Should an owner of a vehicle registered in any county, upon the disposition of the vehicle, request that the license plates be furnished to him with respect to the registration of the vehicle be assigned to another vehicle subsequently acquired by him, the assignment may be made by the director of finance at his discretion. To defray additional administrative costs incurred by acceding to such requests, the director of finance shall charge a fee of \$5 for each such reassignment of license plates, in lieu of the fee for registration provided hereinafter. The procedure for registering the vehicles shall otherwise be identical with that provided by this section.

The director of finance shall, on or before the fifth day of each month, send to the chief of police of the county a list of the numbers issued by him and of changes in ownership recorded by him during the preceding month, together with a general description of the vehicles and the name and address of the owner to whom issued or registered. The chief of police shall retain each such list as a permanent record of his office."

**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 April 25, 1980.)

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-59, Hawaii Revised Statutes, is amended to read:

**"Sec. 171-59 Disposition by negotiation.** (a) A lease of public land may be disposed of through negotiation upon a finding by the board of land and natural resources that the public interest demands it. Where the public land is being sought under this section by a sugar or pineapple company, and the company is the owner or operator of a mill or cannery, then, for the purposes of this section, the economic unit shall be that acreage of public land which when taken together with the lands already owned or controlled or available to the company, when cultivated is found by the board to be necessary for the company's optimum mill or cannery operation. In all other cases, public land to be sold under this section shall be an economic unit as provided in section 171-33(3).

After a determination is made to negotiate the disposition of a lease, the board shall:

- (1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a), of its intention to lease public land through negotiation setting forth the minimum conditions thereunder, the use for which the public land will be leased. Any person interested in securing the lease shall file an application with the board not later than forty-five days after the first publication of the notice;
- (2) Establish reasonable criteria for the selection of the lessee; provided that where the intended use of the land is agriculture, the department of agriculture shall establish the criteria;
- (3) Determine the applicants who meet the criteria for selection set by the board or the department of agriculture, as the case may be, and notify all applicants of its determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board or the department of agriculture were followed; provided that if any applicant does not notify the board of his objections, and the grounds therefor, in writing, within twenty days of the receipt of the notice, he shall be barred from proceeding to seek legal remedy for any alleged failure of the board to follow the conditions and criteria.

If only one applicant meets the criteria for selection of the lessee, the board may, after notice as provided in (3), above, dispose of the lease by negotiation.

If two or more applicants meet the criteria for the selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board.

(b) Disposition of public lands for airline, aircraft, agricultural processing, marine, and maritime operations may be negotiated without regard to the limitations set forth in subsection (a) of this section and section 171-16(c); provided that such disposition encourages competition within the aeronautical, agricultural, and maritime industries; provided further that such disposition shall not exceed a maximum

term of thirty-five years; provided further that for the purpose of this subsection "agricultural processing" means the processing of agricultural products grown or raised in Hawaii."

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

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

(Approved April 25, 1980.)

## ACT 49

S.B. NO. 2232-80

A Bill for an Act Relating to Airport Parking Control.

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

SECTION 1. Chapter 261, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 261- Parking control at airports.** (a) The director may enforce airport rules pertaining to vehicle parking at airports by imposing fines not to exceed \$50 per violation or by removing the vehicle of the offender from the area within the airport's jurisdiction, or both.

(b) Written notice of the removal of any vehicle shall immediately be sent by registered or certified mail, with a return receipt, to the legal and registered owner of the vehicle at the address on record at the vehicle licensing division. The notice shall contain a brief description of the vehicle, the location of custody, and intended disposition of the vehicle if not repossessed within thirty days after the mailing of the notice. A notice need not be sent to a legal or registered owner or to any person with an unrecorded interest in the vehicle whose name or address cannot be determined.

(c) Any vehicle not repossessed within the time limits provided in subsection (b) of this section after compliance by the department with the notice requirements provided by that subsection, shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation; provided that the public auction shall not be held less than five days after the publication has been made. Where no bid is received, the vehicle may be either sold by negotiation, disposed of or sold as junk, or donated to any governmental agency; and further provided that the requirements of public auction may be waived when the appraised value of any vehicle is less than \$100 as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of motor vehicles as a licensed motor vehicle salesman. In that event the vehicle may, after public advertisement has been made once in a newspaper of general circulation, be disposed of in the same manner as when a vehicle is put up for public auction and for which no bid is received.

(d) Any person entitled to the vehicle may repossess the same prior to the date

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

## **ACT 50**

of public auction upon payment of all towing, handling, storage, appraisal, advertising, and any other expenses incurred in connection with the vehicle. If the person claiming the vehicle is not the legal or registered owner, the person may repossess the vehicle upon paying the foregoing expenses and posting adequate security not to exceed the value of the vehicle. The security, if not forfeited, shall be returned two years from receipt.

(e) The transfer of title and interest by sale pursuant to the provisions of this section shall be considered a transfer by operation of law and shall be governed by provisions applicable thereto; provided that in the event the certificate of ownership or registration is unavailable, the bill of sale executed by the director or the director's authorized representative is satisfactory evidence authorizing the transfer of such title or interest.

(f) All proceeds from the sale of vehicles shall be deposited into the airport revenue fund. The legal or registered owner is entitled to recover the excess of the proceeds from the sale over expenses, if the claim is filed with the department within sixty days from the execution of the sales agreement. The legal owner shall receive priority of payment to the extent of his lien on the vehicle. The department may file a claim within the same period against the legal or registered owner or person with an unrecorded interest for the deficiencies between the sale proceeds and expenses.

(g) A vehicle shall be deemed a derelict by the director under any one of the following conditions:

- (1) If the certificate of registration of the vehicle has expired and the registered and legal owner no longer resides at the address listed on the last certificate of registration on record with the county director of finance;
- (2) If the last registered and legal owner of record disclaims ownership;
- (3) If essential major parts have been removed so as to render the vehicle inoperable, and the vehicle identification numbers, license number plates, and other means of identification have been removed so as to nullify efforts to locate or identify the registered and legal owner; or
- (4) If the vehicle registration records of the county director of finance contain no record that the vehicle has ever been registered in the county.

(h) A derelict vehicle may be immediately disposed of or sold as junk without having to comply with the requirements of subsections (b) through (f) of this section."

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

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

(Approved April 25, 1980.)

**ACT 50**

S.B. NO. 2277-80

A Bill for an Act Relating to the Judiciary.

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

**SECTION 1.** The purpose of this Act is to amend the Hawaii Revised Statutes

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

to make approved credit cards acceptable instead of cash, in payment of all court charges. This Act amends section 476-1, Hawaii Revised Statutes, to define these charges as services for purposes of the Retail Installment Sales Act. Section 706-642, Hawaii Revised Statutes, pertaining to fines and section 804-1, Hawaii Revised Statutes, pertaining to bail are amended to include approved credit cards as acceptable means of payment for these services.

SECTION 2. Section 476-1, Hawaii Revised Statutes, is amended by amending the definition of "services" to read:

"Services" means work, labor, or services of any kind whether purchased primarily for personal, family, household, commercial, or business use, and whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods, and includes repairs, alterations, or improvements upon or in connection with real property. "Services" also means fees, costs, fines, bails, or other charges assessed, accepted, or collected by court."

SECTION 3. Section 706-642, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 706-642 Time and method of payment.** (1) When a defendant is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the fine shall be payable forthwith by cash, check, or by a credit card approved by the court.

(2) When a defendant sentenced to pay a fine is also sentenced to probation, the court may make the payment of the fine a condition of probation."

SECTION 4. Section 804-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 804-1 Bail defined.** Bail, or the giving of bail, is the signing of the recognizance by the person and his surety or sureties, conditioned for the appearance of the prisoner at the session of a court of competent jurisdiction to be named in the condition, and to abide the judgment of the court. It is provided, that the prisoner, or any person in his behalf, at any time after the amount of the bail has been fixed by competent authority, instead of giving bail with sureties as above provided, may deposit with the clerk of the court, or with such other authority having jurisdiction to fix the amount of the bail as in this chapter provided, an amount of money or credit card authorization equal to the amount of bail fixed by such authority. The sum of money so deposited shall be held and dealt with, by the court having jurisdiction thereof, as security for the appearance of the prisoner for trial in the same manner as though the prisoner had entered into a recognizance for his appearance as in this chapter provided."

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

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

(Approved April 25, 1980.)

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

A Bill for an Act Relating to Audit and Accounting.

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

SECTION 1. Section 40-35, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 40-35 Payment to State under protest.** Any disputed portion of moneys representing a claim in favor of the State may be paid to a public accountant of the State under protest in writing signed by the person making the payment, or by his agent, setting forth the grounds of protest, in which event the public accountant to whom payment is made shall hold the money paid under protest for a period of thirty days from the date of payment. The director of finance shall, at the request of the public accountant, make an administrative determination of the amount of the payment which is actually in dispute and the amount which is not in dispute. Upon the determination the public accountant shall deposit the amounts not deemed in dispute by the director into the appropriate fund.

Action to recover moneys paid under protest or proceedings to adjust the claim may be commenced by the payer or claimant against the public accountant to whom the payment was made, in a court of competent jurisdiction, within thirty days from the date of payment and in default of bringing the suit or proceeding within the thirty-day period, the money paid under protest shall be deposited into the appropriate account in the treasury of the State by the accountant and the amount deposited shall thereupon become a government realization; provided that any action to recover payment of taxes under protest shall be commenced in the tax appeal court.

If action to recover the money paid under protest or a proceeding to adjust the claim is commenced within the thirty-day period, the amount paid under protest or determined by the director to be the disputed portion of a claim shall be transmitted by the public accountant to the director, together with the entire or comparable portions of subsequent payments, if any, when and as made with respect to the same claim if made under a protest referring to the original protest for the grounds thereof, but if subsequent payments are made under protest in any other manner these subsequent payments shall be held by the public accountant and treated as if no previous protest had been made. The director shall pay all moneys so transmitted by the public accountant into a fund to be known as the "litigated claims fund" pending the final decision of the cause, which may, if the court is satisfied that subsequent payments were made with respect to the same claim and under the same protest, in the manner above set forth, include the disposition of such subsequent payments. If judgment is rendered in favor of the claimant, the director shall pay the claimant, out of the litigated claims fund, the amount of the judgment. If the amount of money in the litigated claims fund is insufficient or if investment of the litigated claims fund results in a deficit, the director shall submit to the legislature a request for an appropriation, to be paid from the general fund, in the amount necessary to recover such deficiency plus interest, required to be paid on payments, as provided herein. Interest at the rate of two per cent a year from the date of each payment under protest shall also be paid out of the amount appropriated on the amount of the payment under protest adjudged

to be payable to the claimant; provided that if the claim is for the recovery of taxes paid under protest, the rate of interest and the overpayment of taxes shall be refunded in the manner provided in section 231-23(d) and (e). The amount to be paid shall be ascertained by the director from a certified copy of the judgment which shall be his authority for making payment to the claimant."

SECTION 2. Section 40-68, Hawaii Revised Statutes, is amended to read as follows:

**"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 money 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 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 personal representative 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; provided further that such amount shall first be appropriated by the legislature pursuant to a request which shall be made by the comptroller."

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

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

(Approved April 25, 1980.)

ACT 52

S.B. NO. 2419-80

A Bill for an Act Relating to Family Courts.

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

SECTION 1. **Findings.** The Legislature finds that it is the public policy of this State to assure minor children of close and continuing contact with both parents after the parents have separated or dissolved their marriage. The Legislature further finds that it is the public policy of this State that there exists no preference in law that the custody of minor children be ordered or awarded to one parent because of that parent's sex.

SECTION 2. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section 571-46.1 to read as follows:

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

**"Sec. 571-46.1 Joint custody.** (a) Upon the application of either parent, joint custody may be awarded in the discretion of the court. For the purpose of assisting the court in making a determination whether an award of joint custody is appropriate, the court shall, upon the request of either party, direct that an investigation be conducted pursuant to the provisions of section 571-46(4).

(b) For the purposes of this section, "joint custody" means an order awarding legal custody of the minor child or children to both parents and providing that physical custody shall be shared by the parents in such a way as to assure the child or children of continuing contact with both parents; provided, however, that such order may award joint legal custody without awarding joint physical custody.

(c) Any order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interests of the child require modification or termination of the order.

(d) Any order for the custody of the minor child or children of a marriage entered by a court in this State or any other state may, subject to the jurisdictional requirements set forth in section 583-3, be modified at any time to an order of joint custody in accordance with the provisions of this section."

SECTION 3. Section 571-46, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-46 Criteria and procedure in awarding custody.** In the actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, the court may, during the pendency of the action, at the final hearing or any time during the minority of the child, make such order for the custody of the minor child as may seem necessary or proper. In awarding the custody, the court is to be guided by the following standards, considerations and procedures:

- (1) Custody should be awarded to either parent or to both parents according to the best interests of the child.
- (2) Custody may be awarded to persons other than the father or mother whenever such award serves the best interest of the child. Any person who has had de facto custody of the child in a stable and wholesome home and is a fit and proper person shall *prima facie* be entitled to an award of custody.
- (3) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, his wishes as to custody shall be considered and be given due weight by the court.
- (4) Whenever good cause appears therefor, the court may require an investigation and report concerning the care, welfare, and custody of any minor child of the parties. When so directed by the court, investigators or professional personnel attached to or assisting the court shall make investigations and reports which shall be made available to all interested parties and counsel before hearing, and such reports may [be]† received in evidence if no objection is made and, if objection is made, may be received in evidence provided the person or persons responsible for the report are available for cross-examination as to any matter which has been investigated.

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†"Be" substituted for "by" to correct obvious clerical error.

- (5) The court may hear the testimony of any person or expert produced by any party or upon the court's own motion, whose skill, insight, knowledge, or experience is such that his testimony is relevant to a just and reasonable determination of what is to the best physical, mental, moral, and spiritual well-being of the child whose custody is at issue.
- (6) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify the modification or change and wherever practicable, the same person who made the original order shall hear the motion or petition for modification of the prior award.
- (7) Reasonable visitation rights shall be awarded to parents and to any person interested in the welfare of the child in the discretion of the court, unless it is shown that such rights of visitation are detrimental to the best interests of the child.
- (8) The court may appoint a guardian ad litem to represent the interests of the child and may assess the reasonable fees and expenses of the guardian ad litem as costs of the action, payable in whole or in part by either or both parties as the circumstances may justify."

**SECTION 4.** New statutory material is underscored.\*

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

(Approved April 25, 1980.)

**ACT 53**

S.B. NO. 2682-80

A Bill for an Act Relating to Public Accountancy.

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

**SECTION 1.** Section 466-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 466-5 Certificate of certified public accountant.** (a) Issuance. A person (1) who has attained eighteen years of age, (2) who is of good moral character, (3) who meets the educational and examination requirements hereinafter provided in this section, and (4) who meets the experience requirement hereinafter provided in this section shall, upon application to the board, be issued a certificate of "certified public accountant". The board shall maintain a list of all persons to whom such certificates are issued. Such certificates shall be effective for a period not exceeding two years and shall be renewable biennially upon application to the board.

(b) Educational requirements. A person applying for a certificate of certified public accountant (1) before January 1, 1979, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the board, or (2) after December 31, 1978, shall:

(A) Obtain a baccalaureate degree conferred by a college or university recognized by the board; and

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

- (B) Complete the study of accounting and related courses as the board by rule deems appropriate; and
- (C) Complete not less than thirty semester hours of study in addition to those semester hours required for a baccalaureate degree at a college or university recognized by the board. The person may commence the additional hours of study required by this subparagraph prior to obtainment of a baccalaureate degree but only after the completion of one hundred five semester hours towards the baccalaureate degree. The content of the additional hours of study shall be determined by rules adopted pursuant to chapter 91.

(c) Exemption from educational requirements. A person

- (1) Who holds a current registration as a public accountant under section 466-6; or

(2) Who:

- (A) Holds and has continued to hold a valid certificate of certified public accountant of another state for a period of not less than ten years preceding the date of the person's application under this section and has been in the active practice of public accountancy in one or more states for a period of not less than 5 years preceding the date of the application under this section; or
- (B) The board determines, met the educational requirements of this State for a certificate of certified public accountant as they existed when the person was originally issued a certificate of certified public accountant by the other state;

shall, upon application to the board and demonstration that the continuing education requirements established by rule of the board have been satisfied, be exempt from the educational requirements of subsection (b).

(d) Experience requirement. A person applying for a certificate of certified public accountant shall be required to:

- (1) Complete one thousand five hundred chargeable hours in the performance of audits involving the application of generally accepted accounting principles and generally accepted auditing standards; or
- (2) Complete two years of professional experience in public accounting practice or experience as an auditor or examiner in industry or government if, in the opinion of the board, such experience is substantially as comprehensive and diversified as experience in public accounting practice. Representation of satisfaction of the experience requirement by an applicant for a certificate of certified public accountant and by any of the applicant's employers shall be submitted to the board under oath.

(e) Examination requirements. A person applying for a certificate of certified public accountant shall be required to have satisfactorily completed an examination in accounting, auditing and such other related subjects as the board shall determine to be appropriate. Such examination shall be held by the board and shall take place as often as the board shall determine to be desirable, but not less frequently than once each year.

(f) Admission to examination. A person (1) who has met the applicable educational requirements prescribed in subsection (b) of this section, or (2) who has not met all of the requirements prescribed by subsection (b)(2) of this section but who expects

to meet the requirements of subsections (b)(2)(A) and (b)(2)(B) of this section within one hundred twenty days following the examination prescribed in subsection (e) of this section, or (3) who is exempted from such educational requirements by subsection (c) of this section, shall, upon application to the board, be admitted to such examination. An applicant who has been admitted to the examination pursuant to subsection (f)(2) will not receive any conditional credit pursuant to subsection (g) for any portion of the examination, unless he completes all of the educational requirements of subsections (b)(2)(A) and (b)(2)(B) within one hundred twenty days following the examination. An applicant admitted to the examination pursuant to subsection (f)(2), who satisfactorily completes the entire examination, will not be entitled to receive a certificate of certified public accountant unless:

- (1) He completes the educational requirements of subsections (b)(2)(A) and (b)(2)(B) within one hundred twenty days following the examination; and
- (2) He completes the educational requirements of subsection (b)(2)(C) within a time period following the examination which shall be established by the board by rules promulgated pursuant to chapter 91.

(g) Re-examination. The board may by regulation prescribe the terms and conditions under which an applicant who has taken the examination described in subsection (e) of this section, but who has not satisfactorily completed that examination, may be given credit for any part thereof that the applicant has satisfactorily completed. The board may also provide by regulation for a reasonable waiting period for an applicant to apply for re-examination.

(h) Exemption from examination requirements. A person (1) who is the holder of a valid certificate of certified public accountant issued under the laws of another state, or (2) who is the holder of a valid certificate, license or degree in a foreign country determined by the board to be (i) a recognized qualification for the practice of public accountancy in such other country, (ii) comparable to a certificate of certified public accountant of this State, and (iii) issued to such person on the basis of an examination comparable to the examination described in subsection (e) of this section, shall, upon application to the board, be exempt from the examination requirements specified in subsection (e) of this section.

(i) Existing certificate holders. A person who, on January 1, 1974, holds a certificate of certified public accountant issued under the laws of this State theretofore existing shall not be required to obtain an additional certificate of certified public accountant under this chapter, but shall otherwise be subject to all the provisions of this chapter; and such a certificate theretofore issued shall, for all purposes, be considered a certificate issued under this chapter and subject to the provisions hereof."

SECTION 2. Section 466-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Biennial practice permits. A person (1) who is holding a current certificate of certified public accountant or a current registration as a public accountant and (2) who has complied with continuing education requirements established by rule of the board, shall, upon application to the board, be issued a permit to practice public accountancy in this State. Such permit to practice shall be effective for a period not exceeding two years."

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

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

(Approved April 25, 1980.)

ACT 54

S.B. NO. 2938-80

A Bill for an Act Relating to Highway Safety.

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

SECTION 1. Section 286-104, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 286-104 What persons shall not be licensed.** The examiner of drivers shall not issue any license hereunder:

- (1) To any person whose license has been suspended by a court of competent jurisdiction during the suspension period, nor to any person whose license has been revoked until the expiration of one year after the date of the revocation; nor to any person who, while unlicensed, has within two years been convicted of driving while drunk;
- (2) To any person who is required by this part to take an examination, unless such person has successfully passed the examination;
- (3) To any person who is required under the motor vehicle financial responsibility laws of this State to deposit proof of financial responsibility and who has not deposited such proof;
- (4) To any person when the examiner of drivers has good cause to believe that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways;
- (5) To any person who is under seventeen years of age; provided that a person who is fifteen or sixteen years of age may be granted a special license upon satisfying the requirements of sections 286-108 and 286-109, which license may be suspended or revoked by a judge having jurisdiction over the holder of the special license. Upon revocation of the special license, the person shall not be eligible to operate a motor vehicle on the highway until he is seventeen years of age and has again satisfied the requirements of sections 286-108 and 286-109;
- (6) To any person who has been ordered to be hospitalized under chapter 334 or committed under chapter 333 unless the director of health certifies to the examiner of drivers that the person is mentally competent and may be examined to determine his fitness to operate a motor vehicle.

Any person denied a license under this or any other section of this part shall have a right of appeal as hereinafter provided."

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

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†So in original. There is no section 3.

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

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

(Approved April 25, 1980.)

**ACT 55**

S.B. NO. 1835-80

A Bill for an Act Relating to Termination of Parental Rights.

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

SECTION [1].<sup>†</sup> Section 571-61, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Involuntary termination.

- (1) The family courts may terminate the parental rights in respect to any child as to any legal parent:
  - (A) Who has deserted the child without affording means of identification for a period of at least ninety days;
  - (B) Who has voluntarily surrendered the care and custody of the child to another for a period of at least two years;
  - (C) Who, when the child is in the custody of another, has failed to communicate with the child when able to do so for a period of at least one year;
  - (D) Who, when the child is in the custody of another, has failed to provide for care and support of the child when able to do so for a period of at least one year;
  - (E) Whose child has been removed from his physical custody pursuant to legally authorized judicial action under section 571-11(2)(A), and who is found to be unable to provide now and in the foreseeable future the care necessary for the well-being of the child;
  - (F) Who is found by the court to be mentally ill or mentally retarded and incapacitated from giving consent to the adoption of or from providing [adequate care to the child;] now and in the foreseeable future the care necessary for the well-being of the child;
  - (G) Who is found not to be the child's natural or adoptive father.
- (2) The family courts may terminate the parental rights in respect to any minor of any natural but not legal father who is an adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption, or who is named as the father on the child's birth certificate:
  - (A) Who falls within subparagraphs (A), (B), (C), (D), (E), or (F) of paragraph (1) above;
  - (B) Whose child is sought to be adopted by the child's stepfather and said stepfather has lived with said child and said child's legal mother for a period of at least one year;
  - (C) Who has failed to file a petition for the adoption of said child or whose petition for the adoption of said child has been denied;
  - (D) Who is found to be an unfit or improper parent or to be financially or otherwise unable to give the child a proper home and education.

<sup>†</sup>“[1]” substituted for “2” to correct obvious clerical error.

## **ACT 56**

- (3) In respect to any† proceedings under paragraphs (1) and (2) herein, the authority to terminate parental rights may be exercised by the court only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born 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 personal service cannot be effected within the State, service of the notice may be made as provided in section 634-23 or 634-24.
- (4) The family courts may terminate the parental rights in respect to any child as to any natural father who is not the child's legal, adjudicated, presumed or concerned father under the provisions of chapter 578 relating to adoption.

Such authority may be exercised under this chapter only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the child in the family court of the circuit in which the parent resides or the child resides or was born, and the court has conducted a hearing of the petition.

If the mother of the child files with the petition an affidavit representing that the identity or whereabouts of the child's father is unknown to her or not ascertainable by her or that other good cause exists why notice cannot or should not be given to said father, the court shall conduct a hearing to determine whether notice must be given.

In the event the court finds that good cause exists why notice cannot or should not be given to the child's father, and that said father is neither the legal nor adjudicated nor presumed father of the child, nor has he demonstrated a reasonable degree of interest, concern or responsibility as to the existence or welfare of the child, the court may enter an order authorizing the termination of said father's parental rights and the subsequent adoption of said child without notice to said father."

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

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

(Approved May 17, 1980.)

**ACT 56**

S.B. NO. 1836-80

A Bill for an Act Relating to Adoption.

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

**SECTION 1.** Section 578-2, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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†The word "any" is new but was not underscored.

"(c) Persons as to whom consent not required or whose consent may be dispensed with by order of the court.

(1) Persons as to whom consent not required:

- (A) A parent who has deserted a child without affording means of identification for a period of ninety days;
  - (B) A parent who has voluntarily surrendered the care and custody of the child to another for a period of two years;
  - (C) A parent of the child in the custody of another, if the parent for a period of at least one year has failed to communicate with the child when able to do so;
  - (D) A parent of a child in the custody of another, if the parent for a period of at least one year has failed to provide for the care and support of the child when able to do so;
  - (E) A natural father who was not married to the child's mother at the time of the child's conception or birth and who does not fall within the provisions of subsection (a) (3) or (4) or (5);
  - (F) A parent whose parental rights have been judicially terminated under the provisions of sections 571-61 to 571-63, or under the provisions of any other state or other law by a court of other agency having jurisdiction to take such action;
  - (G) A parent judicially declared mentally [incompetent] ill or mentally retarded [if the court dispenses with such parent's consent] and who is found by the court to be incapacitated from giving consent to the adoption of the child;
  - (H) Any legal guardian or legal custodian of the child sought to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding his consent, is found by the court to be withholding his consent unreasonably;
  - (I) A parent of a child who has been in the custody of a petitioner under this chapter for a period of at least one year and who entered the United States of America as a consequence of extraordinary circumstances in said child's country of origin, by reason of which extraordinary circumstances the existence, identity or whereabouts of said child's parents is not reasonably ascertainable or there is no reasonable means of obtaining suitable evidence of the child's identity or availability for adoption;
  - (J) Any parent of the individual to be adopted, if the individual is an adult eligible for adoption under subsection (b).
- (2) Persons whose consent may be dispensed with by order of the court. The court may dispense with the consent of a parent who comes within subsection (a) (3) or (4) or (5) herein, upon finding that:
- (A) The petitioner is the stepfather of the child and the child has lived with his legal mother and the petitioning stepfather for a period of at least one year; or
  - (B) The adjudicated, presumed, or concerned father has not filed a peti-

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- tion to adopt such child, or the petition to adopt said child filed by said father has been denied; or
- (C) The adjudicated, presumed, or concerned father is not a fit and proper person or is not financially or otherwise able to give the child a proper home and education."

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

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

(Approved May 17, 1980.)

## ACT 57

S.B. NO. 1951-80

A Bill for an Act Relating to Intoxicating Liquor.

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

SECTION 1. Section 281-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 281-3 Illegal manufacture, importation, or sale of liquor.** It shall be unlawful for any person, not having a valid license, to manufacture, sell, offer, expose, or keep for sale, any liquor, except as otherwise provided in this chapter; provided that the head of any family may produce for family use and not for sale an amount of wine not exceeding two hundred gallons a year, and an amount of beer not exceeding one hundred gallons a year.

It shall also be unlawful for any person, not having a valid wholesale license or a valid manufacturer's (including rectifier's) license, to import any liquor from without the State, except as otherwise provided in this chapter.

It shall also be unlawful for any person to label, designate, or sell any liquor using the word "Hawaii", "Hawaiian", or "Aloha State" unless such liquor is wholly manufactured in the State.

It shall also be unlawful for any person to label, designate, or sell any rum as "Hawaii Rum" or "Hawaiian Rum" unless it shall have been aged for at least two years from the date of distillation.

A license shall constitute authority for the licensee to sell only the liquor thereby authorized to be sold by him."

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

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

(Approved May 17, 1980.)

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

## ACT 58

H.B. NO. 366

A Bill for an Act Relating to Initial Appointments.

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

SECTION 1. Section 77-9, Hawaii Revised Statutes, is amended to read:

**"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 [in classes SR 18 and above] is not practicable at the first step, the director may, after appropriate notice and advertising, recruit at any step within the appropriate salary range at which an appropriate employee can be recruited. The director shall report all such recruitment [in classes SR 18 and above] and the justification therefor to the legislature not later than ten days prior to the opening of each regular session and, in case of the counties, similar reports shall be made to the council not later than July 15 each year.

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 case of the counties, similar reports shall be made to the council not later than July 15 each year.

No incumbent in the † 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.

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

(Approved May 17, 1980.)

## ACT 59

H.B. NO. 584

A Bill for an Act Relating to Mental Health Services for Children and Youth.

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

SECTION 1. Section 321-172, Hawaii Revised Statutes, is amended to read as follows:

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

**"Sec. 321-172 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 coordinate the effective and efficient delivery of mental health services to children and youth, including services provided by private non-profit agencies under contract to the department of health, and be responsible for the development and implementation of centralized and highly specialized programs for children and youth."

SECTION 2. Section 321-173, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-173 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 preventative, early identification, screening, diagnostic, 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 promote the coordination of the activities of local public and private agencies servicing children and youth in their particular geographic area."

SECTION 3. Section 321-174, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-174 Coordination of services with department of education.** The children's mental health services team shall cooperate with the schools located in their particular geographic region in identifying and referring for treatment such children or youths in need of mental health services. In conjunction with the children's mental health services team, the department of education and the department of health shall develop memoranda of agreement which shall provide for a sharing of responsibilities for the affected agencies and shall include but not be limited to provisions for:

- (1) Accepting referrals from the school counselors and diagnostic teams for evaluation and direct treatment of children and youth suffering from mental and emotional disorders;
- (2) Providing consultation to enable teachers and other school personnel to aid in the identification and screening of children in need of professional mental health services;
- (3) Providing training and education about emotional disturbances of children to teachers, school counselors, and parents;
- (4) Assisting the department of education with mental health services for handicapped children; and
- (5) Performing other related services for school personnel, children, and parents."

SECTION 4. Section 321-175, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-175 Statewide children's mental health services plan.** (a) Commencing on September 1, 1980, and every five years thereafter, the children's mental health services branch, on or before September 1 of each five-year cycle, shall

develop and present to the governor and the legislature, as well as release for public inspection and comment, a current statewide children's mental health services plan which shall include:

- (1) A survey of the children and youth in the State who are (A) in need of and (B) receiving mental health services showing the total number of such children and youth and their geographic distribution;
  - (2) Identification of the public and private providers of mental health services to children and youth;
  - (3) Identification of the criteria and standards for the treatment to be received by emotion-disturbed or mentally ill children and youth;
  - (4) A program for the recruitment, orientation, 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 other public and private agencies having relevant expertise;
  - (5) A description of the provisions for prevention, early identification, diagnosis, screening, treatment, and rehabilitation (including, with regard to treatment and rehabilitation, services provided through inpatient, outpatient, and community residential facilities) of children and youth in need of mental health services;
  - (6) An implementation plan for providing mental health services to all children and youth in the State in each of the above mentioned areas; and
  - (7) 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; except that 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."

SECTION 5. Section 321-176, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-176 Biennial review of progress.** Every two years, starting January 1, 1979, the department of health, on or before January 1 of each two-year cycle, shall submit to the legislature and the governor a report setting forth:

- (1) A detailed analysis of the progress made toward fulfilling the statewide children's mental health services plan developed under section 321-175; and
- (2) Other matters which are necessary or appropriate, including recommendations for any amendment to any law, any change in the administrative practices and patterns of organization, the current and prevailing memo-

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rnanda of agreement, and any change in the levels and patterns of financial support."

SECTION 6. Chapter 321, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 321- Rules.** The director of health may adopt rules pursuant to chapter 91 necessary to carry out the purposes of this part."

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

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

(Approved May 17, 1980.)

## ACT 60

H.B. NO. 1422

A Bill for an Act Relating to Quorum of Real Estate Commission.

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

SECTION 1. Section 467-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 467-3 Commission, appointments, qualifications, tenure.** There shall be appointed in the manner provided by section 26-34, a commission to be known as the real estate commission, and to consist of nine members, at least four of whom shall be licensed real estate brokers who have been engaged in business as licensed real estate brokers or salesmen for three years immediately preceding their appointments, each of whom shall be a citizen of the United States and shall have resided in the State for at least three years preceding his appointment, and one of whom shall be designated by the appointing power as chairman. Four members shall be residents of the city and county of Honolulu, one shall be a resident of the county of Hawaii, one shall be a resident of the county of Maui, and one shall be a resident of the county of Kauai and two members shall be public members.

Appointments shall be made for a term of four years, commencing from the date of expiration of the last preceding term and shall be made to expire on December 31. Appointments shall be made so that at least one appointment shall be required each year.

Any vacancy shall be filled by appointment for the unexpired term. The members of the commission shall serve without pay. All expenses shall be paid out of the special fund provided in section 467-11.

[Any four members shall constitute a quorum to do business.]

SECTION 2. Statutory material to be repealed is bracketed.

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

(Approved May 17, 1980.)

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

## ACT 61

H.B. NO. 1607

A Bill for an Act Relating to Public Employees' Health Fund.

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

SECTION 1. Chapter 87, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 87- Determination of dental plan benefits.** Pursuant to section 87-4, the board of trustees shall provide dental plan benefits to the children of employees who have not attained the age of nineteen in the following manner:

- (1) For those children of employees who are not participating in a dental program of an employee organization (hereafter called "nonparticipating employees"), the board shall determine a dental plan and eligibility requirements for such benefits based upon a statutory monthly contribution per enrolled child. Any rate credit or reimbursement from any carrier of any earnings or interest derived from the dental plan of nonparticipating employees shall be used to improve the dental plan benefits of nonparticipating employees.
- (2) For those children of employees who participate in the dental program of an employee organization, the board shall allot the statutory monthly contribution per enrolled child or the actual monthly cost of the child's coverage, whichever is less, towards the purchase of dental plan benefits under the dental program of an employee organization; provided that no enrolled child shall have more than one allotment a month.
- (3) Paragraphs (1) and (2) notwithstanding, an employee shall be required to enroll all of the employee's children who are under the age of nineteen in the children's dental plan for nonparticipating employees or the dental program of an employee organization."

SECTION 2. New statutory material is underscored.\*

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

(Approved May 17, 1980.)

## ACT 62

H.B. NO. 1880-80

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, fine, 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

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

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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, fine, 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] 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 vehicle; 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 a 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, soliciting, 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) Has entered or attempted to enter any one-payment contract, where the contract is required to be signed by the purchaser prior to removal of the motor vehicle for test driving from the seller's premises; 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
  - (D) Has engaged in any improper business conduct[.]; 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

- (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 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] canceled 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, [good will] 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 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 fea-

## ACT 63

tures, 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

- (G) Has failed to adequately and fairly compensate its dealers for labor, parts, and other expenses incurred by such dealer to perform under and comply with manufacturer's warranty agreements. In no event shall any manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative pay its dealers a labor rate per hour for warranty work that is less than that charged by the dealer to the retail customers of the dealer nor shall such rates be more than the retail rates. All claims made by dealers for compensation for delivery, preparation, and warranty work shall be paid within thirty days after approval and shall be approved or disapproved within thirty days after receipt. When any claim is disapproved, the dealer shall be notified in writing of the grounds for disapproval."

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

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

(Approved May 17, 1980.)

## ACT 63

H.B. NO. 1961-80

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

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

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

**"Sec. 79-1 Vacations of public officers and employees; exceptions.** With the exception of school teachers, principals, and cafeteria managers employed in the public schools of the State, the instructional staff of the University of Hawaii, members of the fire departments of the political subdivisions of the State, and persons employed pursuant to paragraphs (2), (3), [(14),] (13), and [(16)] (15) of section 76-16, paragraphs (g), (h), and (i) of section [16-303] of the charter of the city and county of Honolulu, and paragraphs (7), (8), and (12) of section 76-77, all officers and employees of the State or of the political subdivisions of the State and all full-time elected and appointive officers and employees of the State and the political subdivisions of the State shall be entitled to and granted a vacation with pay each calendar year calculated at the rate of one and three-quarters working days for each month of

service. A month of service shall be deemed to mean a calendar month in which the employee performs not less than nineteen days of actual service or for calendar months with less than nineteen working days, actual service on all available working days. A provisional employee, as such, shall not be entitled to a vacation with pay, but he shall be entitled to earn and accrue vacation allowances during the term of his provisional appointment, and if upon the termination of his provisional appointment he receives a probationary or limited term or permanent appointment in the same position, he shall be credited with the allowances earned and accrued during the provisional appointment, but if he does not become such probationary or regular employee, the vacation allowances shall be automatically forfeited. Vacation allowances shall be recorded and administered on a calendar year basis, the allowance accruing during each calendar year being credited to employees as of December 31 of each year.

An annual vacation, or any part thereof unused, shall be automatically accumulated for succeeding years, except that the total recorded accumulation shall be in no event more than ninety working days; provided, that not more than fifteen days a year may be accumulated unless prior approval is secured by the employee from his department head for the accumulation of the full amount, the accumulation to be granted only for good cause shown; and provided [,] further, that no employee shall be granted or permitted to take a vacation in any calendar year in excess of ninety working days, but whenever the employee's accumulated vacation credit exceeds ninety working days he shall be paid salary in lieu of vacation to the extent of the excess if, upon investigation by the comptroller of the State or the director of finance of the county, as the case may be, it is found that the excess vacation credit resulted from the employee's inability to be allowed vacation time off because of orders of his appointing authority; otherwise the employee shall automatically forfeit the excess."

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

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

(Approved May 17, 1980.)

**ACT 64****H.B. NO. 2472-80**

A Bill for an Act Relating to the Budget.

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

**SECTION 1.** Section 37-71, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(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 request, 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] 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."

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

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

(Approved May 17, 1980.)

## ACT 65

H.B. NO. 2535-80

A Bill for an Act Relating to Disclosure by Fuel Importers, Manufacturers, Distributors, and Exporters.

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

**SECTION 1. Findings and purpose.** The legislature finds that accurate information concerning the availability of fuel within the State is of vital importance to the safety, health, and welfare of the people because the lack of such information can lead to uncertainties and difficulties in the State's efforts to plan for assured energy supplies as well as to assess and cope with fuel shortages and contingencies dealing with energy supply and demand.

It is the purpose of this Act to require a disclosure of fuel movements into, out of, and within the State in order to obtain accurate and current data for energy planning and management actions on the part of the State.

**SECTION 2.** Chapter 486E, Hawaii Revised Statutes, is amended to read:

## “CHAPTER 486E FUEL DISTRIBUTION

**Sec. 486E-1 Definitions.** Whenever used in sections 486E-2 to 486E-4:

“Aviation fuel” means and includes all liquid substances of whatever chemical composition usable for the propulsion of airplanes.

“Director” means the director of planning and economic development.

“Distributor” means and includes:

- (1) Every person who refines, manufactures, produces, or compounds fuel in the State, and sells it at wholesale or at retail, or who utilizes it directly in the manufacture of products or for the generation of power;
- (2) Every person who imports or causes to be imported into the State or exports or causes to be exported from the State, any fuel; and
- (3) Every person who acquires fuel through exchanges with another distributor.

“Fuel” means and includes fuels whether liquid, solid, or gaseous, commercially usable for energy needs, power generation, and fuels manufacture, which may

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be manufactured, grown, produced, or imported into the State or which may be exported therefrom; including petroleum and petroleum products and gases, coal, coal tar, vegetable ferments, and all fuel alcohols.

“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.

**Sec. 486E-2 Distributors to register.** Every distributor, and any person before becoming a distributor, shall register as such with the department of planning and economic development on forms to be prescribed, prepared, and furnished by the department.

**Sec. 486E-3 Statements.** Each distributor shall, at such reporting dates as the director may establish, file with the director, on forms prescribed, prepared, and furnished by him, a certified statement showing separately for each county and for the islands of Lanai and Molokai within which and whereon fuel is sold or used during the last preceding reporting period, the following:

- (1) The total number of gallons or units of 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 another island, the name of that county or island;
- (2) The total number of gallons or units of fuel imported or exported by him or sold or used by him, and if for ultimate use in another county or on another island, the name of that county or island;
- (3) The total number of gallons or units 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 or units of 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.

In addition to the above reporting, each distributor shall file with the director, Federal Form FEO-1000 or an equivalent state form to be prescribed, prepared, and furnished by the director, showing the expected supply of fuel products for the coming month, and their intended distribution as categorized by Form FEO-1000 or the equivalent state form. The state form shall be supplied in the event that the Federal Mandatory Petroleum Allocation Regulations should expire, be revoked, or be amended to delete or substantially change the reporting requirements provided therein.

All statements submitted to the director under this section shall be held confidential.

**Sec. 486E-4 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 486E-3 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 486E-2 and 486E-3 shall be fined not more than \$5,000.”

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

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

(Approved May 17, 1980.)

## ACT 66

H.B. NO. 2537-80

A Bill for an Act Relating to Eviction.

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

SECTION 1. Chapter 360, Hawaii Revised Statutes, is amended by amending part I to read:

### “PART I. EVICTION

**Sec. 360-1 Definitions.** As used in this part:

“Authority” means the Hawaii housing authority.

“Party” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party in any court or agency proceeding.

**Sec. 360-2 Termination and eviction.** Except as hereinafter provided, the authority may terminate any lease, rental agreement, permit, or license covering the use and occupation of any dwelling unit or other premises owned or controlled by it and evict from any such premises any tenant, licensee, or other occupant for any of the following reasons:

- (1) Failure to pay rent when due;
- (2) Violation of any of the provisions of a lease, rental agreement, permit, or license;
- (3) Violation of any of the rules of the authority;
- (4) Failure to maintain the dwelling unit in a clean, sanitary, and habitable condition;
- (5) The existence of any other circumstances giving rise to an immediate right to possession by the authority.

**Sec. 360-3 Hearings.** (a) Where the authority proposes to terminate a lease, rental agreement, permit, or license, and evict a tenant, licensee, or other occupant under section 360-2, a hearing shall be held to determine whether cause exists for such action. The authority shall give written notice to the person concerned specifying the reason for which the eviction is proposed and fixing the date and place of hearing. The notice shall be given at least five days before the date set for the hearing. At the hearing, before final action is taken the person concerned shall be entitled to be heard in person or through counsel, and shall be accorded a full and fair hearing.

(b) Hearings shall be conducted by a trial examiner or board appointed by the

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

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authority. The board shall consist of not less than three persons. Trial examiners or members of the board may be commissioners or employees of the authority. At least one trial examiner or board, hereinafter called the hearing examiners, shall be established in each county of the State. The findings, conclusions, decision, and order of the hearing examiners shall be final unless an appeal is taken as hereinafter provided.

(c) The hearing examiners shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses, as are possessed by circuit courts. In case of disobedience by any person of any order of the hearing examiners, or of any subpoena issued by it, or the refusal of any witness to testify to any matter regarding which he may lawfully be questioned, any circuit judge, on application by the hearing examiners, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.

**Sec. 360-4 Appeal.** (a) Within five days after the issuance of an order under section 360-3 hereof, an appeal may be taken to the authority. The appeal shall be in writing and shall include new facts or evidence pertinent to the case which could not have been presented and were not available for presentation to the hearing examiner. The authority shall give written notice to the person concerned fixing the date and place of the appeal hearing. The notice shall be given at least five days before the date set for the hearing.

(b) The authority shall review the records of the hearing examiners and the new facts and evidence as submitted in the request for an appeal. The authority shall have the same powers in connection with such appeals as are provided for the hearing examiners in section 360-3, and the decision of the authority in the appeal shall be final.

**Sec. 360-5 Eviction.** (a) If it is proven to the satisfaction of the hearing examiner that there is cause to terminate a lease, rental agreement, permit, or license and evict the tenant, licensee, or other occupant, a writ of possession shall be issued by the authority.

(b) The order of eviction shall not be enforced for five days after its entry. Enforcement of the order by a writ of possession shall be effected either by an officer appointed by the authority, who shall have all of the powers of a police officer for all action in connection with the enforcement of the order, or by the sheriff, or any other law enforcement officer of the State or any county, whose duty it shall be to carry out such order. The person enforcing the order shall remove all persons from the premises and put the authority in full possession thereof.

(c) Upon eviction, the household goods and personal effects of the person against whom the order is entered, and those of any persons using the premises incident to his holding, may be removed from the premises and stored by the authority. If the action is taken, the authority shall have a lien on the property so taken for the expenses incurred by it in moving and storing the same, and the authority is authorized to sell or otherwise dispose of the property, if unclaimed after thirty days.

**Sec. 360-6 Ex parte motion.** If a tenant or licensee cannot be served with an order of eviction or writ of possession, and the facts shall appear by affidavit to the

hearing examiners, service to such tenant or licensee may be made according to the special order of the hearing examiners. Such order shall require the officer to affix a certified copy of the order of eviction or writ of possession in a conspicuous place upon the premises such as the door or wall of the dwelling unit.

**Sec. 360-7 Judicial review.** (a) Any person aggrieved by a final decision and order by the authority or by a preliminary ruling of the nature that deferral of review pending entry of a subsequent final decision would deprive the appellant of adequate relief is entitled to judicial review thereof under this chapter.

(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the authority 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. The court in its discretion may permit other interested persons to intervene.

(c) The proceedings for review shall not stay enforcement of the decisions of the authority; but the authority or the reviewing court may order a stay upon such terms as it deems proper.

(d) Within fifteen days after the determination of the contents of the record on appeal in the manner provided by the rules of court, or within such further time as the court may allow, the authority shall transmit to the reviewing court the record of the proceeding under review. The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence and such evidence is material and good cause exists for the failure to present such evidence in the proceeding before the authority, the court may order the authority to hear such evidence upon such conditions as the court deems proper. The authority may modify its findings, decision, and order by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modification of its findings or decision.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the authority and not shown in the record, testimony thereon may be taken in court. The court may, upon request by any party, hear oral argument and receive written briefs.

(g) Upon review of the record the court may affirm the decision of the authority or remand the case with instructions for further proceedings, or it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions, or orders are:

- (1) In violation of constitutional or statutory provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

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(6) Arbitrary, or capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

**Sec. 360-8 Appeals.** An aggrieved party may secure a review of any final judgment of the circuit court under this chapter by appeal to the supreme court. The appeal shall be taken in the manner provided in the rules of court.

**Sec. 360-9 Rules.** The authority may adopt rules pursuant to chapter 91 necessary for the purposes of this part."

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

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

(Approved May 17, 1980.)

## ACT 67

H.B. NO. 2590-80

A Bill for an Act Relating to the Administrative Procedure Act.

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

SECTION 1. Section 91-4.2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 91-4.2 Rule format; publication of index.** The revisor of statutes shall:

(1) Prescribe a single format for the publication, filing, and indexing of rules by all state agencies. Among other things, the revisor shall provide for the manner and form, including size, in which the agency rules shall be prepared, printed, and indexed, to the end that all rules, compilations, and codifications shall be prepared and published in a uniform manner at the earliest practicable date. The format shall provide that each rule published shall be accompanied by a reference to the statutory authority pursuant to which the rule is adopted, the statutory section implemented by the rule, if any, and the effective date of the rule; and provide that whenever possible rules should incorporate any applicable sections of the Hawaii Revised Statutes by reference and not print the section in the rule. The stipulated format shall also provide for access by the public to all of the rules with an index, both of which shall be located in the office of the lieutenant governor.

(2) Compile and publish an index to all rules required to be filed with the lieutenant governor with annual supplements."

SECTION 2. This Act shall supersede the rules entitled "Rules and Regulations Governing the Filing of Rules and Regulations by State and County Officers in the Office of the Lieutenant Governor as Required by Law" effective December 27, 1961.

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

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

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

(Approved May 17, 1980.)

**ACT 68**

H.B. NO. 2661-80

A Bill for an Act Relating to the Hawaii Housing Authority.

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

SECTION 1. Section 359G-9.3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 359G-9.3 Dwelling units; restrictions on use.** (a) A dwelling unit purchased from the authority shall be occupied by the purchaser at all times.

(b) Violation of subsection (a) shall be sufficient reason for the authority, at its option, to purchase the unit as provided in section 359G-9.2(a) (1), or 359G-9.2(a) (2), as applicable.

(c) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority shall expressly contain the restrictions on use prescribed in this section.

(d) The restrictions prescribed in subsection (a) above shall be automatically extinguished and shall not attach in subsequent transfers of title as prescribed in section 359G-9.2(c)."

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

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

(Approved May 17, 1980.)

**ACT 69**

H.B. NO. 2668-80

A Bill for an Act Relating to Trade Regulation.

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

SECTION 1. **Purpose.** The purpose of this Act is to review and amend chapter 480 respecting the ability of the Attorney General to recover damages in class actions on behalf of indirect purchasers who paid illegally high prices for a product as a result of an antitrust violation to recover damages despite their lack of privity with the manufacturers, and the ability of indirect purchasers of our State.

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

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

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

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

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

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

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

**SECTION 3.** 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:

(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 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; 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.

(c) The remedies provided in this section shall be applied in class action lawsuits or proceedings brought in behalf of direct purchasers or in behalf of indirect purchasers by the attorney general under section 480-14, so that:

(1) The minimum \$1,000 amount shall not apply;

(2) In actions where both direct and indirect purchasers are involved, a defen-

dant shall be entitled to prove as a partial or complete defense to claim of compensatory damages that illegal overcharge has been passed on to others who are themselves entitled to recover so as to avoid duplication of recovery of compensatory damages;

- (3) That portion of threefold damages in excess of compensatory damages shall be apportioned and allocated by the court in its exercise of discretion so as to promote effective enforcement of this chapter and deterrence from violation of its provisions;
- (4) In no event shall an indirect purchaser be awarded less than the full measure of compensatory damages attributable to him;
- (5) In any case in which claims are asserted by both direct purchasers and in behalf of indirect purchasers, the court is authorized to exercise its discretion in apportionment of damages, and transfers and consolidation of cases to avoid duplication of recovery of damages and multiplicity of suits, and in other respects to obtain substantial fairness;
- (6) In any case in which claims are being asserted by a part of the claimants in a court of this State and another part of the claimants in a court other than of this State, where the claims arise out of same or overlapping transaction or transactions, the court is authorized to take all steps reasonable and necessary to avoid duplication of recovery of damages and multiplicity of suits, and in other respects, to obtain substantial fairness;
- (7) In instances where the attorney general representing indirect purchasers files an action and obtains a judgment or settlement prior to the completion of a direct purchaser's action in courts other than this State, the court shall delay disbursement of the damages until such time as the direct purchaser's suits are resolved to either final judgment, consent decree or settlement, or in the absence of a direct purchaser's lawsuit in the courts other than this State by direct purchasers, the expiration of the statute of limitations, or in such manner that will minimize duplication of damages to the extent reasonable and practicable, avoid multiplicity of suit and obtain substantial fairness; and
- (8) In the event damages obtained by the attorney general remain unclaimed by indirect purchasers, the attorney general shall apply to the court and such funds shall escheat to the State upon showing that reasonable efforts made by the State to distribute the same have been unsuccessful."

**SECTION 4. 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 5.** Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved May 17, 1980.)

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

A Bill for an Act Relating to Civil Remedies and Defenses and Special Proceedings,  
Limitation of Action.

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

**SECTION 1.** The purpose of this Act is to provide that the limitation of actions extend coequally to both a principal and his surety pursuant to the provision of Chapter 657, Hawaii Revised Statutes.

**SECTION 2.** 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 or the surety of a person having an interest therein or in the improvement or against any person or the surety of a person constructing, altering, or repairing the improvement, or manufacturing or furnishing materials incorporated in the improvement, or performing or furnishing services in the design, planning, supervision, observation of construction or administration of construction contracts for any construction, alteration or repair 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 date of completion of the improvement. This section shall not apply to actions for damages against the owner or any other person having an interest in the real property or improvement based on their negligent conduct in the repair or maintenance of the improvement or to actions for damages against surveyors for their own errors in boundary surveys. The term "improvement" as used in this section shall have the same meaning as in section 507-41 and the phrase "date of completion" as used in this section shall mean the time when there has been substantial completion of the improvement or the improvement has been abandoned. The filing of an affidavit of publication and notice of completion with the circuit court where the property is situated in compliance with section 507-43(f) shall be *prima facie* evidence of the date of completion. Inclusion of sureties in this section shall not be construed to prevent, limit, or extend any shorter period of limitation applicable to sureties provided for in any contract or bond or any other statute, nor to extend or add to the liability of any surety beyond that for which the surety agreed to be liable by contract or bond."

**SECTION 3.** Savings clause. Notwithstanding the provisions of Section 2 of this Act, in the case of such an injury to property or the person or such an injury causing wrongful death, which injury occurred during the fifth or sixth year after the date of completion, an action to recover damages for such an injury or wrongful death may be brought within two years after the date on which such injury occurred (irrespective of the date of death) but in no event may such an action be brought more than eight years after the date of completion of the improvement.

SECTION 4. Except as provided in Section 2 above, nothing in this Act shall be construed as extending the period prescribed by the laws of this State for the bringing of any action.

SECTION 5. The amendments made by this Act shall apply to any action or proceeding which is commenced on or after the date of its approval and, to the extent permitted by law, to any action or proceeding which is pending on the date of such approval.

SECTION 6. New statutory material is underscored.\*

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

(Approved May 17, 1980.)

ACT 71

H.B. NO. 2698-80

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

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

SECTION 1. Sections 304-45 to 304-49, Hawaii Revised Statutes, are repealed.

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

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

(Approved May 17, 1980.)

ACT 72

H.B. NO. 2703-80

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 304-20, Hawaii Revised Statutes, is amended to read:

**“Sec. 304-20 College of education.** The college of education shall be affiliated with the university and shall be under the jurisdiction and management of the board of regents. The board may grant appropriate degrees to properly qualified graduates of the college of education. In the matter of the curriculum the university authorities may obtain the approval of the department of education. The purpose of the college of education shall be to train teachers to meet the requirements of the public schools of the State.

There is created an advisory committee to be known as the teacher education coordinating committee to identify, study, take action, or make recommendations on matters of education of common interest to the department of education and institutions of higher learning in Hawaii. The membership of the committee shall include the superintendent of education and the dean of the college of education of the

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

## **ACT 73**

University of Hawaii, who shall serve in alternate years as chairman of the committee with the superintendent acting as the first chairman. The membership of the committee shall include a representative of each accredited teacher training institution in Hawaii. In addition, the superintendent of education and the dean of the college of education of the University of Hawaii may each appoint other members to the committee; provided that the dean of the college of education of the University of Hawaii shall appoint at least two members of the committee from the University of Hawaii who are not within the college of education. The committee shall meet at least twelve times within any fiscal year to (1) work out problems related to the development of strong teacher training programs at accredited institutions of higher learning in Hawaii, and (2) to identify, study, and discuss educational problems or other educational matters of interest to the committee and to develop findings and make recommendations for the improvement of education in Hawaii. The committee shall submit an annual report on its activities to the legislature and may include therein recommendations for legislative consideration."

**SECTION 2.** Section 304-21, Hawaii Revised Statutes, is repealed.

**SECTION 3.** Section 304-22, Hawaii Revised Statutes, is repealed.

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

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

(Approved May 17, 1980.)

## **ACT 73**

**H.B. NO. 2789-80**

A Bill for an Act Relating to No-Fault Insurance.

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

**SECTION 1.** The purpose of this Act is to provide that the no-fault policy on a customer's insured vehicle shall be primary over the policy of a licensed auto repair firm or a licensed auto dealer where a temporary vehicle is loaned to a customer either at a fee, or at no cost. This amendment will allow licensees to provide newer, more fuel-efficient, and reliable "loaners" to their customers, reducing consumer cost.

**SECTION 2.** Section 294-5.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If a temporary substitute vehicle is made available to a customer by an auto repair shop registered with the motor vehicle repair industry board or a motor vehicle dealer licensed by the motor vehicle industry licensing board, while the shop or dealer repairs or services the customer's insured motor vehicle, the no-fault policy of the customer's insured motor vehicle shall be primary over the policy on the temporary substitute vehicle."

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

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

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

(Approved May 17, 1980.)

ACT 74

H.B. NO. 2842-80

A Bill for an Act Relating to Fish and Game.

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

SECTION 1. Section 187-1.2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 187-1.2 Introduction of species of animals.** (a) No species of animal shall be deliberately introduced by the department under the provisions of chapter 187 into any habitat within the State, whether the introduction is from without the State into the State or from one area in the State into another area in the State unless the introduction is recommended by the forestry division and the fish and game division and authorized by rules of the department of land and natural resources, pursuant to chapter 91.

(b) The forestry division and the fish and game division in determining whether to recommend the deliberate introduction of a species of animal shall make the following findings:

- (1) The factors which limit the distribution and abundance of the species in its native habitat have been studied and its probable dispersal pattern appraised;
- (2) Whether in the area where the species is proposed to be introduced there is or had been stock of a desirable, ecologically comparable indigenous species which can be increased or rehabilitated by reintroduction or by encouraging extension of its range;
- (3) Whether the species proposed to be introduced would threaten the existence and stability of any indigenous species as predator; competitor for food, cover, or breeding sites; or in any other way arising from its characteristics and ecological requirements;
- (4) The availability of socially acceptable methods of eliminating the species or keeping it under control in the area where it is proposed to be introduced and in adjoining areas;
- (5) The extent to which the species will enhance the economic and aesthetic values of the area where it is proposed to be introduced;
- (6) That the individuals to be introduced are free of communicable diseases and parasites and that there is no reason to believe that any communicable disease or parasite constitutes an important factor in the control of population; and

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

## ACT 74

(7) That there is no foreseeable risk of conflict on account of the introduction with land use policies in the area where a species is proposed to be introduced or in adjoining areas to which the species might spread.

(c) Before any species of animal is deliberately introduced, under the provisions of this chapter, into a habitat, the suitability of the introduction shall be tested if there is available an experimental area which can be fully controlled with a habitat typical of the area where the species is proposed to be introduced.

(d) When a species of animal is deliberately introduced into a habitat under the provisions of this chapter and until the species becomes established there on a stable basis, the forestry division and the fish and game division shall conduct studies of the introduced species in its new habitat, including studies of its rate of spread and impact on the habitat.

(e) Any person who violates this section or any rule or regulation promulgated pursuant to this section shall be subject to the penalties provided by section 187-20.

(f) The term "indigenous", as used in this section, includes plant and animal life (including fish and fowl), and organisms produced, growing or living naturally in the various islands of Hawaii without having been brought here by man."

SECTION 2. Section 187-1.1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 187-1.1 Animal species advisory commission.** (a) There is established within the department of land and natural resources an animal species advisory commission which may serve in an advisory capacity to the board of land and natural resources. The commission shall consist of thirteen members to be appointed by the governor in the manner provided in section 26-34. The chairperson of each fish and wildlife advisory committee established pursuant to this chapter and the chiefs of the divisions of forestry, conservation and resources enforcement, and fish and game shall serve as members of the commission. Six of the members shall be scientists in the fields of botany, mammalogy, ichthyology, entomology, ornithology, and invertebrate zoology. The commission shall select its own chairman.

(b) The animal species advisory commission may advise the board on every proposal for the deliberate introduction of a species of animal by the department into any habitat within the State, whether the introduction proposed is from without the State into the State or from one area in the State into another area in the State.

(c) The animal species advisory commission may also advise the board of any matter affecting fishing or hunting, and fish and wildlife conservation, including proposed rules. The commission may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the board."

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

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

(Approved May 17, 1980.)

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

## ACT 75

H.B. NO. 3048-80

A Bill for an Act Relating to Health Planning.

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

SECTION 1. Section 323D-2, Hawaii Revised Statutes, is amended by amending the definition of "secretary" to read:

"(2) "Secretary" means the secretary of the United States Department of Health, Education, and Welfare, or the secretary of the federal agency that is the successor to the United States Department of Health, Education, and Welfare."

SECTION 2. Section 323D-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-11 State health planning and development agency.** There is established within the department of health for administrative purposes only, the state health planning and development agency. The state agency shall be headed by an administrator who shall be appointed by the governor subject to section 26-34. The state agency shall administer the state health planning activities to meet the applicable federal requirements."

SECTION 3. Section 323D-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-12 Functions; state agency.** (a) The state agency shall:

- (1) Conduct the health planning activities of the State in coordination with the subarea councils, implement the state health plan, and determine the statewide health needs of the State after providing reasonable opportunity for the submission of written recommendations respecting the needs by the department of health and other state agencies, designated by the governor for the purpose of making the recommendations, and after consulting with the statewide council. If any recommendation of any subarea health planning council is not incorporated into the state health plan an explanation stating the reasons for non-incorporation shall be appended to that plan.
- (2) Prepare, review at least triennially, and revise as necessary the preliminary state health plan. The state agency shall refer the preliminary state health plan to the department of health and other state agencies designated by the governor to review the goals and related resource requirements of the preliminary state health plan and to make written recommendations to the state agency respecting the goals and requirements.
- (3) Prepare, review, and revise the annual implementation plan.
- (4) Assist the statewide council in the performance of its functions.
- (5) Administer the state certificate of need program pursuant to part V of this chapter.
- (6) Determine the need for new institutional health services proposed to be offered within the State.
- (7) Review on a periodic basis, but not less often than every five years, the appropriateness of at least those institutional and home health services offered in the State and with respect to which goals have been established in the state health plan. In making the appropriateness review, the state

agency shall at least consider the need for the service, its accessibility and availability, its financial viability, its cost effectiveness, and the quality of service provided.

- (8) Serve as staff to and provide technical assistance and advice to the statewide council and the subarea councils in the preparation, review, and revision of the state health plan.
- (9) Prepare an inventory of the health care facilities, other than federal health care facilities, located in the State and evaluate on an ongoing basis the physical condition of the facilities.
- (10) Provide technical assistance to persons, public or private, in obtaining and filling out the necessary forms for the development of projects and programs.
- (11) Do all things necessary as required by federal and state laws.

(b) If in determining the statewide health needs or in preparing or revising the preliminary state health plan, the state agency does not take an action proposed in a written recommendation submitted to the state agency pursuant to section 323D-12(a) (1) or section 323D-12(a) (2), the state agency shall when publishing the needs or health plan make available for public inspection a written statement of its reasons for not taking the action."

SECTION 4. Section 323D-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-13 Statewide health coordinating council.** (a) There is established a statewide health coordinating council which shall be advisory to the state agency and the membership of which as appointed by the governor shall not exceed thirty members.

(b) The members of the statewide council shall be appointed by the governor in accordance with section 26-34, provided that a nonvoting, ex officio member who is the representative of the Veterans' Administration shall be designated by the Veterans' Administration. The consumer membership of the statewide council shall be broadly representative of the age, sex, ethnic, income, and other groups that make up the population of the State. The statewide council shall consist of:

- (1) One representative from each subarea council established pursuant to section 323D-21.
- (2) A majority but not more than sixty per cent of the persons appointed by the governor shall be consumers of health care who are not also providers of health care.
- (3) Not less than one-half of the members who are providers of health care shall be direct providers of health care.
- (4) Representatives of private agencies concerned with health.
- (5) Individuals who are knowledgeable about mental health services.
- (6) A percentage of individuals who reside in nonmetropolitan areas which is equal to the percentage of residents of the State who reside in nonmetropolitan areas.
- (7) At least one member who is representative of a health maintenance organization.

Members of the statewide council who are consumers of health care and who are not providers of health care shall include individuals who represent rural and

urban medically underserved populations if these populations exist in the State. In addition the total membership of the statewide council shall include representation as may be required by applicable federal law or implementing federal regulations.

(c) The statewide council shall select a chairman from among its members. The members of the statewide council shall not be compensated but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(d) The number of members necessary to constitute a quorum to do business shall consist of a majority of all members who have accepted nomination to the council, and have been confirmed and qualified as members of the council. When a quorum is in attendance, the concurrence of a majority of the members in attendance shall make any action of the council valid.

(e) No member of the statewide council shall, in the exercise of any function of the statewide council described in section 323D-14(5), vote on any matter before the statewide council respecting any individual or entity with which the member has or, within the twelve months preceding the vote, had any substantial ownership, employment, medical staff, fiduciary, contractual, creditor, or consultative relationship. The statewide council shall require each of its members who has or has had such a relationship with an individual or entity involved in any matter before the statewide council to make a written disclosure of the relationship before any action is taken by the statewide council with respect to the matter in the exercise of any function described in section 323D-14 and to make the relationship public in any meeting in which the action is to be taken."

**SECTION 5.** Section 323D-14, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-14 Functions; statewide health coordinating council.** The statewide council shall:

- (1) Prepare, review at least triennially, and revise as necessary the state health plan to meet the applicable federal requirements.
- (2) Review applications for planning and medical facilities grants pursuant to applicable federal requirements, and submit a report of its comments to the secretary pursuant to applicable federal requirements.
- (3) Advise the state agency on matters relating to its functions.
- (4) Review annually and recommend approval or disapproval of any state plan and any application and any revision of a state plan or application submitted to the secretary as a condition to the receipt of any funds under allotments made to the State under the Public Health Service Act, the Community Mental Health Centers Act, section 409 of the Drug Abuse Office and Treatment Act of 1972, or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 pursuant to the applicable federal requirements.
- (5) Appoint the review panel pursuant to section 323D-42.
- (6) Review and comment upon the following actions by the state agency before such actions are made final:
  - (A) The establishment, annual review, and amendment of the annual implementation plan.
  - (B) The development and publication of specific plans and programs for

achieving the objectives established in the annual implementation plan.

- (C) The making of grants and contracts from the area health services development fund pursuant to the applicable federal requirements.
- (D) The making of findings as to the need for new institutional health services proposed to be offered in the State and applications for certificate of need.
- (E) The making of findings as to the appropriateness of those institutional and home health services offered in the State and with respect to which goals have been established in the state health plan, pursuant to the applicable federal requirements.
- (F) The approval or disapproval of each proposed use of federal health funds within the State, pursuant to the applicable federal requirements."

SECTION 6. Section 323D-15, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-15 State health plan.** There shall be a state health plan pursuant to the Public Health Service Act, as amended, which shall include a chapter on inpatient care and medical facilities and which shall include the special needs of the geographic subareas within the State to provide a comprehensive and coordinated statewide health care system."

SECTION 7. Section 323D-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-17 Public hearings required.** In the preparation of the state health plan or amendments to the state health plan, the state agency and the statewide council shall conduct a public hearing on the proposed plan or the amendments and shall comply with the provisions for notice of public hearings in chapters 91 and 92, and with the applicable federal requirements."

SECTION 8. Section 323D-22, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Each subarea health planning council shall review, seek public input, and make recommendations relating to health planning for the geographical subarea it serves. In addition, the subarea health planning councils shall:

- (1) Identify and recommend to the state agency and the council the data needs and special concerns of the respective subareas with respect to the preparation of the state plan.
- (2) Provide specific recommendations to the state agency and the council regarding the highest priorities for health services and resources development.
- (3) Review the state health plan and the annual implementation plan as they relate to the respective subareas and make recommendations to the state agency and the council.
- (4) Advise the state agency in the administration of the certificate of need program for their respective subareas.
- (5) Advise the state agency and the statewide council in the administration of the program to review applications for federal funds pursuant to section 323D-14(5).

- (6) Advise the state agency on the cost of reimbursable expenses incurred in the performance of their functions for inclusion in the state agency budget.
- (7) Advise the state agency in the performance of its specific functions.
- (8) Perform other such functions as agreed upon by the state agency and the respective subarea councils.
- (9) Each subarea health planning council shall recommend for gubernatorial appointment at least one person from its membership to be on the statewide council."

SECTION 9. Section 323D-23, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-23 Subarea health planning councils, composition, appointment.** Each subarea health planning council shall be constituted in a manner consistent with the applicable federal requirements. Members of subarea health planning councils shall be appointed by the governor, subject to section 26-34. Nominations for appointment shall be solicited from health-related and other interested organizations, and agencies, including health planning councils, providers of health care within the appropriate subarea, and other interested persons. The members of the subarea health planning councils shall not be compensated for their services but shall be reimbursed for reasonable expenses necessary to the performance of their function."

SECTION 10. Part IV of Chapter 323D, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 323D-41, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-41 Definitions.** In addition to the definitions in section 323D-2:

- (1) "Applicant" means any person who applies for a certificate of need under this part.
- (2) "Capital expenditure" means any purchase or transfer of money or anything of value or enforceable promise or agreement to purchase or transfer money or anything of value incurred by or in behalf of any person for the activities as set forth in the definitions under section 323D-41(4). The term includes the cost of studies, surveys, designs, plans, working drawings, specifications, and other preliminaries necessary for the activities as set forth in the definitions under section 323D-41(4). The term includes the fair market values of facilities and equipment obtained by donation or lease or comparable arrangements as though the items had been acquired by purchase. The term includes the fair market values of facilities and equipment transferred for less than fair market value, if a transfer of the facilities or equipment at fair market value would be subject to review under section 323D-43.
- (3) "Certificate of need" means an authorization, when required pursuant to section 323D-43, to construct, expand, alter, or convert a health care facility or to initiate, expand, develop, or modify a health care service.
- (4) "Construct", "expand", "alter", "convert", "develop", "initiate", or "modify" includes the erection, building, reconstruction, modernization, improvement, purchase, acquisition, 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 or supervision therefor; the arrangement or commitment for financing the offering or development of a health care facility or health care service; any obligation for a capital expenditure by a health care facility; 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 the expenditure minimum, 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.
- (5) "Expenditure minimum" means \$150,000, unless otherwise adjusted. The state agency may adopt rules in conformity with chapter 91 which provide that the expenditure minimum may be periodically adjusted to reflect any change in an index maintained or developed by the United States Department of Commerce and designated by the secretary by federal regulation for purposes of making the adjustment.
- (6) "Health" includes physical and mental health.
- (7) "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, skilled nursing facilities, intermediate care facilities, hospices for the terminally ill that require licensure or certification by the department of health, kidney disease treatment centers including free-standing hemodialysis units, outpatient clinics, organized ambulatory health care facilities, emergency care facilities and centers, home health agencies, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.
- (8) "Organized ambulatory health care facility" means a facility not part of a hospital, which is organized and operated to provide health services to outpatients. This term includes the following facilities: clinical health centers; diagnostic centers; treatment centers; family planning clinics; family health centers; neighborhood health centers; ambulatory surgical facilities including centers for dental surgery; cosmetic surgery centers; dental clinics; optometric clinics; community mental health and mental retardation centers; outpatient mental health facilities; prenatal or abortion clinics; drug abuse or alcoholism treatment centers; facilities for the provision of outpatient physical therapy services including speech pathology; rehabilitation facilities; any provision of medical or health services by a provider of medical or health services organized as a not-for-profit or business corporation other than a professional corporation; and, any provider of medical or health services which describes itself to the public as a "center", "clinic" or

by any name other than the name of one or more of the practitioners providing these services. The agency may adopt rules to establish further criteria for differentiating between the private practice of medicine and organized ambulatory health care facilities.

- (9) "Person" means an individual or a natural person, a trust or estate, a society, a firm, an assembly, a partnership, a corporation, a professional corporation, an association, the State, any political subdivision of the State, a county, a state agency or any instrumentality of the State, a county agency or any instrumentality of a county.
- (10) "Physician" means a doctor of medicine or osteopathy who is legally authorized to practice medicine and surgery by the State.
- (11) "Review panel" means the panel established pursuant to section 323D-42.
- (12) "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."

SECTION 12. Section 323D-43, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-43 Certificates of need.** (a) No person, public or private, non-profit or for profit, shall:

- (1) Construct, expand, alter, convert, develop, initiate, or modify a health care facility or health care services in the State which requires a total capital expenditure in excess of the expenditure minimum; 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, or relocate beds from one physical facility or site to another,

unless a certificate of need therefor has first been issued by the state agency.

(b) No certificate of need shall be issued unless the state agency has first determined that there is a public need for the facility or the service. Each decision of the state agency to issue a certificate of need shall, except in an emergency situation that poses a threat to public health, be consistent with the state health plan in effect under section 323D-15. Each certificate of need issued shall be valid for a period of one year from the date of issuance unless the period is extended for good cause by the state agency.

(c) The state agency shall, in cooperation with the statewide council, and after consultation with the subarea councils, the review panel, health agencies, and health-related agencies, establish criteria which shall be considered by the state agency and the statewide council in their determinations on certificates of need. The state agency and the statewide council shall review the criteria from time to time in order to maintain compliance with applicable federal law and federal regulations and the purposes of this part. The criteria shall include consideration of at least the following:

- (1) The health care needs of the population to be served,
- (2) The relationship of the proposal to the state health plan described in section

- 323D-15 and the annual implementation plan described in section 323D-16,
- (3) The relationship of the proposal to the long-range development plan, if any, of the applicant,
  - (4) The relationship of the proposal to the existing health care system of the area,
  - (5) The availability of less costly or more effective alternative methods of providing service,
  - (6) The quality of the health care services proposed,
  - (7) The accessibility of the health care services proposed,
  - (8) The immediate and long term financial feasibility of the proposal,
  - (9) The probable impact of the proposal on the costs of and charges for providing health services by the applicant,
  - (10) The probable impact of the proposal on the overall costs of health services to the community,
  - (11) In the case of health services proposed to be provided,
    - (A) The availability of resources, including health manpower, management personnel, and funds for capital and operating needs, for the provision of the services,
    - (B) The effect of the means proposed for the delivery of the services on the clinical needs of health professional training programs in the area in which the services are to be provided,
    - (C) If the services are to be available in a limited number of facilities, the extent to which the health-profession schools in the area will have access to the services for training purposes,
    - (D) The availability of alternative uses of the resources for the provision of other health services, and
    - (E) The extent to which the proposed services will be accessible to all the residents of the area to be served by the services,
  - (12) The relationship of the services proposed to ancillary or support services,
  - (13) The special needs and circumstances of those entities which provide a substantial portion of their services to people who live outside the State,
  - (14) The special needs and circumstances of health maintenance organizations,
  - (15) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages,
  - (16) In the case of a construction project,
    - (A) The costs and methods of the proposed construction, including the costs and methods of energy provision, and
    - (B) The probable impact of the construction project reviewed on the costs of providing health services by the applicant and on the costs and charges to the public of providing health services by other persons,
  - (17) The availability of evaluation mechanisms for supplying information to the state agency as required in section 323D-52,
  - (18) The applicant's compliance with federal, state, or county licensure standards,

- (19) The special circumstances of health service institutions and the need for conserving energy,
- (20) The factors which affect the effect of competition on the supply of the health services being reviewed, pursuant to the applicable federal requirements,
- (21) Improvements or innovations in the financing and delivery of health services which foster competition, in accordance with the applicable federal requirements, and which serve to promote quality assurance and cost effectiveness,
- (22) In the case of proposed health services or facilities, the efficiency and appropriateness of the use of existing health services or facilities similar to those proposed,
- (23) In the case of existing health services or facilities, the quality of care provided by the health services or facilities in the past,
- (24) In the case of an osteopathic or allopathic facility, the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients,
- (25) The probable impact of the proposal on existing and proposed institutional training programs for doctors of medicine and osteopathy at the student, internship, and residency training levels.

(d) Criteria adopted for reviews in accordance with this section may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed."

SECTION 13. Section 323D-44, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-44 Applications for certificates of need.** (a) An applicant for a certificate of need shall file an application with the state agency. The state agency shall provide technical assistance to the applicant in the preparation and filing of the application. The state agency shall not accept an application for review until the application is complete and includes all necessary information required by the state agency. The state agency shall determine if the application is complete within thirty days of receipt of the application. If the state agency determines that the application is incomplete, the state agency shall inform the applicant of the additional information that is required to complete the application. When the state agency determines that the application is complete, the period for agency review described in subsection (b) shall begin, and the state agency shall transmit the completed application to the appropriate subarea councils, the review panel, the statewide council, appropriate individuals, and appropriate public agencies. The state agency may require the applicant to provide copies of the application to the state agency, the appropriate subarea councils, the review panel, the statewide council, appropriate individuals, and appropriate public agencies. If, during the period for agency review, the state agency requires the applicant to submit information respecting the subject of the review, the period for agency review shall, at the request of the applicant, be extended fifteen days.

(b) The state agency shall approve or deny or grant conditional certification to an application within ninety days after the beginning of the period for agency review unless the state agency within the ninety days notifies the applicant in writing that the

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period for agency review of the application has been extended by the state agency sixty days beyond the ninety days. If the state agency fails to approve or deny or grant conditional certification to an application within the period for agency review, the applicant may, within ninety days following the expiration of the period for agency review, bring an action in the nature of mandamus in the circuit court of the circuit in which the applicant resides or in the circuit in which the health care facility or health care service is or was planned to be located to compel the state agency to approve or deny or grant conditional certification to the applicant.

(c) The state agency may adopt rules in conformity with chapter 91 for the issuance of certificates of need for those applications for which the procedures in section 323D-45 would be infeasible because of an emergency situation or other unusual circumstances.

(d) Notwithstanding anything to the contrary in subsections (a) and (b), the state agency may adopt rules in conformity with chapter 91 providing that all completed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area shall be considered in relation to each other but no less often than twice a year."

SECTION 14. Section 323D-45, Hawaii Revised Statutes, is amended to read:

**"Sec. 323D-45 Subarea council, review panel, and statewide council recommendations for issuance or denial of certificates of need.** (a) Except in an emergency situation or other unusual circumstances as provided in section 323D-44(c), the state agency shall refer every application for a certificate of need to the appropriate subarea council or councils, the review panel, and the statewide council. The subarea council, the review panel, and the statewide council in studying each application shall consider all relevant data and information submitted by the state agency, subarea councils, the review panel, other areawide or local bodies, and the applicant, and may request from them additional data and information. The review panel shall consider each application at a public meeting and shall submit its recommendations with findings to the statewide council. The statewide council shall consider each application at a public meeting and shall submit its recommendations to the state agency within such time as the state agency prescribes.

(b) At a public meeting in which a subarea council, the review panel, or the statewide council considers an application for a certificate of need, any person shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the application; any person directly affected by the application may conduct reasonable questioning of persons who make factual allegations relevant to the application; any staff member of the state agency may conduct reasonable questioning of persons who make factual allegations relevant to the application; and a record of the meeting shall be kept."

SECTION 15. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 323D- Ex parte contacts prohibited.** (a) There shall be no ex parte contacts:

(1) In the case of an application for a certificate of need, between the applicant

for the certificate of need, any person acting on behalf of the applicant, any person in favor of the application or any person opposed to the issuance of a certificate of need and any person in the state agency who exercises any responsibility respecting the application, after the commencement of the state agency's review of the application and before the state agency makes a decision on the application, on any matter related to or arising out of the application for a certificate of need;

- (2) In the case of a proposed withdrawal of a certificate of need, between the holder of the certificate of need, any person acting on behalf of the holder, any person opposed to the withdrawal or any person in favor of the withdrawal and any person in the state agency who exercises any responsibility respecting withdrawal of the certificate of need, after the commencement of state agency proceedings on the proposed withdrawal and before the state agency makes a decision on the proposed withdrawal, on any matter related to or arising out of the proposed withdrawal of the certificate of need; and
- (3) In the case of an application for an exemption from obtaining a certificate of need, between the applicant for an exemption, any person acting on behalf of the applicant, any person in favor of the application or any person opposed to the application and any person in the state agency who exercises any responsibility respecting the application, after the commencement of the state agency's review of the application and before the state agency makes a decision on the application, on any matter related to or arising out of the application for an exemption from obtaining a certificate of need.

(b) The prohibition against ex parte contacts shall not apply to any written communication or a copy thereof which is promptly filed as a public record with the state agency."

SECTION 16. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 323D- Special criteria for applications from health maintenance organizations.** (a) Notwithstanding section 323D-43(c), the state agency shall approve an application for a certificate of need from a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, if the state agency finds, in accordance with criteria prescribed by the secretary by regulation, that:

- (1) Approval of the application is required to meet the needs of the members of the health maintenance organization and of the new members which the organization can reasonably be expected to enroll, and
- (2) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its institutional health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes the services available on a long-term basis through physicians and other health professionals associated with the organization.

(b) Unless there is an exemption from obtaining a certificate of need, a health

care facility or any part thereof or medical equipment with respect to which a certificate of need was issued pursuant to this section may not be sold or leased or donated or transferred and a controlling interest in the health care facility or part thereof or medical equipment may not be acquired unless the state agency issues a certificate of need approving the sale, lease, donation, transfer, or acquisition.”

SECTION 17. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 323D- Approval of applications required to meet safety, licensure, or accreditation standards.** (a) Notwithstanding section 323D-43(c), the state agency shall approve an application for a certificate of need for a capital expenditure which is required:

- (1) To eliminate or prevent imminent safety hazards as defined by federal, state, or county fire, building, or life safety codes or regulations, or
- (2) To comply with state licensure standards, or
- (3) To comply with accreditation standards, compliance with which is required to receive reimbursements under title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under title XIX of such Act,

unless the state agency finds that the facility or service with respect to which the capital expenditure is proposed to be made is not needed or that the obligation of the capital expenditure is not consistent with the state health plan in effect under section 323D-15.

(b) An application for a certificate of need approved by the state agency under this section shall be approved only to the extent that the capital expenditure is required to eliminate or prevent the hazards described in paragraph (1) or to comply with the standards described in paragraph (2) or (3).”

SECTION 18. Section 323D-46, Hawaii Revised Statutes, is amended to read:

**“Sec. 323D-46 Conditional certification.** The state agency shall provide by rules adopted in conformity with chapter 91 for the conditional certification of those proposals which, by modification of specific items of the proposal, would successfully meet the criteria for approval. The state agency shall establish a time period not to exceed one hundred fifty days from the date of the conditional certification within which the applicant shall certify to the state agency that the required modifications have been made. The state agency shall require a statement from the applicant certifying that the required modifications have been made before a certificate of need is issued. The state agency shall deny any application in which the required modifications have not been made within the time period established by the state agency.”

SECTION 19. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 323D- Increase in project cost.** (a) In issuing a certificate of need, the state agency shall specify in the certificate of need the maximum amount of capital expenditures which may be obligated under the certificate of need.

(b) The state agency shall adopt rules in conformity with chapter 91 requiring

the holder of a certificate of need to obtain state agency approval or an additional certificate of need if the amount of capital expenditures obligated or expected to be obligated for the project exceeds the maximum amount specified in the certificate of need.”

SECTION 20. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 323D- Withdrawal of a certificate of need.** (a) After the issuance of a certificate of need, the state agency shall periodically review the progress of the project. The state agency may withdraw the certificate of need, if the state agency determines on the basis of the review that:

- (1) The holder of the certificate of need is not meeting the timetable specified in the approved application for the certificate of need and is not making a good faith effort to meet it; or
- (2) The project being implemented differs substantially from that which was approved by the state agency.

(b) The state agency may withdraw at any time a certificate of need or an exemption from obtaining a certificate of need, if the state agency determines that the applicant procured the certificate of need or the exemption by fraud, misrepresentation, or corruption, or that the applicant submitted or caused to be submitted to the state agency false statements or information in connection with the application for the certificate of need or the exemption.

(c) The state agency shall adopt rules in conformity with chapter 91 for the withdrawal of certificates of need.”

SECTION 21. Section 323D-48, Hawaii Revised Statutes, is amended to read:

**“Sec. 323D-48 Judicial review of state agency decisions.** (a) If an application for a certificate of need or for an exemption from obtaining a certificate of need is denied, the state agency shall give notice to the applicant in writing stating the grounds for the denial. Any person adversely affected by a final decision of the state agency with respect to a certificate of need or an application for an exemption may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which the person resides or in the circuit in which the health care facility or health care service is or was planned to be located.

(b) Any person adversely affected by a final decision of the state agency with respect to the withdrawal of a certificate of need may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which the person resides or in the circuit in which the health care facility or health care service is or was planned to be located.”

SECTION 22. Section 323D-51, Hawaii Revised Statutes, is amended to read:

**“Sec. 323D-51 Injunctive relief.** The state agency may, in the name of the people of the State through the attorney general of the State, apply for an injunction in any court of competent jurisdiction to enjoin any person who is not the holder of a certificate of need and who is not exempted from obtaining a certificate of need; and, upon the filing of a verified petition in the court, the court or any judge thereof, if

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satisfied by affidavit or otherwise, that the person is or has been proceeding with an action covered under section 323D-43 without a certificate of need, may issue a temporary injunction, without notice or bond, enjoining the defendant from further action. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is proceeding with an action covered under section 323D-43 without a certificate of need, the court or any judge thereof may enter a decree enjoining the defendant from further action. In case of violation of any injunction issued under this section, the court may summarily try and punish the offender for contempt of court. The injunction proceeding shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.”

SECTION 23. Section 323D-54, Hawaii Revised Statutes, is amended to read:

**“Sec. 323D-54 Exemption from certificate of need requirements.** (a) Nothing in this part or rules thereunder with respect to the requirement for certificates of need applies to:

- (1) Offices of physicians, dentists, or other practitioners of the healing arts in private practice as distinguished from organized ambulatory health care facilities, 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 private office or clinic involving a total expenditure in excess of the expenditure minimum;
  - (2) Laboratories, as defined in 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 laboratory involving a total expenditure in excess of the expenditure minimum;
  - (3) Dispensaries and first aid stations located within business or industrial establishments and 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;
  - (4) Dispensaries or infirmaries in correctional or educational facilities;
  - (5) Dwelling establishments, such as hotels, motels, and rooming or boarding houses that do not regularly provide health care facilities or health care services;
  - (6) 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.
- (b) The state agency shall adopt rules in conformity with chapter 91 to establish criteria to exempt certain proposed expenditures, health care service changes, or bed changes, by health care facilities which are determined not to have a significant impact on the health care system. The criteria may include but need not be limited to the range of services offered by the facility, the gross annual revenue of the facility, and the annual operating expenses of the service.”

SECTION 24. Chapter 323D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 323D- Exemption for health maintenance organizations; application for exemption.** (a) Notwithstanding anything in this part or rules thereunder with respect to the requirement for certificates of need, the state agency shall not require a certificate of need for the offering of an inpatient institutional health service or the acquisition of major medical equipment for the provision of an inpatient institutional health service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by:

- (1) A health maintenance organization or a combination of health maintenance organizations if:
    - (A) The organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least 50,000 individuals,
    - (B) The facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and
    - (C) At least seventy-five per cent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with the organization or organizations in the combination;
  - (2) A health care facility if:
    - (A) The facility primarily provides or will provide inpatient health services,
    - (B) The facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least 50,000 individuals,
    - (C) The facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and
    - (D) At least seventy-five per cent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with the organization or organizations in the combination; or
  - (3) A health care facility or portion thereof if:
    - (A) The facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least 50,000 individuals and on the date the application is submitted under subsection (b) at least fifteen years remain in the term of the lease,
    - (B) The facility is or will be geographically located so that the service will be reasonably accessible to the enrolled individuals, and
    - (C) At least seventy-five per cent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with the organization or organizations in the combination,
- if, with respect to the offering, acquisition, or obligation, the state agency has, upon application under subsection (b), granted an exemption from the requirement to the organization, combination of organizations, or facility.

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(b) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (a) from obtaining a certificate of need before offering an institutional health service, acquiring major medical equipment, or obligating capital expenditures, unless:

- (1) It has submitted, at the time and in the form and manner as the state agency shall prescribe, an application for an exemption;
- (2) The application contains the information respecting the organization, combination, or facility and the proposed offering, acquisition, or obligation as the state agency may require to determine, if the organization or combination meets the requirements of subsection (a) or the facility meets or will meet the requirements of subsection (a), and
- (3) The state agency approves the application for an exemption.

In the case of a proposed health care facility or portion thereof which has not begun to provide institutional health services on the date an application is submitted under this subsection with respect to the facility or portion thereof, the facility or portion thereof shall meet the applicable requirements of subsection (a) when the facility first provides the services. The state agency shall approve an application submitted under this subsection if the state agency determines that the applicable requirements of subsection (a) are met.

(c) A health care facility or any part thereof or medical equipment with respect to which an exemption was granted under subsection (a) may not be sold or leased and a controlling interest in the facility or equipment or in a lease of the facility or equipment may not be acquired and a health care facility described in paragraph (3) of subsection (a) which was granted an exemption under subsection (a) may not be used by any person other than the lessee described in paragraph (3) of subsection (a) unless:

- (1) The state agency issues a certificate of need approving the sale, lease, acquisition, or use; or
- (2) The state agency determines, upon application, that:
  - (A) The entity to which the facility or equipment is proposed to be sold or leased, which intends to acquire the controlling interest or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of subparagraph (A) of paragraph (1) of subsection (a), and
  - (B) With respect to the facility or equipment, the entity meets the requirements of subparagraphs (B) and (C) of paragraph (1) of subsection (a) or the requirements of subparagraphs (A) and (B) of paragraph (2) of subsection (a)."

SECTION 25. Section 323D-62, Hawaii Revised Statutes, is amended to read:

**“Sec. 323D-62 Rules.** The state agency and the statewide health coordinating council may adopt necessary rules for the purposes of this chapter in accordance with chapter 91.”

SECTION 26. Statutory material to be repealed is bracketed. New material is

underscored.\*

**SECTION 27.** This Act shall take effect upon its approval.

(Approved May 17, 1980.)

**ACT 76**

S.B. NO. 1346

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

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

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

“(c) Length:

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

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

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

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

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

(Approved May 21, 1980.)

**ACT 77**

S.B. NO. 1897-80

A Bill for an Act Relating to Public Utilities.

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

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

SECTION 1. The legislature finds that commercial development of the State's renewable energy resources needs to be encouraged in order to reduce the State's dependency on fossil fuels. The legislature further finds that producers, other than public utilities, will be encouraged to produce electric energy from such renewable energy resources for sale to the public utilities if such producers are assured that they will not be considered public utilities under state law.

It is the purpose of this Act to promote the commercial development of such renewable energy resources by excluding certain producers of electric energy from renewable non-fossil, non-nuclear energy resources from the definition of the term "public utilities" under state law.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by amending the definition of "public utilities" to read as follows:

"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; (6) shall not include the business of any carrier by water to the extent that such carrier enters into private contracts for towage, salvage, hauling, or carriage between points within the State and the carriage is not pursuant to either an established schedule or an undertaking to perform carriage services on behalf of the public generally, and also shall not include the business of any carrier by water, substantially engaged in interstate or foreign commerce, transporting passengers on luxury cruises between points within the State or on luxury round-trip cruises returning to the point of departure; and (7) shall not include any person which (a) controls, operates, or manages plants or facilities for production, transmission, or furnishing of power primarily or entirely from non-fossil fuel sources, and (b) provides, sells, or transmits all of such power, except such power as is used in its own internal operations, directly to a public utility for transmission to the public.

In the event the application of this chapter is ordered by the commission in any case provided in (3) and (4) the business of any public utility which presents evidence of bona fide operation on the date of the commencement of the proceedings resulting

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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."

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

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

(Approved May 21, 1980.)

**ACT 78**

S.B. NO. 1899-80

A Bill for an Act Relating to the Taxation of Non-Fossil Fuel Generated Electricity.

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

**SECTION 1.** The legislature finds that Act 102, Session Laws of Hawaii 1977, was enacted to promote the generation and provision of electric power generated from non-fossil fuels to public utility companies. The legislature finds that the revenues resulting from the sale of such power to public utility companies are subject to the full general excise tax of four per cent even though the resale of such power by the public utility company is subject to the public service company tax levied pursuant to chapter 239, Hawaii Revised Statutes. The legislature further finds Act 135, Session Laws of Hawaii 1978, provides geothermal resource producers a reduced excise tax rate.

The purpose of this Act is to reduce the general excise tax assessment on power generated from an alternate energy resource and sold to public utility companies for resale to customers.

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

**"Sec. 237- Assessment on non-fossil fuel generated electricity.** (a) Any other provision of the law to the contrary notwithstanding, the levy and assessment of the general excise tax on the gross proceeds from the sale of electric power generated from non-fossil renewable natural resources to a public utility company for resale to the public, shall be made only as a tax on the business of a producer, at the rate assessed producers, under section 237-13(2)(A).

(b) As used in this section, "alternate energy resource" means any non-fossil or non-nuclear natural resource, industrial waste, industrial process steam or heat, or agricultural waste or product within this State used or usable for the production of energy, and includes, but is not limited to, hydroelectric, solid waste, biomass, geothermal, solar, wind, ocean temperature differentials, waves, tides, or currents."

**SECTION 3.** New statutory material is underscored.\*

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

(Approved May 21, 1980.)

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

## ACT 79

S.B. NO. 1991-80

A Bill for an Act Relating to Uniform Securities Act (Modified).

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

SECTION 1. Section 485-14, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

“(e) Eligibility for registration as a salesman. To be eligible for registration under this chapter a salesman shall be of good repute, shall have complied with the provisions mandatory of this section, shall be designated as a salesman by a registered dealer, and shall take and pass an oral or written examination, or both, prescribed by the commissioner, to test his knowledge of the securities business. Every person required to take such an examination shall, at or before the time he takes the same, pay a fee as prescribed by the commissioner. No person shall be designated as a salesman by, or shall act as a salesman for, more than one registered dealer.”

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

SECTION 3. This Act shall take effect upon approval.

(Approved May 21, 1980.)

## ACT 80

S.B. NO. 2000-80

A Bill for an Act Relating to Corrections.

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

SECTION 1. Section 353-22.5, Hawaii Revised Statutes, is amended to read:

**“Sec. 353-22.5 Committed persons, furlough, employment.** (a) The director or his agent may grant furloughs to committed persons with a minimum or lower security classification in any correctional facility of the department for the purpose of employment, social reorientation, education, or training, or any other valid purpose as determined by the director. Special out-of-state furloughs may be granted to those already otherwise furloughed, at no cost to the State, when death or critical illness or injury to the committed person's immediate family occurs. Any committed person who is engaged in private employment, by contract or otherwise, not under the immediate custody of the State shall not be considered an agent or employee of the State.

When an inmate is granted a special out-of-state furlough, the director shall inform the authorities of the state to which he is to be furloughed of his arrival.

(b) Full power to enforce the terms and conditions of furlough and to retake and reimprison a furloughed prisoner is conferred upon the director or his authorized agent. The director or his authorized agent may, at any time, issue a warrant authoriz-

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

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ing the arrest and return to actual custody of any furloughed prisoner for the purpose of ascertaining whether or not the terms and conditions of furlough have been violated so as to justify the revoking of his furlough or his reimprisonment. The administrators of all of the correctional facilities of the State, the chief of police of each county, all police officers of the State, and all correctional facility officials shall execute any such warrant of arrest in like manner as an ordinary criminal process.

(c) Any furloughed prisoner retaken and reimprisoned as provided in this chapter shall be confined according to his sentence for that portion of his term remaining unserved at the time of furlough, but subsequent furloughs may, in the discretion of the director or his authorized agent, be granted to a prisoner during the life and in respect of sentence."

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

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

(Approved May 21, 1980.)

**ACT 81**

S.B. NO. 2002-80

A Bill for an Act Relating to Lost and Found Money or Property at Airports.

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

SECTION 1. Chapter 261, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 261- Lost and found money or property at airports.** All money or property found at an airport owned or controlled by the department shall be reported or delivered by the finder to the airport lost and found, and when so delivered shall be held by the department for forty-five days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of the department. In the event of such establishment of title or right of custody, the money or property shall be delivered to the claimant by the director or his agent. If within forty-five days no claimant establishes a right to the money or property, the money or property shall be returned to the person who delivered it to the airport lost and found; provided that if the person who delivered it to the airport lost and found fails to claim the money or property within thirty days after being notified by the director, the director shall deposit the money into the state treasury to the credit of the airport revenue fund or shall dispose of the property by public auction. At least once annually, the director shall place a notice in a newspaper of general circulation giving details as to time and place of the auction and giving notice to all persons interested or claiming the property that unless claims are made by persons who can provide satisfactory proof of ownership before a specified date, the property will be sold at public auction to the highest bidder. On the day and at the place specified in the notice, all property for which no satisfactory proof of ownership is made shall be sold by auction by or under the direction of the director.

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

If any property which is of a perishable nature or unreasonably expensive to keep or safeguard, remains unclaimed at the airport, the director may sell that property at public auction, at such time and after such notice as is reasonable under the circumstances. The director shall immediately after the sale of any property pay to the airport revenue fund all moneys received by him upon sale.

For the purpose of this section, notice by regular mail to the last known address of the person who delivered the money or property to the airport lost and found shall be deemed sufficient."

**SECTION 2.** Section 52-15, Hawaii Revised Statutes, is amended to read:

**"Sec. 52-15 Duty and right of finders.** Except as provided in section 261-      , all money or property found shall be reported or delivered by the finder to the chief of police of the county, and, when so delivered, shall be held by the chief of police for forty-five days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of the chief of police. In the event of such establishment of title or right of custody, the money or property shall be delivered to the claimant by the chief of police. If no claim is made or no such right is established within the forty-five days, the money or property shall be returned to the person who delivered it to the chief of police; provided that if the person who delivered it to the chief of police fails to claim the money or property within thirty days after being notified by the chief of police that he is entitled to possession, the chief of police shall dispose of the money or property in accordance with the procedures established in section 52-11. For the purpose of this part, notice by registered or certified mail to the last known address of the person who delivered the money or property to the chief of police, shall be deemed sufficient."

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

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

(Approved May 21, 1980.)

**ACT 82**

S.B. NO. 2005-80

A Bill for an Act Relating to the Junkyard Control Act.

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

**SECTION 1.** Section 264-85, Hawaii Revised Statutes, is amended to read:

**"Sec. 264-85 Junkyards lawfully in existence.** Any junkyard lawfully in existence on May 4, 1966, which is within one thousand feet of the nearest edge of the right-of-way and visible from the main traveled way of any federal-aid or state highway shall be screened, if feasible, by the department of transportation at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way so as not to be visible from the main traveled way of the highway;

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

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provided that, if such a junkyard is located in an area zoned for industrial use, the requirement for screening shall not apply."

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

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

(Approved May 21, 1980.)

ACT 83

S.B. NO. 2111-80

A Bill for an Act Relating to Public Employment.

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

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

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

Whenever there is a position to be filled, the appointing authority shall request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the recall lists, third the reemployment lists, and fourth the open-competitive lists; provided that laid-off regular employees shall be placed on an appropriate recall list; provided further that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. The director shall submit eligibles in the order that they appear on the eligible list before applying veterans preference; provided that veterans whose examination scores, after addition of applicable preference, are equal to or exceed the examination score of the fifth eligible certified, shall also be certified; and further provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy; and further provided that for each eligible without resident preference certified, a resident who has filed a resident income tax return within the State or who has been claimed as a dependent on such a return, as provided by section 78-1, shall also be certified.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to the appointing authority as eligibles on an intradepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an intradepartmental promotional examination, in which case the director shall hold either an interdepartmental or an intradepartmental promotional examina-

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

tion. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to the appointing authority unless the appointing authority finds no acceptable person on the list certified by the director, in which case the appointing authority shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states reasons in writing for rejecting each of the eligibles on the list previously certified to the appointing authority by the director or, in case of the counties, by the civil service commission. Eligible lists, other than the recall and reemployment lists, shall be effective for one year but this period may be extended by the director.

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

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

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

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

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

(Approved May 21, 1980.)

**ACT 84**

S.B. NO. 2191-80

A Bill for an Act Relating to Motor Vehicle Safety Responsibility Act.

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

**SECTION 1.** Chapter 287, Hawaii Revised Statutes, is amended to read as follows:

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<sup>†</sup>Bracketed word substituted for "filing".

\*The text has been edited pursuant to HRS §23G-16-5, authorizing omission of the brackets, bracketed material, and underscoring.

Section 287-1, Hawaii Revised Statutes, is amended by amending the definition of "Chief of police" to read:

"Administrator" means the chief of police of each county or the director of finance of each county and their authorized subordinates charged with the responsibility of administering this chapter;"

Sections 287-2 to 287-9, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-2 Administrator to administer chapter; appeal to circuit court.**

(a) The administrator shall administer and enforce this chapter and make rules and regulations consistent herewith and necessary for its administration and shall provide for hearings upon request of any person aggrieved by orders or acts of the administrator under this chapter. The rules and regulations shall be as nearly uniform throughout the State as the circumstances permit, but the fact of nonuniformity shall not of itself be sufficient to make unenforceable any rule or regulation, otherwise lawful, promulgated hereunder.

(b) Any order or act of any administrator pursuant to the authority given by this chapter or by rules or regulations hereunder, shall be subject to appeal to the circuit court of the circuit in which the order or act has been entered or done, which shall have jurisdiction to affirm, vacate, and modify, in whole or in part, any such order or act. Any person aggrieved may file an appeal therefrom in the office of the clerk of the circuit court within thirty days after the effective date of the order or act. The appeal shall not operate to suspend the order or act unless for cause satisfactory to the court and upon such conditions as may be imposed by the court, the court shall otherwise order. The administrator upon service of a copy of the appeal shall forthwith transmit to the clerk of court a transcript of the papers filed with him and a certified transcript of the evidence, if any, adduced. Upon the filing of the transcript, the appeal shall be at issue, and upon the application of either party, may be advanced and assigned for hearing at the earliest possible date to determine whether the action of the administrator is in accordance with law. The prosecuting officer and the legal advisor of the county shall render assistance to the administrator upon his request in enforcing and carrying out this chapter and in prosecuting and defending proceedings hereunder."

**"Sec. 287-3 Furnishing of operating records.** The administrator shall upon request furnish any person a certified abstract of the operating record, if any, of any person showing whether there has or has not been any conviction of the person for violating any law relating to the operation of a motor vehicle or of any injury or damage caused by the person. The administrator may collect a fee to be a realization of the general fund of not in excess of 50 cents for any such certificate."

**"Sec. 287-4 Report required following accident.** The driver of every motor vehicle which is in any manner involved in an accident within this State in which any person is killed or injured or in which damage to the property of any one person, including himself, to an apparent extent in excess of \$300 is sustained shall at the earliest practical time, and in any event within twenty-four hours after the accident, report the matter in writing or in person to the chief of police. The report, the form of which shall be prescribed by the chief of police and administrator, shall contain information to enable the administrator to determine whether the requirements for the

deposit of security under sections 287-5 and 287-6 are inapplicable by reason of the existence of insurance or other exceptions specified in this chapter. If the driver is physically incapable of making the report, any other occupant in the vehicle at the time of the accident capable of making the report shall make or cause to be made the report not made by the driver, and the registered owner of the motor vehicle involved in the accident shall, unless the report is filed, within ten days after learning of the accident make the report. The driver, occupant, and registered owner shall furnish such additional relevant information as the chief of police or administrator shall require. If the reports required hereunder are made pursuant to any ordinance or other provision or requirement of law, no additional report, except as specifically provided herein, shall be required hereby."

**"Sec. 287-5 Security required unless evidence of insurance.** If twenty days after the receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to property of any one person in excess of \$300, the administrator does not have on file evidence satisfactory to him that the person who would otherwise be required to file security under section 287-6 has been released from liability, or has been finally adjudicated not to be liable, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments with respect to all claims for injuries or damages resulting from the accident, the administrator shall determine the amount of security which is sufficient in his judgment to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against each driver or owner. This section shall be applicable to each driver or owner notwithstanding that the administrator determines that the amount of security required hereunder shall as to any such driver or owner be less than \$300."

**"Sec. 287-6 Suspension of license.** The administrator shall suspend the license or permit of each driver and the license of the registered owner of the motor vehicle in any manner involved in the accident and if the driver is a nonresident, any privilege of operating the motor vehicle within the State shall cease, and if the owner of the motor vehicle is a nonresident, the privilege of the use within the State of any motor vehicle owned by him shall also cease, unless the driver or owner or both have satisfied the requirements of section 287-5 or have deposited security in the sum determined by the administrator. Notice of the suspension shall be sent by the administrator to the driver and registered owner and the nonresident owner not less than ten days prior to the effective date of the suspension and shall state the amount required as security. Where erroneous information is given the administrator with respect to the matters set forth in subdivision (1), (2), or (3) of section 287-7, he shall take appropriate action as hereinbefore provided within sixty days after receipt by him of correct information with respect to those matters."

**"Sec. 287-7 Exceptions.** Sections 287-5 and 287-6 shall not apply under the conditions stated in section 287-8 nor:

- (1) To the driver or registered owner if the registered owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident;
- (2) To the driver, if not the registered owner of the motor vehicle if there was in

effect at the time of the accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

- (3) To the driver or registered owner if the liability of the operator or registered owner for damages resulting from such action is, in the judgment of the administrator, covered by any other form of liability insurance policy or bond;
- (4) To any person qualifying as a self-insurer under section 287-42, or to any driver of a motor vehicle for the self-insurer where the self-insurer is responsible for the acts of the driver.

No automobile liability policy or bond shall be effective under this section unless issued by an insurance company or surety company authorized to do business in the State, except that if the motor vehicle is registered elsewhere than in this State at the effective date of the policy or bond, or the most recent renewal thereof, the policy or bond shall not be effective under this section unless the insurance company or surety company, if not authorized to do business in the State, executes a power of attorney authorizing the insurance commissioner to accept service on its behalf of notice of process in any action upon the policy or bond arising out of the action; provided every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than \$10,000 because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, to a limit of not less than \$20,000 because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than \$5,000 because of injury to or destruction of property of others in any one accident."

**"Sec. 287-8 Further exceptions to requirement of security.** The requirements as to security and suspension of sections 287-5 and 287-6 shall not apply:

- (1) To the driver or the registered owner of a motor vehicle involved in an accident where no injury or damage was caused to the person or property of any one other than the driver or registered owner;
- (2) To the driver or the registered owner of the motor vehicle legally parked at the time of accident;
- (3) To the registered owner of the motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating the motor vehicle without such permission; nor
- (4) If prior to the date the administrator would otherwise suspend the license or permit under section 287-6, there is filed with the administrator evidence satisfactory to him that the driver who would otherwise have to file security has been released from liability or been finally adjudicated not to be liable or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident."

**"Sec. 287-9 Duration of suspension.** The license and permit suspended as provided in section 287-6 shall remain so suspended and shall not be renewed nor shall any new license or permit be issued to any of such persons until:

- (1) The person whose license or permit is suspended deposits or there is depos-

- ited on his behalf the security required under section 287-6; or
- (2) One year has elapsed following the date of the suspension and evidence satisfactory to the administrator has been filed with him that during such period no action for damages arising out of the accident has been commenced; or
- (3) Evidence satisfactory to the administrator has been filed with him of a release of the driver from liability, or a final adjudication of nonliability of the driver, or a duly acknowledged written agreement, in accordance with section 287-8(4); provided, in the event there is any default in the payment of any installment under any duly acknowledged written agreement, then upon notice of the default, the administrator shall forthwith suspend the license of the person defaulting thereunder which shall not be restored unless and until (A) the person deposits and thereafter maintains security as required under section 287-6 in such amount as the administrator may then determine, or (B) one year has elapsed following the date when such security was required and during such period no action upon the agreement has been instituted for enforcement thereof."

Sections 287-11 and 287-12, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-11 Form and amount of security.** The security required under this chapter shall be in such form and in such amount as the administrator may require but in no case in excess of the limits specified in section 287-7 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person or persons on whose behalf a deposit is made and, at any time while the deposit is in the custody of the administrator or the treasurer or director of finance of the county, the person depositing it may, in writing, amend the specification of the person or persons on whose behalf deposit is made to include an additional person or persons; provided, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

The administrator may reduce the amount of security ordered in any case within six months after the date of the accident, if in his judgment the amount ordered is excessive and the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith notwithstanding section 287-12."

**"Sec. 287-12 Custody, disposition, and return of security.** Security deposited in compliance with the requirements of this chapter shall be placed by the administrator in the custody of the county treasurer or director of finance and shall be applicable only to the payment of a judgment or judgments rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in question in an action, begun not later than one year after the date of the accident or within one year after the date of deposit of any security under subdivision (3) of section 287-9 and such deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the administrator has been filed with him that there has been a release from liability, or a final adjudication of nonliability, or a duly acknowledged agreement, in accordance with subdivision (4) of section 287-8 has been filed, or whenever after the expiration

of one year (1) from the date of the accident, or (2) from the date of deposit of any security under subdivision (3) of section 287-9, the administrator is given reasonable evidence that there is no pending action and no judgment rendered in the action left unpaid. The security deposited shall not be subject to any attachment or execution unless the attachment or execution arises out of suit for damages as aforesaid."

Sections 287-14 to 287-16, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-14 Matters not to be evidence in civil court.** Neither the report required by section 287-4, the action taken by the administrator pursuant to this chapter, the findings of the administrator upon which the action is based, nor the security filed as provided in this chapter shall be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action to recover damages."

**"Sec. 287-15 Report of nonpayment of judgments.** Whenever any person fails within sixty days to satisfy any judgment upon the written request of the judgment creditor or his attorney, the clerk of the court or the judge of a court which has no clerk in which any such judgment is rendered shall forward to the administrator immediately after the expiration of the sixty days a certified copy of the judgment. If the defendant named in any certified copy of a judgment reported to the administrator is a nonresident, the administrator shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident."

**"Sec. 287-16 Suspension for nonpayment of judgment; exceptions.** The administrator, upon the receipt of a certified copy of the judgment shall forthwith suspend the license of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section and in section 287-19.

If the judgment creditor consents in writing, in such form as the administrator may prescribe, that the judgment debtor be allowed a license, the same may be allowed by the administrator, in his discretion, for six months from the date of the consent and thereafter until the consent is revoked in writing, notwithstanding default in the payment of the judgment, or of any installments thereof prescribed in section 287-19, provided the judgment debtor furnished proof of financial responsibility."

Sections 287-19 and 287-20, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-19 Installment payment of judgment; default.** (a) A judgment debtor upon due notice to the judgment creditor may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may for the purposes of this chapter only so ordered and fix the amounts and times of payment of the installments.

(b) The administrator shall not suspend a license and shall restore any license suspended following nonpayment of a judgment, when the judgment debtor gives proof of financial responsibility and obtains such an order permitting the payment of the judgment in installments, and while the payment of any installment is not in default.

(c) If the judgment debtor fails to pay any installment as specified by the court order, then upon notice of the default, the administrator shall forthwith suspend the license of the judgment debtor until the judgment is satisfied as provided in this chapter."

**"Sec. 287-20 Proof of financial responsibility required upon conviction of certain offenses.** Whenever a driver's license has been suspended or revoked upon a conviction of any offense pursuant to law, or in the case of minors, suspended or revoked pursuant to part V of chapter 571, the license shall not at any time thereafter be issued to the person whose license has been suspended or revoked, nor shall the person thereafter operate a motor vehicle, unless and until the person has furnished and thereafter maintains proof of financial responsibility. Whenever by reason of a conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinafter named, under the laws of the State or ordinances of any political subdivision, a court of competent jurisdiction has discretion to revoke or suspend a driver's license but does not revoke or suspend the license, the administrator shall nevertheless after the expiration of thirty days from the date of conviction or adjudication suspend the license and shall keep the same suspended, and the person so convicted or adjudicated shall not thereafter operate a motor vehicle, unless and until the person so convicted or adjudicated furnishes and thereafter maintains proof of financial responsibility. The offenses referred to are:

- (1) Reckless or inattentive driving, driving while under the influence of intoxicating liquor, and driving while under the influence of drugs;
- (2) Conviction or adjudication under part V of chapter 571 by reason of any offense involving a motor vehicle in motion if the motor vehicle is in any manner involved in an accident in which any person is killed or injured, or in which damage to property results to an apparent extent in excess of \$300.

If any person, at the time of his conviction of, or adjudication under part V of chapter 571 by reason of, any of the offenses hereinabove named, or of any offense for which a court of competent jurisdiction may suspend or revoke a driver's license, does not hold a valid driver's license, no such license shall at any time thereafter be issued to the person unless and until he furnishes and thereafter maintains proof of financial responsibility."

Sections 287-22 and 287-23, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-22 Certificate of insurance as proof.** Proof of financial responsibility may be furnished by filing with the administrator the written certificate of any insurance carrier duly authorized to do business in the State certifying that there is in effect a motor vehicle liability policy for the benefit of the person or persons required to furnish proof of financial responsibility. The certificate shall give the effective date of the motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle."

**"Sec. 287-23 Certificate furnished by nonresident as proof.** (a) The nonresident owner of a motor vehicle not permanently registered in the State may give proof

of financial responsibility by filing with the administrator a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in the certificate is registered or if the nonresident does not own a motor vehicle, then in the state in which the insured resides, provided the certificate otherwise conforms with this chapter, and the administrator shall accept the same upon condition that the insurance carrier complies with the following provisions with respect to the policy so certified:

- (1) The insurance carrier shall execute a power of attorney authorizing the insurance commissioner to accept service on its behalf of notice of process in any action arising out of a motor vehicle action in the State;
- (2) The insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of the State relating to the terms of motor vehicle liability policies issued herein.

(b) If any insurance carrier not authorized to transact business in the State, which has qualified to furnish proof of financial responsibility, defaults in any such undertakings or agreements, the administrator shall not thereafter accept as proof any certificate of the carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues."

Section 287-33, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 287-33 Notice of cancellation or termination of certified policy.**

When an insurance carrier has certified a motor vehicle liability policy under section 287-22 or a policy under section 287-23, the insurance so certified shall not be canceled or terminated until at least ten days after a notice of cancellation or termination of the insurance so certified is filed in the office of the administrator, except that such a policy subsequently procured and certified shall, on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates."

Sections 287-35 to 287-42, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 287-35 Bond as proof.** (a) Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within the State, or a bond with at least two individual sureties each owning real estate within the State, and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by the insurance commissioner, which bond shall be conditioned for payment of the amounts specified in section 287-1. The bond shall be filed with the administrator and shall not be cancelable except after ten days' written notice to the administrator. The bond shall constitute a lien in favor of the State upon the real estate so scheduled of any surety, which lien shall exist in favor of any holder of a final judgment against the person who has filed the bond, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after the bond was filed upon the filing of notice to that effect and the filing of a certified copy of the final judgment in the office of the registrar of conveyances.

(b) If such a judgment, rendered against the principal on the bond is not

satisfied within sixty days after it has become final, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action or actions in the name of the State against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who has executed the bond, such action to conform as near as may be with the procedure for the foreclosure of mortgages."

**"Sec. 287-36 Money or securities as proof.** (a) Proof of financial responsibility may be evidenced by the certificate of the state director of finance that the person named therein has deposited with him \$25,000 in cash, or securities such as may legally be purchased for investment by insurance companies organized under chapter 431 of a market value of \$25,000. The state director of finance shall not accept any such deposit and issue a certificate therefor and the administrator shall not accept the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

(b) The deposit shall be held by the director to satisfy, in accordance with this chapter any execution on a judgment issued against such person making the deposit, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the deposit was made. Money or securities so deposited shall not be subject to attachment or execution unless the attachment or execution arises out of a suit for damages as aforesaid."

**"Sec. 287-37 Owner may give proof for others.** Whenever any person required to give proof of financial responsibility hereunder is or later becomes a driver in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the administrator shall accept proof given by the owner in lieu of proof by the other person to permit the other person to operate a motor vehicle for which the owner has given proof as herein provided. The administrator shall designate the restrictions imposed by this section on the face of such person's license."

**"Sec. 287-38 Substitution of proof.** The administrator shall consent to the cancellation of any bond or certificate of insurance or the administrator shall direct and the state director of finance shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter."

**"Sec. 287-39 Other proof may be required.** Whenever any proof of financial responsibility filed under this chapter no longer fulfills the purposes for which required, the administrator shall, for the purpose of this chapter, require other proof as required by this chapter and shall suspend the license and registration or the nonresident's operating privilege pending the filing of such other proof."

**"Sec. 287-40 Duration of proof; when proof may be canceled or returned.** The administrator shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or the administrator shall direct and the state director of finance shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the administrator shall waive the requirement of filing proof, in any of the following events:

- (1) At any time after three years from the date the proof was required when, during the three-year period preceding the request, the administrator has not received record of a conviction which would require or permit the suspension or revocation of the license or nonresident's operating privilege of the person by or for whom the proof was furnished;
- (2) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle;
- (3) In the event the person who has given proof surrenders his license to the administrator;

Provided, that the administrator shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by the proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed the bond or deposited the money or securities, has, within one year immediately preceding the request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the administrator.

Whenever any person whose proof has been canceled or returned under subdivision (3) of this section applies for a license or registration within a period of three years from the date proof was originally required, any such application shall be refused unless the applicant reestablishes the proof for the remainder of the three-year period."

**"Sec. 287-41 Surrender of license on violation.** Any person whose license has been suspended as herein provided, or whose policy of insurance or bond, when required under this chapter, has been canceled or terminated, or who neglects to furnish other proof upon request of the administrator shall immediately surrender his license to the administrator. If any person fails to surrender to the administrator the license as provided herein, the administrator shall forthwith direct any police or other peace officer to secure possession thereof and return the same to the administrator."

**"Sec. 287-42 Self-insurers.** (a) Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the administrator as provided in subsection (b) of this section.

(b) The administrator may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is satisfied that the person is possessed and will continue to be possessed of ability to pay judgments obtained against such person.

(c) Upon not less than five days' notice and a hearing pursuant to the notice, the administrator may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within thirty days after the judgment has become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance."

Section 287-44, Hawaii Revised Statutes, is amended by amending subsection

(b) to read as follows:

“(b) The administrator shall have the right to suspend the license of any person failing to make any report required hereunder until the report has been filed and for such further period not to exceed thirty days as the administrator may fix.”

Section 287-48, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 287-48 Application of chapter to suspensions and revocations prior to January 1, 1950.** Notwithstanding any provision herein to the contrary, the administrators of the several counties may accept the prescribed proof of financial responsibility from any person whose license has been suspended or revoked on account of a conviction based on an offense occurring prior to January 1, 1950, and who now applies for the issuance of a license. Upon acceptance of such proof, the duration, cancellation, or return thereof shall be governed by section 287-40.

The administrators may also waive the requirement of furnishing such proof if the person mentioned in the preceding paragraph, for a period of three years prior to his application for a license, has not been convicted of any additional offense or offenses which would require or permit the suspension or revocation of a license.

The duration, cancellation, or return of any proof of financial responsibility filed and maintained with the state director of finance prior to January 1, 1950, shall be governed by section 287-40.”

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 21, 1980.)

ACT 85

S.B. NO. 2197-80

A Bill for an Act Relating to Correctional Industries.

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

SECTION 1. Section 354-3, Hawaii Revised Statutes, is amended to read:

**“Sec. 354-3 Purchase of goods by state agencies and political subdivisions.** All offices, departments, institutions, and agencies of this State which are supported in whole or in part by this State shall purchase, and all political subdivisions of this State may purchase, to the extent of need and available supply, from the department of social services and housing all articles or products required by such offices, departments, institutions, or agencies which are produced or manufactured by the department of social services and housing, by inmate labor, as provided for by this chapter, and no such article or product shall be purchased by any such office, department, institution, or agency, from any other source unless excepted from this section, as hereinafter provided.”

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

## ACT 86

SECTION 2. Section 354-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 354-4 Exceptions as to mandatory purchase requirement.** Exceptions from the operation of the mandatory provisions of section 354-3 may be made in any case where, in the opinion of the director of social services, the article or articles or product or products so produced or manufactured does or do not meet the reasonable requirements of or for such offices, departments, institutions, agencies or, in any case, where the requisition made cannot be reasonably complied with. No such office, department, institution, or agency shall be allowed to evade the intent and meaning of this section by slight variations from standards adopted by the department of social services and housing when the articles or products produced or manufactured by it, in accordance with its standards, are reasonably adopted to the actual needs of such office, department, institution, or agency."

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

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

(Approved May 21, 1980.)

## ACT 86

S.B. NO. 2214-80

A Bill for an Act Relating to Insurance.

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

SECTION 1. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of "commissioner" to read:

"(2) "Commissioner" means the insurance commissioner as defined in section 431-31(a)."

SECTION 2. Section 431-31, Hawaii Revised Statutes, is amended to read:

**"Sec. 431-31 Insurance division, insurance commissioner.** (a) The director of regulatory agencies shall be the insurance commissioner. The insurance division is established within the department of regulatory agencies. The insurance division shall be under the supervision and control of an administrator who shall be known as the assistant insurance commissioner. The director of regulatory agencies shall, with the approval of the governor, appoint the assistant insurance commissioner. The assistant insurance commissioner shall hold his office at the pleasure of the director of regulatory agencies, and shall be responsible for the performance of the duties imposed upon the division.

(b) Commissioner, where used in this chapter means the insurance commissioner of this State."

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 salary of the assistant

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

insurance commissioner shall be not more than \$37,500, to be set by the director of regulatory agencies."

**SECTION 4.** On the effective date of this act, the incumbent commissioner of motor vehicle insurance shall serve as the [assistant]† insurance commissioner and shall so serve until the termination of his present term as commissioner of motor vehicle insurance. Upon the expiration of said term, the director of regulatory agencies shall appoint the [assistant]† insurance commissioner, in accordance with Section 2 of this Act.

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

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

(Approved May 21, 1980.)

**ACT 87**

S.B. NO. 2280-80

A Bill for an Act Relating to the State Code of Ethics.

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

**SECTION 1.** Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, the lieutenant governor, the members of the legislature, and delegates to the constitutional convention; provided that delegates to the constitutional convention shall only be required to file initial disclosures.
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department.
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions.
- (4) The administrative director of the State, and the assistants in the office of the governor and the lieutenant governor, other than persons employed in clerical, secretarial, or similar positions.
- (5) The hearings officers of every state agency and department.
- (6) The president, the vice presidents, the chancellors, and the provosts of the University of Hawaii and its community colleges.
- (7) The superintendent, the deputy superintendent, the assistant superintendents, and the district superintendents of the department of education.
- (8) The administrative director and the deputy director of the courts.

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†Bracketed word substituted for "assistance".

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

- (9) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory.
- (10) Candidates for state elective offices, including candidates for election to the constitutional convention, provided that candidates shall only be required to file initial disclosures."

**SECTION 2.** Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Where an amount is required to be reported, the person disclosing may indicate whether the amount is at least \$1,000 but less than \$10,000; at least \$10,000 but less than \$25,000; at least \$25,000 but less than \$50,000; at least \$50,000 but less than \$100,000; at least \$100,000 but less than \$150,000; or \$150,000 or more. An amount of stock may be reported by number of shares."

**SECTION 3.** Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) The ethics commission shall have the following powers and duties:
  - (1) It shall prescribe forms for the disclosures required by Article XIV of the Hawaii Constitution and section 84-17 and the statements and reports required by sections 97-2 and 97-3 and shall establish orderly procedures for implementing the requirements of those provisions.
  - (2) It shall render advisory opinions upon the request of any legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the standards. It shall also render advisory opinions to persons subject to chapter 97. If no advisory opinion is rendered within thirty days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the standards. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment, or person subject to chapter 97 who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by such persons in the request for an advisory opinion.
  - (3) It shall initiate, receive, and consider charges concerning alleged violation of this chapter, initiate or make investigation, and hold hearings.
  - (4) It may subpoena witnesses, administer oaths, and take testimony relating to matters before the commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission. Before the commission shall exercise any of the powers authorized herein with respect to any investigation or hearings it shall by formal resolution, supported by a vote of three or more members of the commission, define the nature and scope of its inquiry.
  - (5) It may, from time to time make, amend, and repeal such rules and regula-

tions, not inconsistent with this chapter as in the judgment of the commission seem appropriate for the carrying out of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules and regulations, when adopted as provided in chapter 91, shall have the force and effect of law.

- (6) It shall have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within one year after termination of state employment by a legislator or employee. Nothing herein shall bar proceedings against a person who by fraud or other device, prevents discovery of a violation of this chapter. A proceeding shall be deemed commenced by the signing of a charge by three or more members of the commission.
- (7) It shall distribute its publications without cost to the public and shall initiate and maintain programs with the purpose of educating the citizenry and all legislators, delegates to the constitutional convention, and employees on matters of ethics in government employment.
- (8) It shall administer any code of ethics adopted by a state constitutional convention, subject to the procedural requirements of this part and any rules adopted thereunder.
- (9) It shall perform the duties and fulfill the functions assigned to it by chapter 97, relating to registration of lobbyists."

SECTION 4. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) A decision of the commission pertaining to the conduct of any legislator, delegate to the constitutional convention, or employee or person formerly holding such office or employment, or person subject to chapter 97 shall be in writing and signed by three or more of the members of the commission."

SECTION 5. Section 84-32, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 84-32 Procedure.** (a) With respect to legislators and employees removable only by impeachment: when the ethics commission after due hearings pursuant to section 84-31(d) determines that there is sufficient cause to file a complaint against a legislator or an employee removable only by impeachment, it shall issue a complaint and refer the matter to the appropriate body of the legislature. The complaint must contain a statement of the facts alleged to constitute the violation. If within thirty days after the referral, the legislature has not disposed of the complaint, the commission shall make the charges public. Days during which the legislature is not in session shall not be included in determining the thirty-day period.

(b) With respect to employees other than legislators and employees removable only by impeachment: when the commission after due hearing determines pursuant to section 84-31(d) that there is sufficient cause to file a complaint against an employee other than a legislator, or an employee removable only by impeachment, it shall refer the decision to the governor who shall take appropriate action within sixty days and

## ACT 88

shall notify the commission of the action taken.

If it is found that a violation has occurred, the governor or the ethics commission by a vote of four members may make the findings and the record of the proceeding public, taking into account the seriousness of the violation.

This subsection shall not prevent the commission from reporting decisions in the yearly summaries required by section 84-31(f).

(c) With respect to former employees: the commission may with the consent of four commissioners issue a public statement of its findings and conclusions, and the attorney general may exercise whatever legal or equitable remedies which may be available to the State.

(d) With respect to delegates to the constitutional convention removable only by impeachment: when the ethics commission after due hearing pursuant to section 84-31(d) determines that there is sufficient cause to file a complaint against a delegate to the constitutional convention, it shall issue a complaint and refer the matter to the appropriate body of the constitutional convention.

(e) With respect to persons subject to chapter 97: when the ethics commission after due hearing pursuant to section 84-31(d) determines that a violation of chapter 97 has occurred, it shall refer the matter to the office of the attorney general or the prosecuting attorney for the city and county of Honolulu each of which shall have concurrent jurisdiction. The fact of such referral for prosecution shall be made public by the ethics commission."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 7. This Act shall take effect upon approval.

(Approved May 21, 1980.)

## ACT 88

S.B. NO. 3003-80

A Bill for an Act Relating to Medical Torts.

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

SECTION 1. The purpose of this Act is to restrict the medical claim conciliation panel provided for under section 671-11 of the Hawaii Revised Statutes to a maximum hearing period of eighteen months for each case filed before it.

SECTION 2. Section 671-18, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 671-18 Statute of limitations tolled.** The filing of the claim with the medical claim conciliation panel shall toll any applicable statute of limitations, and any such statute of limitations shall remain tolled until sixty days after the date the decision of the panel is mailed or delivered to the parties; provided that in no case shall the applicable statute of limitations be tolled for more than eighteen months. If a

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

decision by the medical claim conciliation panel is not reached within eighteen months, the statute of limitations shall resume running and the party filing the claim may commence a suit based on the claim in any appropriate court of this State. The panel shall notify in writing all parties of this provision."

SECTION 3. Section 671-16, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 671-16 Subsequent litigation; excluded evidence.** The claimant may institute litigation based upon the claim in an appropriate court only after a party to a medical claim conciliation panel hearing rejects the decision of the panel, or after the eighteen-month period under section 671-18 has expired.

No statement made in the course of the hearing of the medical claim conciliation panel shall be admissible in evidence either as an admission, to impeach the credibility of a witness, or for any other purpose in any trial of the action, provided that such statements may be admissible for the purpose of section 671-19, hereof. No decision, conclusion, finding, or recommendation of the medical claim conciliation panel on the issue of liability or on the issue of damages shall be admitted into evidence in any subsequent trial, nor shall any party to the medical claim conciliation panel hearing, or the counsel or other representative of such party, refer or comment thereon in an opening statement, an argument, or at any other time, to the court or jury, provided that such decision, conclusion, finding, or recommendation may be admissible for the purpose of section 671-19, hereof."

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

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

(Approved May 21, 1980.)

ACT 89

H.B. NO. 1979-80

A Bill for an Act Relating to School Entry Examination.

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

SECTION 1. Section 298-42, Hawaii Revised Statutes, is hereby amended to read:

**"Sec. 298-42 Immunization upon entering school; tuberculosis clearance.** (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 and is free from tuberculosis in a communicable form."

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

## ACT 90

SECTION 2. Section 298-43, Hawaii Revised Statutes, is amended to read:

**"Sec. 298-43 Provisional entrance to school.** 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. Further certification showing that the required immunizations have been completed must be submitted to the appropriate school official no later than three months after the child first entered the school."

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

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

(Approved May 21, 1980.)

## ACT 90

H.B. NO. 1981-80

A Bill for an Act Relating to Recording Fees in the State Bureau of Conveyances.

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

SECTION 1. Section 502-25, Hawaii Revised Statutes, is hereby amended to read:

**"Sec. 502-25 Fees.** (a) The registrar is entitled to demand and receive the following fees:

- (1) For the registry of any instrument required by law to be recorded, or presented for record, except that no fee shall be required of any county presenting a document for record, wherein the county is the grantee, \$2 for the first page or portion thereof plus \$1 for each additional page or portion thereof;
- (2) For taking any acknowledgement preparatory to registry, \$1 for each party signing;
- (3) For every copy of any instrument recorded in his office, authenticated by his seal of office, \$1 per page;
- (4) For searching the records, and giving the certificate required by law, \$10 for each year searched and also \$1 for each page in the certificate;
- (5) For copy of plan of land, authenticated by his seal of office, \$1 for the first square foot and additional 10 cents for each additional square foot or fraction thereof in the size of the plan;
- (6) For photographing instruments, etc., for any federal, state, or county agency, the cost of the materials used therein, such fees to be used by the registrar for the purchase of necessary materials used in such photographing process.

(b) All fees collected under this section shall be deposited in the state treasury to the credit of the general fund."

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

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

SECTION 3. This Act shall take effect July 1, 1980.

(Approved May 21, 1980.)

## ACT 91

H.B. NO. 1989-80

A Bill for an Act Relating to Practicing Psychologists.

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

SECTION 1. Section 465-3, Hawaii Revised Statutes, is amended to read:

**"Sec. 465-3 Exceptions.** (a) This chapter shall not apply to:

- (1) Any person teaching, lecturing, consulting, or engaging in research in psychology insofar as the activities are performed as part of or are dependent upon employment in a college or university;
- (2) Any person who performs any, or any combination, of the professional services described in section 465-1(5) under the direction of a person who is qualified under this chapter;
- (3) Any person employed by a local, state, or federal government agency whose psychologists 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;
- (4) Any person who is a student of psychology, a psychological intern, or a resident in psychology preparing for the profession of psychology under supervision in a training institution or facility and who is designated by a title such as "psychological trainee" or "psychology student" which indicates his training status; or
- (5) Any person who holds a license to practice medicine and surgery in the State.

(b) Nothing in this chapter shall in any way restrict any person from carrying on any of the activities in subsection (a), provided that such person does not offer psychological services as defined in this chapter except as such activities are incidental to his lawful occupational purpose.

(c) Nothing in this chapter shall be construed as permitting the administration or prescription of drugs, or in any way engaging in the practice of medicine as defined in the laws of the State."

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

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

(Approved May 21, 1980.)

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

A Bill for an Act Relating to Department of Regulatory Agencies.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 26-9 Department of regulatory agencies.** (a) The department of regulatory agencies shall be headed by a single executive to be known as the director of regulatory agencies.

(b) The department shall protect the interests of consumers, depositors, and investors throughout the State. It shall set standards and enforce all laws, rules, and regulations governing the licensing and operation of, and register and supervise the conduct of trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institutions.

(c) The board of examiners of abstract makers, board of accountants, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, collection agencies advisory board, contractors license board, board of dental examiners, board of registration for professional engineers, architects, and surveyors, board of massage, board of medical examiners, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, board of pharmacy, board of detectives and guards, real estate commission, and board of veterinary examiners are placed within the department of regulatory agencies for administrative purposes.

(d) Except as otherwise provided by this chapter, the functions, duties, and powers, subject to the administrative control of the director of regulatory agencies, and the composition of each board and commission shall be as heretofore provided by law.

(e) Notwithstanding any provision to the contrary, the employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees under the administrative control of this department shall be determined by the director of regulatory agencies subject only to applicable personnel laws.

(f) The director of regulatory agencies may appoint a hearings officer or officers not subject to chapters 76 and 77 to hear and decide any case or controversy regarding licenses and the application and enforcement of rules involving any of the boards or commissions within the department of regulatory agencies. The hearings officer or officers shall have power to issue subpoenas, administer oaths, hear testimony, find facts, and make conclusions of law and a recommended decision; provided that the conclusions and decisions shall be subject to review and redetermination by the officer, board, or commission which would have heard the case in the first instance in the absence of a hearings officer. The review shall be conducted in accordance with chapter 91.

(g) The director may appoint a complaints officer not subject to chapters 76 and 77 who shall facilitate the investigation and hearing of complaints.

(h) The functions and authority heretofore exercised by the treasurer (except funds custody, cash management, debt management, and administering of veterans loans transferred to the department of budget and finance) as heretofore constituted are transferred to the department of regulatory agencies established by this chapter. The director of regulatory agencies shall also be the insurance commissioner and commissioner of securities.

(i) The director may adopt, amend, or repeal rules pursuant to chapter 91 to effectuate the purposes of all laws within the jurisdiction of the department of regulatory agencies. The director's authority to adopt rules shall not modify, impair, or otherwise affect the power of boards and commissions placed with the department of regulatory agencies for administrative purposes from adopting, amending, or repealing rules, except as provided for in subsection (j).

(j) Any law to the contrary notwithstanding, the fees assessed or charged by any board or commission placed within the department of regulatory agencies for administrative purposes may be established, pursuant to chapter 91, as separate application, examination, and license fees, and be increased or decreased by the director of regulatory agencies to maintain a reasonable relation between the revenue derived from the fee and the cost or value of services rendered."

**SECTION 2.** The director of regulatory agencies shall prepare and submit a bill to the legislature prior to the convening of the 1981 Regular Session conforming the provisions of Title 25, Hawaii Revised Statutes, and, if applicable, elsewhere in the Hawaii Revised Statutes to the provisions of section 26-9(j), Hawaii Revised Statutes, relating to fees.

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

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

(Approved May 21, 1980.)

ACT 93

H.B. NO. 2061-80

A Bill for an Act Relating to the Judiciary.

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

**SECTION 1.** Section 706-605 is amended to read as follows:

**"Sec. 706-605 Authorized disposition of convicted defendants.** (1) Except as provided in section 706-606 and subject to the applicable provisions of this Code, the court may suspend the imposition of sentence on a person who has been convicted of a crime, may order the person to be committed in lieu of sentence in accordance with section 706-607, or may sentence the person as follows:

- (a) To be placed on probation as authorized by part II of this chapter; or
- (b) To pay a fine authorized by part III of this chapter; or
- (c) To be imprisoned for a term authorized by part IV of this chapter; or

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

## ACT 94

- (d) To pay a fine and to probation or to pay a fine and to imprisonment, but not to probation and imprisonment, except as authorized by part II of this chapter; or
- (e) To make restitution or reparation to the victim or victims of the person's crime in an amount the person can afford to pay, for loss or damage caused thereby in addition to paragraph (a), (b), (c), (d), or (f) of this subsection (1);
- (f) To perform services for the community under the supervision of a governmental agency or benevolent or charitable organization or other community service group or under other appropriate supervision, or to perform such services and to probation, as the court may direct, provided that the convicted person who performs such services shall not be deemed to be an employee for any purpose. The extent of services required shall be stated in the judgment. The court shall not sentence the convicted person only to perform such services unless, having regard to the nature and circumstances of the crime and to the history and character of the defendant, it is of the opinion that the performance of such services alone suffices for the protection of the public.

(2) The court may suspend the imposition of sentence on a person who has been convicted of a violation, may sentence the person to pay a fine authorized by part III of this chapter, or may sentence the person to perform services for the community as authorized by subsection (1)(f) of this section.

(3) The court shall sentence a corporation or unincorporated association which has been convicted of an offense in accordance with section 706-608.

(4) This chapter does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty. Such a judgment or order may be included in the sentence."

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

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

(Approved May 21, 1980.)

## ACT 94

H.B. NO. 2063-80

A Bill for an Act Relating to the Judiciary.

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

**SECTION 1.** Section 560:3-1290, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-1209 Duties of clerk and distribution.** The clerk shall make diligent effort to ascertain the names and whereabouts of the heirs, or the whereabouts

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

of the devisees of the decedent and present evidence relating thereto to the court having jurisdiction of the proceedings. After the expiration of four months, in the case of an estate valued in excess of \$10,000, or sixty days, in the case of an estate valued at \$10,000 or less, after the first publication, the clerk shall pay or distribute the money, funds, or property of the estate in the order specified in section 560:3-805, including any allowances and exempt property under part 4 of article II authorized by the court, and the excess, if any, to or among such persons as may be found by the court to be persons entitled thereto as distributees."

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

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

(Approved May 21, 1980.)

## ACT 95

S.B. NO. 2225-80

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 87-22, Hawaii Revised Statutes, is amended to read:

**"Sec. 87-22 Determine health benefits plan; contract with carriers.** The board of trustees shall determine the health benefits plans, which shall be excepted from the minimum group requirements of chapter 431. The health benefits plan shall provide, pay for, arrange for or reimburse the cost of hospitalization, surgery, medical, dental treatment, and care, and may include prescribed drugs, medicines, prosthetic appliances, hospital in-patient and out-patient service benefits and medical and dental indemnity benefits.

The board may contract for the following health benefits plans; provided that benefits provided under any respective plan shall be equally available to all employee-beneficiaries and dependent-beneficiaries selecting the plan regardless of age, as provided for below:

- (1) A statewide indemnity benefit plan under which a carrier agrees to pay certain sums of money not in excess of the actual expenses incurred for health services;
- (2) A statewide service benefit plan under which payment is made by a carrier under contracts with physicians, hospitals or other providers of health services, or, under certain conditions, payment is made by a carrier to an employee-beneficiary;
- (3) Health maintenance organization plans which provide or arrange health services for members on a prepaid basis, with professional services provided by physicians practicing individually or as a group in a common center or centers.

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

## ACT 96

- (4) A plan to offer dental benefits to those children of employee-beneficiaries who have not attained the age of nineteen through either an indemnity, statewide service benefit plan, or a health maintenance organization plan.
- (5) A noninsured schedule of benefits similar to any of the schedule of benefits set forth in health benefit plans authorized in paragraphs (1) through (4) of this section."

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

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

(Approved May 22, 1980.)

**ACT 96**

S.B. NO. 2278-80

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. Section 607-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 607-4 District court costs.** (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:

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|--|------|
| (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 crossclaims or counter-claims; third party complaint, for each such matter . . . . .   | \$5  |
| (3) Motion or other application for: change of venue; involuntary dismissal, or preliminary hearing of a defense which may lead to involuntary dismissal; [judgement] 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, attachment, 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   |      |

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

- (8) Filing of notice of appeal to the supreme court, to be paid in addition to the deposit of appellate court costs ..... \$30  
(9) Search of records by the clerk ..... \$2  
(10) Making 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 subsequent to the initial filing of the pleading or paper, except record on appeal ..... \$1  
(12) Exemplification, instead of [item] paragraph (1) ..... \$1  
(13) Posting notice; service fees; garnishee fees; mileage charges; or other services actually performed.....Amounts necessary to cover actual costs or disbursements.
- (c) The court, in taxing costs, may assess not only the costs of court, but also all reasonable disbursements as provided by section 607-9.
- (d) Sheriff's or police officer's fees:
- (1) For serving any criminal summons, warrant, attachment, or other criminal process, [\$10.] \$15 effective July 1, 1980.
  - (2) For serving any civil summons, warrant, attachment, or other civil process, \$6 effective July 1, 1978 and \$7 effective July 1, 1979.
  - (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, \$5.
  - (6) For every mile of travel, more than one, in serving any process, [15] 18 cents; provided that (A) no such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof; (B) where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services, more than the mileage for the entire trip; and (C) as far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police, or other serving officer upon the island of service, who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may not be addressed to the officer actually making such service or to his superior.
- (e) Anything in this section or any other law to the contrary notwithstanding, when any process or subpoena is served by a subordinate of the sheriff or chief of police, it shall be illegal for the sheriff or chief of police, (1) if and so long as he is being paid a salary by the State or the county to receive or collect from such subordinate any portion of the fees, mileage, or other expenses collected by such subordinate, or (2) if and so long as he is not being paid any such salary, to collect or receive from such subordinate more than ten per cent of the fees accruing from such service, or any portion of the mileage or other expenses collected by such subordinate. Where a subpoena is served in behalf of the State or any county by a nonsalaried subordinate

## ACT 96

of the sheriff or chief of police, the regular fee for such service shall be payable to such subordinate. Nothing herein contained shall be deemed to prohibit the police commission of any county from requiring all such fees, mileage, and expenses to be paid into a police benefit fund."

SECTION 2. Section 607-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 607-8 Sheriff's or serving or levying officer's fees in circuit court, intermediate appellate court, or supreme court.** For all necessary travel in making such service, per mile for every mile more than one . . . [15] 18 cents provided that:

- (1) No such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof;
- (2) Where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services more than the mileage for the entire trip; and
- (3) As far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police, or other serving officer upon the island of service who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may not be addressed to the officer actually making such service or to his superior.

For serving criminal summons or any other criminal process except a subpoena, for each person served therewith . . . . . [\$10.] \$15 effective July 1, 1980.

For serving civil summons or any other civil process, except a subpoena or a garnishee summons, for each person served therewith . . . . . \$6 effective July 1, 1978 and \$7 effective July 1, 1979.

For serving subpoena or garnishee summons, for each person . . . . . \$5.

For returning as unserved after due and diligent search any process when it has been found that the person to be served has left the State . . . . . \$2.

For serving any execution or other process for the collection of money, for every dollar collected up to \$500 . . . . . 5 cents.

And for every dollar over \$500 . . . . . 2½ cents.

All fees paid to any printer for publishing an advertisement of the sale of any property;

For every bill of sale . . . . . \$1.

For executing and acknowledging a deed pursuant to a sale of real estate to be paid by the grantee in such deed . . . . . \$5.

For drawing any bond required by law . . . . . \$1.

For serving writ of possession or restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to order of court . . . . \$1.

Together with all necessary expenses incurred by the officer serving the writ, incident to the eviction.

For executing and acknowledging a deed pursuant to a sale of real estate to be paid by the grantee in such deed . . . . . \$5.

For drawing any bond required by law . . . . . \$1.

For serving writ of possession or restitution, putting any person entitled into the possession of premises, and removing a tenant pursuant to order of court . . . . \$1.

Together with all necessary expenses incurred by the officer serving the writ, incident to the eviction.

For selling any property on an order from the court other than an execution, the same allowance as for service and sales by execution.

The fees for service of executions, attachments, and collection of judgments, together with all costs incurred after judgment rendered, not included in the judgment, shall, in all<sup>†</sup> courts of the State, be collected in addition to the sum directed to be levied and collected in the writ.

Anything in this section or any other law to the contrary notwithstanding, when any process or subpoena is served by a subordinate of the sheriff or chief of police, it shall be illegal for the sheriff or chief of police (1) if and so long as he is being paid a salary by the State or the county to receive or collect from such subordinate any portion of the fees, mileage, or other expenses collected by such subordinate, or (2) if and so long as such sheriff or chief of police is not being paid any such salary, to collect or receive from such subordinate more than ten per cent of the fees accruing from such service, or any portion of the mileage or other expenses collected by such subordinate. Where a subpoena is served in behalf of the State or any county by a nonsalaried subordinate of the sheriff or chief of police, the regular fee for such service shall be payable to such subordinate. Nothing herein contained shall be deemed to prohibit the police commission of any county from requiring all such fees, mileage, and expenses be paid into a police benefit fund."

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

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

(Approved May 22, 1980.)

## ACT 97

S.B. NO. 2286-80

A Bill for an Act Relating to Employment Programs.

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

**SECTION 1.** Section 193-21, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 193-21 Authorization.** The governor is authorized to avail the State of the benefits of any law or laws of the United States, now existing or to be enacted, which will enable young persons to work for state, local, and private nonprofit agencies in programs related to the public interest such as hospital, education, or welfare activities as well as state conservation projects."

**SECTION 2.** Chapter 193, parts I and II, Hawaii Revised Statutes, are repealed.

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<sup>†</sup>In section prior to amendment, here appeared the word "the".

## ACT 98

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

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

(Approved May 22, 1980.)

## ACT 98

S.B. NO. 2357-80

A Bill for an Act Relating to State Insurance Administration.

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

SECTION 1. Section 41-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 41-3 Additional appropriation to fund.** If the monetary requirements for the repair or replacement of any building or other property, or the payment of claims found to be due under chapter 386, or for any other lawful claim or charge upon the insurance fund are at any time in excess of the total of cash, securities, and investments to the credit of the state insurance fund, the comptroller shall submit to the legislature a request for an appropriation, to be paid from the general fund, in the amount of such excess for the purpose of offsetting the excess of such liabilities."

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

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

(Approved May 22, 1980.)

## ACT 99

S.B. NO. 2359-80

A Bill for an Act Relating to Disaster Relief.

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

SECTION 1. Section 127-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 127-11 Major disaster fund.** The director shall submit requests to the legislature to appropriate from the general revenues of the State sufficient moneys as may be necessary for expenditure by or under the direction of the governor for immediate relief in the event of the occurrence of any major disaster in any part of the State; provided that the governor may not expend in excess of \$500,000 for immediate relief of any single major disaster. In expending the moneys, the governor may allot any portion thereof to any agency, office, or employee, federal, state, or county, for the more speedy and efficient relief of the conditions created by the disasters. The governor may determine whether a major disaster contemplated by this section has occurred, and any determination shall be conclusive."

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

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

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

(Approved May 22, 1980.)

ACT 100

S.B. NO. 2439-80

A Bill for an Act Relating to Workers' Compensation.

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

SECTION 1. Workers suffering work-related injuries are barred from bringing civil actions against their employers under the Workers' Compensation Law. The legislature finds that some workers are seeking recourse against third parties and are bringing actions against their labor organizations on the theory that the organization failed to adequately protect its members on matters related to safety and health and as a result, labor organizations are reluctant to discuss, agree on, and otherwise meaningfully deal with such problems. The legislature recognizes that employee safety and health issues have traditionally and properly been a subject of concern in labor-management relations and protection against such civil actions is necessary so that labor organizations may fully and fairly represent all their members in matters related to safety and health without being exposed to possible civil liability.

The purpose of this Act is to provide immunity for labor organizations from civil actions based on safety and health issues on the same basis that employers are afforded immunity under the Workers' Compensation Law.

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 386- Immunity from third party liability.** Section 386-8 and any other law to the contrary notwithstanding, when a work injury for which compensation is payable under this chapter has been sustained, the discussion or furnishing of, or failure to discuss or furnish, or failure to enforce any safety or health provision to protect employees against work injuries, in any collective bargaining agreement or in negotiations thereon, shall not subject a labor organization representing the injured employee to any civil liability for the injury.

As used in this section, the terms:

- (1) "Labor organization" means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms, or conditions of employment, or of other mutual aid or protection and includes both private industry and public employment labor organizations.
- (2) "Safety or health provision" includes, but is not limited to, safety or health inspections and advisory services."

SECTION 3. New statutory material is underscored.\*

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

## **ACT 101**

**SECTION 4.** This Act shall take effect upon its approval, but shall not affect any right or action which accrued prior to its effective date.

(Approved May 22, 1980.)

## **ACT 101**

**S.B. NO. 2473-80**

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 by amending the definitions of "general obligation bonds", "general obligation reimbursable bonds", "reimbursable general obligation bonds", and "revenue bonds" to read as follows:

- (22) "General obligation bonds" means bonds, notes, or other instruments 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 issued for a public undertaking, improvement, or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.
- (39) "Reimbursable general obligation bonds" means general obligation bonds issued for a public undertaking, improvement, or system from which revenues, or user taxes, or a combination of both, may be derived for the payment of the principal and interest as reimbursement to the general fund and for which reimbursement is required by law, and, in the case of general obligation bonds issued by the State for a political subdivision, general obligation bonds for which the payment of the principal and interest as reimbursement to the general fund is required by law to be made from the revenue of the political subdivision.
- (42) "Revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system, or loan program and any loan made thereunder and secured as may be provided by law."

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

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

(Approved May 22, 1980.)

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

## ACT 102

S.B. NO. 2514-80

A Bill for an Act Relating to Contractors.

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

SECTION 1. Section 444-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 444-23 Violation; penalties.** (a) Any licensee who violates section 444-9.3 or 444-17(18) shall be fined \$200 for the first offense, \$600 for the second offense, and not less than \$800 or more than \$1,000 for any subsequent offense.

(b) Except as provided in subsection (a), any person who violates or fails to comply with any of the provisions of this chapter shall be fined not more than \$5,000."

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

SECTION 3. This Act shall take effect upon its approval but shall not affect any penalties which were incurred or proceedings which were begun before the effective date.

(Approved May 22, 1980.)

## ACT 103

S.B. NO. 2676-80

A Bill for an Act Relating to Motor Vehicle Insurance.

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

SECTION 1. Section 294-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(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 using the motor vehicle with the express or implied permission of the named insured, sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others, except property owned by, being transported by, or in the charge of the insured, which arise out of the ownership, operation, maintenance, or use of the motor vehicle:

- (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

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

## ACT 104

the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle."

SECTION 2. New statutory material is underscored.

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

(Approved May 22, 1980.)

## ACT 104

S.B. NO. 2770-80

A Bill for an Act Relating to Tourism.

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

SECTION 1. Section 203-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 203-2 Terms and conditions of contract.** The contract entered into with the Hawaii Visitors Bureau shall contain the following terms and conditions:

- (1) That the Hawaii Visitors Bureau shall receive any complaints relating to tourist activities from any person who files complaints with the Hawaii Visitors Bureau, shall make a monthly report to the department of planning and economic development and shall make these complaints available for the inspection of all interested parties.
- (2) That no employee or officer of the department of planning and economic development shall serve as a member of the Hawaii Visitors Bureau executive board."

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

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

(Approved May 22, 1980.)

## ACT 105

S.B. NO. 2870-80

A Bill for an Act Relating to Arrests by Police Officers Without Warrant.

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

SECTION 1. Section 803-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 803-5 By police officer without warrant.** (a) A police officer or other officer of justice, may, without warrant, arrest and detain for examination such persons as may be found under such circumstances as justify probable cause to believe that they have committed:

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

(1) Any offense in the officer's presence; or

(2) Any felony or misdemeanor, whether in the officer's presence or otherwise.

(b) For purposes of this section, a police officer has probable cause to make an arrest when the facts and circumstances within the officer's knowledge and of which the officer has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution in the belief that a crime has been or is being committed."

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

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

(Approved May 22, 1980.)

**ACT 106**

S.B. NO. 2881-80

A Bill for an Act Relating to Spouse Abuse.

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

**SECTION 1.** Section 709-906, Hawaii Revised Statutes, is amended by amending subsection (1) to read:

"(1) It shall be unlawful for any person, singly or in concert, to physically abuse his or her spouse, or to refuse compliance with the lawful order of a police officer under subsection (3). The police, in investigating any complaint of spouse abuse may, upon request, transport such person to a hospital or safe shelter."

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

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

(Approved May 22, 1980.)

**ACT 107**

S.B. NO. 3098-80

A Bill for an Act Relating to Residential Leasehold Conversion.

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

**SECTION 1.** The purpose of this Act is to correct the constitutional deficiencies in chapter 516, Hawaii Revised Statutes, as outlined by Judge Samuel P. King, of the U.S. District Court in his decision in *Midkiff v. Tom and Wai-Kahala Tract "H" Association* (May 8, 1979).

**SECTION 2.** Section 516-1, Hawaii Revised Statutes, is amended by amending the definition of "owner's basis" to read:

"(14) "Owner's basis" means the value of the lessor's leased fee interest in the lot that would apply if such interests were normally traded on an open market.

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

## **ACT 107**

The fair market value of the owner's basis shall be established to provide the lessor with just compensation for his interests in the lot and shall take into consideration every interest and equity of the lessee in establishing that market value. The value may be determined by either of the following methods, or any other method which is normally used by qualified appraisers in establishing the fair market value of a lessor's leased fee interest in land:

- (A) The sum of: (i) the future rental income stream for the lot for the term of the lease discounted to present worth from the expiration date of the lease; and (ii) the value of the lessor's reversionary interest in the lot discounted to present worth from the expiration date of the lease. The discount rate shall be based on the maximum rate of return for insured passbook demand saving account paid by the savings and loan institutions in Hawaii plus three and three-fourths per cent; provided, however, that the discount rate may be modified by mutual agreement of the lessor, lessee, and the authority; or
  - (B) The current fair market value of the lot, valued as if it were a fee simple lot and as if the fee title were unencumbered, and excluding onsite improvements, established by a market data approach utilizing comparable sales, less the following:
    - (i) The value of the lease, including any rights therein, if any, which accrues to the lessee;
    - (ii) That percentage of the general enhancement of the neighborhood which has been paid for or contributed directly or indirectly by the lessee;
    - (iii) The current replacement cost of that portion of existing offsite improvements, including overhead and profit at prevailing rates, which were paid for or otherwise contributed directly or indirectly by the lessee;
    - (iv) That percentage of the general enhancement of the development tract and the lot caused by the onsite improvements on the lot paid for, or contributed, directly or indirectly, by the lessee;
    - (v) That amount, not otherwise deducted herein, allocated to the lot, which was paid for or otherwise contributed, directly or indirectly by the original lessee, computed at prevailing rates for overhead and profit in developing the development tract established by existing practice in the community; and
    - (vi) That amount for fees and costs which would ordinarily be borne by lessor in transferring such interest to lessee, including, but not limited to, attorneys' or realtors' commissions, other costs of sale, and similar fee;
- provided, however, that the values established by any one of the foregoing shall not be duplicated in any one of the other provisions."

SECTION 3. Part IIA, Chapter 516, Hawaii Revised Statutes, is amended to read:

**"Sec. 516-51 Preliminary negotiation required.** (a) Upon the filing of a peti-

tion by the number of lessees required by section 516-22 with the Hawaii housing authority, the authority shall request the lessor and the lessees or their designated agents to negotiate the just compensation which the lessees will pay to the lessor to acquire the lessor's interest in the development tract. If no agreement is reached within sixty days after the request to negotiate, the parties shall simultaneously exchange written final offers together with any appraisals, other documents, and any other expert opinions on which their negotiating positions were based. Copies of the final offers and related documents shall be submitted to the authority and the authority may use the information in determining, prior to commencing condemnation proceedings, the probability that lessees will be able to meet the financial requirements of section 516-33(4).

(b) This preliminary negotiation shall be in advance of and shall not constitute any part of any action in condemnation or eminent domain."

SECTION 4. Sections 516-52 to 516-55, Hawaii Revised Statutes, are repealed.

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

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

(Approved May 22, 1980.)

## ACT 108

H.B. NO. 713

A Bill for an Act Relating to Banks.

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

SECTION 1. The purpose of this Act is to authorize banks to make loans secured by a borrower's interest in a cooperative housing corporation and to deal with such interest accordingly.

SECTION 2. Section 403-98, Hawaii Revised Statutes, is amended to read:

**"Sec. 403-98 Real estate loans; restrictions.** (a) No commercial banks shall, except for the purpose of facilitating the sale of property owned by the bank, make any loan on the security of real estate unless it is secured by a first lien on improved or unimproved real estate and shall not in any case exceed eighty per cent of the appraised market value of the real estate over and above all taxes due and bonded indebtedness for public improvements due. No commercial bank shall loan in the aggregate more than the sum of seventy-five per cent of its savings deposits, if it also transacts the business of a savings bank, and twenty-five per cent of the total of its capital, surplus, and commercial deposits on obligations secured by real estate. These provisions, however, shall not prevent any bank from taking another and immediately subsequent mortgage or deed of trust thereon when it already holds a first mortgage or deed of trust on the real estate, nor from accepting a second lien on real estate to

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

## ACT 109

secure the repayment of a debt previously contracted in good faith; nor shall it prevent subsequent liens of any kind from being taken to secure the payment of a debt previously contracted in good faith when the subsequent liens are necessary further to secure the payment of any debt and to save the bank from loss. There shall be on file at the bank in support of such real estate obligation such appraisal, evidence of merchantable title, and insurance as may be required by the director of regulatory agencies.

(b) Section 403-99 and any other law to the contrary notwithstanding, a bank may make a loan as provided in subsection (a) secured by stock or a membership certificate in a cooperative housing corporation. For the purposes of this section and as used in sections 403-96, 403-97, and 403-128(5), the term "real property" or "real estate" includes stock or a membership certificate in a cooperative housing corporation together with the proprietary lease issued by such corporation. As used in this subsection, "cooperative housing corporation" means a corporation as defined in section 216 of the federal Internal Revenue Code, as amended."

### SECTION 3. New statutory material is underscored.\*

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

(Approved May 22, 1980.)

## ACT 109

H.B. NO. 714

A Bill for an Act Relating to Savings and Loan Associations.

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

SECTION 1. The purpose of this Act is to authorize savings and loan associations to make loans secured by a borrower's interest in a cooperative housing corporation and to deal with such interest accordingly.

SECTION 2. Chapter 407, Hawaii Revised Statutes, is amended as follows:

1. Section 407-6 is amended by amending the definition of "home" to read:

"Home" means a real estate held in fee simple or under a lease, upon which is located or upon which is to be located in whole or in part from the proceeds of the loan a dwelling or dwellings for not more than four families, situated on one or more lots; provided that the term "home" shall include real property based on membership in a cooperative housing [corporation]† as defined in section 216 of the federal Internal Revenue Code, as amended. A property does not cease to be a home because of the incidental use of it for business purposes so long as the use of the property as a residence is of a bona fide character."

2. Section 407-85 is amended to read:

**"Sec. 407-85 Loans on homes on leased property.** Loans may be made on leased property and the improvements thereon, provided the property conforms to the

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

†Bracketed "corporation" substituted for "cooperation" to correct manifest clerical error.

definition of a "home" contained in section 407-6, and provided the unexpired term of the lease at the time the loan is made thereon is at least two years beyond the maturity date of the loan. Every such loan shall be secured by mortgage on the leasehold and improvements of the home, the mortgage not to exceed eighty per cent of the unencumbered appraised value thereof. Section 407-83, wherever applicable, shall apply to any loan made under this section. Nothing herein shall prohibit the association from receiving additional security on real estate and other leasehold and improvements thereon from any borrower.

An association may make a loan secured by the stock or a membership certificate in a cooperative housing corporation. As used in sections 407-31(4), 407-87, 407-88, and 407-90, the term "real estate" includes stock or a membership certificate in a cooperative housing corporation together with the proprietary lease issued by such corporation. As used in this section, "cooperative housing corporation" means a corporation as defined in section 216 of the federal Internal Revenue Code, as amended."

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

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

(Approved May 22, 1980.)

## ACT 110

H.B. NO. 2086-80

A Bill for an Act Relating to Pilotage.

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

**SECTION 1.** Section 462A-18, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 462A-18 Vessels required to take a pilot.** Every vessel involved in trade or commerce, other than an exempt vessel, entering or departing from any port in or traversing the waters of the State designated as pilotage waters shall employ a pilot licensed under this chapter; provided that a vessel declared by the director of transportation to be in immediate danger of destruction or which poses an immediate hazard to public safety by its presence in the harbor may be moved without a pilot when a pilot is not immediately available."

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

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

(Approved May 22, 1980.)

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

A Bill for an Act Relating to Selective Employment and the Civil Service.

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

**SECTION 1.** The purpose of this Act is to provide public employment opportunities for the severely handicapped persons who are unable to compete with others not so handicapped.

Many handicapped persons have found public employment through the normal civil service procedures. There are, however, severely handicapped persons who are able to work but unable to compete for employment through the normal procedures and therefore are not being considered for public employment.

To recognize the burden of their handicapping condition and their ability to work, the removal of the requirement that they compete with others will make possible their employment in the government.

**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 personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard which are required by state or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;
- (2) Positions filled by persons employed by contract where the director of personnel services has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions of a temporary nature needed in the public interest where the need for the same does not exceed one year, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and household employees at Washington Place and eight employees in the office of the lieutenant governor;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, jury commissioners, notaries

- public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court, and one law clerk for each judge of the intermediate appellate court and of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
  - (10) Assistant and deputy attorneys general and law clerks;
  - (11) Teachers, principals, vice-principals, district superintendents, chief deputy superintendents, other certificated personnel, and not more than twenty non-certificated administrative, professional, and technical personnel not engaged in instructional work in the department of education, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and administrative, professional, and technical personnel of the university;
  - (12) Employees engaged in special, research, or demonstration projects approved by the governor, for which projects federal funds are available;
  - (13) Positions filled by inmates, kokua, and patients of state institutions, and persons with severe physical or mental handicaps participating on the Work Experience Training Programs, students, and positions filled through federally funded programs which provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
  - (14) A custodian or guide at Iolani Palace, Royal Mausoleum, and Hulihee Palace;
  - (15) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
  - (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, article V of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or such other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; one additional deputy to administer all hospitals within the jurisdiction of the department of health; one additional deputy in the department of health to administer all environmental health programs within the jurisdiction of the department; one additional deputy in the department of social services and housing either in charge of welfare or such other functions within the department as may be assigned

by the director of social services; one additional deputy in the department of health in charge of administration or such other functions within the department as may be assigned by the director of health with the approval of the governor; and an administrative assistant to the superintendent of education;

- (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
- (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe manpower shortage or in special projects;
- (19) Household employees at the official residence of the president of the University of Hawaii;
- (20) Employees in the department of education engaged in the supervision of students during lunch periods and in the cleaning of classrooms after school hours on a less than half-time basis;
- (21) Employees hired under the tenant hire program of the Hawaii housing authority, provided that no more than twenty-six per cent of the authority's work force in any housing project maintained or operated by the authority shall be hired under the tenant hire program;
- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii which require hiring of nutrition program assistants who live in the areas they serve; and
- (23) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 3. Section 76-77, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 76-77 Civil service and exemptions.** The civil service to which this part applies comprises all positions in the public service of each county, now existing or hereafter established, and embraces all personal services performed for each county, except the following:

- (1) Positions in the office of the mayor, but the positions shall be included in the position classification plan;
- (2) Positions of officers elected by public vote; positions of heads of departments and positions of one first deputy or first assistant of heads of departments;
- (3) Positions of deputy county attorneys, deputy corporation counsel, deputy prosecuting attorneys, and law clerks;
- (4) Positions of members of any board, commission, or agency;
- (5) Positions filled by students; positions filled through federally funded programs which provide temporary public service employment such as the

federal Comprehensive Employment and Training Act of 1973; and employees engaged in special research or demonstration projects approved by the mayor, for which projects federal funds are available;

- (6) Positions of district judges, jurors, jury commissioners, and witnesses;
- (7) Positions filled by persons employed by contract where the personnel director has certified and where such certification has received the approval of the commission that the service is special or unique, is essential to the public interest and that, because of the circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (8) Positions of a temporary nature needed in the public interest where the need for the same does not exceed ninety days; but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable; provided that the employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director, approved by the commission;
- (9) Positions of temporary election clerks in the office of the county clerk employed during election periods;
- (10) Positions specifically exempted from this part by any other state statutes;
- (11) Positions of one private secretary of heads of departments, but such positions shall be included in the position classification plan;
- (12) Positions filled by persons employed on a fee, contract, or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county and that fact is certified to by the director.
- (13) Positions filled by the severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to safely perform the duties of the positions.

The director shall determine the applicability of this section to specific positions and the director shall determine whether or not positions excluded by paragraphs (7) and (8) of this section shall be included in the position classification plan.

Nothing in this section shall be deemed to affect the civil service status of any incumbent, private secretary of heads of departments as it existed on May 7, 1977."

SECTION 4. Section 78-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 78-2 Equal opportunity.** No person shall be discriminated against in any case because of any physical or mental handicap, in examination, appointment, reinstatement, reemployment, promotion, transfer, demotion, or removal, with respect to any position the duties of which, in the opinion of the director, may be efficiently performed by a person with a physical or mental handicap; provided that the employment will not be hazardous to the person appointed or endanger the health

## **ACT 112**

or safety of his fellow employees or others.

To promote employment opportunities for the severely handicapped individuals, all departments or agencies of the state and county governments shall develop and implement programs for the selective employment of the severely handicapped individuals. Such programs shall provide for the certification by the state vocational rehabilitation office that the severely handicapped individual possesses the skills necessary to safely perform the duties of the position to which the individual will be placed."

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

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

(Approved May 22, 1980.)

## **ACT 112**

H.B. NO. 2388-80

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

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

**SECTION 1. Purpose.** The purposes of this Act are (1) to avoid confusion between the usages of terms relating to the district school advisory councils and the board of education, and (2) to have the district school advisory council members be appointed without consideration of their party affiliation or preference, or nonpartisanship.

**SECTION 2.** Chapter 296, Hawaii Revised Statutes, is amended as follows:

1. Section 296-7 is amended to read as follows:

**"Sec. 296-7 School district advisory councils; duties.** (a) There shall be a school district advisory council in each school district. The number of members on the school district advisory council in the respective school districts shall be as follows:

First school district (Hawaii): seven members;

Second school district (Maui): five members;

Third school district (Honolulu): five members;

Fourth school district (Central Oahu): five members;

Fifth school district (Leeward Oahu): five members;

Sixth school district (Windward Oahu): five members;

Seventh school district (Kauai): five members.

(b) Any law to the contrary notwithstanding, the governor shall appoint the members of each school district advisory council. Such appointments shall be made without consideration of the appointee's party affiliation or preference, or nonpartisanship. Each councilor shall serve for a term commencing upon his appointment and ending upon the expiration of the term of office of the governor. In addition to the number of members set forth herein, each member of the board of education shall be

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

an ex officio, nonvoting member of the school district advisory councils in his at-large school board district.

(c) Each school district advisory council shall serve in an advisory capacity to the board of education and to the member or members of the board of education from its school district.

Each school district advisory council shall:

- (1) Inform the board of education on educational matters of interest to the school district;
- (2) Disseminate information and interpret decisions and policies of the board of education to the people of the school district;
- (3) Act as an advisory body to the district superintendent of each school district; and upon his request, assist him in disseminating information, interpreting decisions and policies, and in obtaining public reaction;
- (4) Present and explain local or school district public concern in policies and administrative regulations of the department of education;
- (5) Work with and among the several other school district advisory councils to insure cooperation on educational matters of mutual interest and concern; and
- (6) Advise the board of education in the development of policies as the board of education may request from time to time."

2. Section 296-8 is amended to read as follows:

**"Sec. 296-8 Eligibility; expenses.** Each councilor appointed by the governor shall be a registered voter of his school board district and a resident of the school district in which he is appointed to serve. No councilor shall hold any other public office under the state or county governments. The term "public office", for the purposes of this section, shall not include notaries public, reserve police officers, officers of emergency organizations for civilian defense or disaster relief or county charter commissions.

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

3. Section 296-9 is amended to read as follows:

**"Sec. 296-9 Organizations; quorum; meetings.** Each school district advisory council shall elect its own chairman and may elect other officers that may be necessary to effectively carry out its functions.

The provisions of part I of chapter 92 shall apply to all meetings of the council. Meetings shall be called and held, at the call of the chairman or a quorum, as often as may be necessary to carry out its functions."

4. Section 296-10 is amended to read as follows:

**"Sec. 296-10 Educational districts not applicable.** The educational districts established by section 4-1 shall not be applicable to nor alter the school board or departmental school districts established by section 13-1, or the school districts established for administrative purposes by the department."

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

## ACT 113

underscored.\*

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

(Approved May 22, 1980.)

ACT 113

H.B. NO. 2454-80

A Bill for an Act Relating to Political Subdivision Pollution Control Bonds.

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

SECTION 1. The use of pollution control bond financing will be enhanced by the inclusion of authority to permit the political subdivision to enter into a "put or pay" type contract with respect to a solid waste disposal facility.

SECTION 2. Section 48E-1, Hawaii Revised Statutes, is amended by adding a new definition and amending the definition of "pollution control project" to read as follows:

- (6) "Pollution control project" means any property, or improvements or alterations to property, designed, acquired, constructed, installed, or modified by or for a political subdivision and certified as necessary or desirable by the state department of health to abate, control, reduce, treat, eliminate, or dispose of solid or liquid waste in a manner which provides for the recovery of energy, material resources, or both.
- (10) "Legal title" means ownership of the project site either in fee or by having a long-term fifty-five year leasehold interest."

SECTION 3. Section 48E-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 48E-5 Project agreement.** (a) Any project agreement entered into by the political subdivision shall contain provisions unconditionally obligating the project party to pay the political subdivision during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the pollution control project is used or occupied by the project party, in the form of rates, rentals, fees, charges, payments of installments of the purchase price, or otherwise, at such time or times and in such amount or amounts that will be at least sufficient:

- (1) To pay the principal, premium, if any, and interest on all revenue bonds issued to finance the costs of the pollution control project as and when the same becomes due;
- (2) To establish or maintain such reserves, if any, as may be required by the instrument authorizing or securing the revenue bonds;
- (3) To pay the fees and expenses of the paying agents and trustees for the revenue bonds;
- (4) To pay the expenses incurred by the political subdivision in administering the bonds or in carrying out the project or the project agreement; and
- (5) To pay any and all of the cost incurred by the political subdivision, directly or indirectly, in the operation, maintenance, and repair of the pollution

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

control project or to perform these functions at its own expense.

(b) Any project agreement entered into by the political subdivision may contain such provisions as the political subdivision deems necessary or desirable to obtain or permit the participation of the state and federal government in the pollution control project or in the financing of the costs thereof.

(c) A project agreement shall also provide that the political subdivision shall have all rights and remedies generally available at law or in equity to unpaid sellers or lessors, as the case may be, to re-enter and take possession of a pollution control project upon the breach or default by a project party of any term, condition, or provision of a project agreement.

(d) The political subdivision may extend or renew any project agreement or any other agreement related thereto, in accordance with the project agreement."

SECTION 4. Chapter 48E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 48E- Contracts for liquid or solid waste disposal.** Any other law to the contrary notwithstanding, a political subdivision is authorized from time to time to contract with users or operators of a pollution control project established or to be established under this chapter with respect to the delivery of liquid or solid waste to such project for disposal. Such contracts may be included in a project agreement with a project party, may be for such periods as agreed upon by the parties, and without limiting the generality of the foregoing, may include (1) provisions for the delivery to such project of minimum amounts of liquid or solid waste and payments for the use of such project based on the delivery of such minimum amounts (which payments the political subdivision may be obligated to make, whether or not such minimum amounts are actually delivered to such project), (2) unit prices, which may be graduated, and (3) adjustments thereof. Such payments, unit prices, or adjustments need not be specifically stated in such contract but may be determined by formula if set forth therein. Such contracts may include provisions for arbitration and reasonable restrictions against other disposal by the political subdivision or by other public or private entities or persons over which such political subdivision shall have jurisdiction of the substances covered thereby while the contract is in force and disposal under the contract is practicable."

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

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

(Approved May 22, 1980.)

A Bill for an Act Relating to Industrial Loan Companies.

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

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

SECTION 1. Section 408-2, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Open-end loan” means a loan made by a licensee under this chapter pursuant to an agreement between the licensee and the borrower whereby:

- (1) The licensee may permit the borrower to obtain advances of money to the borrower from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;
- (2) The amount of each advance and permitted interest and other charges are debited to the borrower’s open-end loan account and payments and other credits are credited to the same account;
- (3) Interest and charges are computed on the unpaid principal balance or balances of the open-end loan account from time to time; and
- (4) The borrower has the privilege of paying either the full amount of the open-end loan account or periodic installments of fixed or determinable amounts as provided in the agreement.

“Billing cycle” means the time interval between periodic billing dates. Such intervals may be considered equal intervals of time unless the billing date varies by more than four days from the regular billing date.”

SECTION 2. Section 408-15, Hawaii Revised Statutes, is amended to read:

**“Sec. 408-15 Interest rates; late charges; other charges; refunds; open-end loans.**

(a) No industrial loan company shall directly or indirectly charge, contract for, collect, or receive any interest, discount, fees, charges, or other consideration on any loan made by it except as provided by this section.

(b) Advance interest or discount. An industrial loan company may charge, contract for, receive, or collect in advance interest or discount at any rate which does not exceed the following maximum rate for the particular period and type of contract hereinafter set forth, computed in the manner set forth in section 408-3, at the inception of the contract, to wit:

- (1) Where interest is paid or deducted in advance for a period of not more than eighteen months upon any contract (whether the principal amount of the contract is payable in one payment at the end of the maturity period thereof or in installments), it shall not exceed twelve per cent a year computed in the manner set forth in section 408-3, at the inception of the contract.
- (2) Where interest is payable or deducted in advance upon a contract payable in a period of more than eighteen months, it shall not exceed an amount computed in the manner set forth in section 408-3, as follows: twelve per cent a year for the first eighteen months, plus nine per cent a year for the next twelve months (or portion thereof), plus six per cent a year for the next twelve months (or portion thereof), plus three per cent a year for the next six months (or portion thereof) of such period, as the case may be.

Interest shall not be deductible in advance for more than four years.

(For example: upon a contract, the principal amount of which is \$120, payable in twenty-four months, in monthly installments of \$5, the maximum amount of interest which may be deducted in advance under this

section is computed as follows:

12 per cent a year of \$120 for first 18 months	\$21.60
9 per cent a year of \$120 for next 6 months	5.40
Total interest deductible in advance of the contract	27.00)

- (3) In addition to requiring and collecting or deducting interest in advance, as aforesaid, the company may require and receive repayment of the principal amount of the contract in uniform weekly, monthly, or other periodic installments.
- (4) Late charges on delinquent installments. In addition to requiring and collecting or deducting interest in the manner and at the rates hereinbefore provided for, the company may also require and receive the payment of late charges not to exceed twelve per cent a year on any contractual installment or portion thereof which remains unpaid on the due date of the installment where there has been no extension or deferment by mutual agreement, or where the amount extended or deferred is not paid on the due date agreed upon. The company shall give the borrower written notice of the assessment of late charges prior to the due date for the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract. This subsection (b)(4) shall not apply to open-end loans.
- (5) After maturity interest charges. Upon maturity of the contract, the rate of interest on the unpaid principal balance of the loan shall be eighteen per cent a year or the original contract rate of interest, whichever is less. This subsection (b)(5) shall not apply to open-end loans.

(c) Fraction of a month. In computing interest for any of the purposes of this section, or interest refunds under subsection (f), for any period, any fraction of a month shall be considered as a whole month.

(d) Where not an installment contract. Nothing in this chapter shall be deemed to prohibit an industrial loan company from lending money upon a contract to repay the principal amount at the end of the maturity period, instead of in installments, under which contract interest is either deductible in advance, or is payable in weekly, monthly, or other periodic installments, or at the end of such period, provided the interest payable or paid is not in excess of the maximum prescribed by this section for loans repayable in installments of principal.

(e) Applications, licensees only. No person, firm, or corporation (not holding a license issued under this chapter) shall charge, contract for, collect, or receive interest, discounts, fees, charges, or other consideration on any loan in the amount or in the manner provided in this section unless permitted so to do by other state law.

(f) Refunds; prepayment. On a contract which has been discounted or on which interest has been collected in advance, and which is then paid or refinanced or on which judgment is then obtained before maturity, the industrial loan company involved shall refund to the borrower on account of unearned discount or interest an amount computed, on that portion of the principal amount which has not yet matured, at the same rate of discount or interest as was charged at the time the contract was

made, for the term of the contract remaining after the date of the payment or after the date of the judgment; provided that no refund less than 25 cents need be made; and provided further that checks issued to refund interest which are not presented for payment within three years from the date of issue may be declared canceled and the sum thereof retained as earnings of the licensee. Each company shall permit any borrower from it to pay partially or wholly any contract or installment on a contract before the due date, if the contract has been in effect for a period of at least three months. The company shall not be required to refund any portion of the unearned discount or interest which results in a minimum discount or interest retained on the contract of less than \$15. This subsection (f) shall not apply to open-end loans.

(g) Deferred payments, interest, etc. Any payment on account of the principal amount of a contract, which is due on a particular date, may be extended or deferred to a later date by mutual agreement, and, upon the amount of the principal payment so extended or deferred, interest, not exceeding that permitted upon an original loan by this section, for the actual period of the extension or deferment, may be charged and may be collected in advance at the commencement of the period of extension or deferment, provided that the term and conditions of the extension or deferment, including the principal amount so extended or deferred, and the period of, and the charge for, the extension or deferment, shall be set forth in writing and signed in duplicate by the borrower and the company, one copy of the same to be kept on file with the contract and the other copy to be given to the borrower.

(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract;
- (2) Appraisal fees, and abstractors' fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company;
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and premiums for insurance on the life and/or disability of the borrower, provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon; and
- (4) Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal

property which constitutes all or a portion of the security on a contract.

- (6) Loan fees or "points" on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j) of this section; provided, that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or "points" and shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) of eighteen per cent per annum.
- (7) Any reasonable attorneys' fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an indebtedness, or any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.
- (8) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more, provided that such charges shall not exceed \$15 per applicant and such charges are paid to third parties and no portion of such charges inures to the benefit of the company.

(i) Minimum discount or interest on conditional sale. When the discount or interest on a conditional sale contract of \$100 or more is less than \$15, a charge for discount or interest of \$15 shall be allowed.

(j) As an alternative to the interest authorized by subsection (b), an industrial loan company may contract for and receive interest at a rate not exceeding one and one-half per cent per month on the unpaid principal balance of a loan, for a loan period of no longer than fifteen years; provided that retail installment contracts as defined in section 476-1, unsecured loans for less than \$5,000, and loans for less than \$7,500 secured only by personal property shall not be contracted under this subsection for a loan period of longer than six years. Loans providing for repayment on demand may be contracted for, under this subsection and subject to a maturity date not later than six years from the date of the note. For loans contracted under this subsection with a term exceeding six years, the note shall provide for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment. Upon the maturity date of the contract, the rate of interest on the unpaid principal balance of the loan may be twelve per cent a year or the original contract rate of interest, whichever is greater.

In addition to collecting interest at the rate established in the first paragraph of this subsection, an industrial loan company may collect late charges on delinquent installments. Except as otherwise provided in chapter 476, relating to Retail Installment Sales, late charges shall not exceed five per cent of each delinquent contractual installment or portion thereof which remains unpaid on the due date agreed upon in the contract or \$50, whichever is less. The late charges shall not be collected more than once for the same delinquent installment. Delinquency occurs when the installment or payment is not paid on the due date agreed upon in the contract. The company

shall give the borrower written notice of the assessment of late charges prior to the due date of the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract.

(k) Acceleration of installments. An industrial loan company shall have the rights, in the event of default under a contract or open-end loan agreement, to declare the entire unpaid balance under the contract or open-end loan agreement due and payable, subject to the interest refund provisions of this section, if applicable, and to exercise any other rights in addition to such acceleration as provided in the contract or open-end loan agreement, including without limitation the right to stop payment of advances to or on behalf of a borrower in default under the contract or open-end loan agreement, provided such other rights are not in conflict with the other provisions of this chapter.

(1) Open-end loan. An industrial loan company shall also have power to make open-end loans subject to the following requirements:

- (A) A licensee may not contract for and receive interest on an open-end loan in excess of that set forth in subsection (j) of this section.
- (B) A licensee shall not compound interest by adding any unpaid interest authorized by this subsection to the unpaid principal balance of the borrower's open-end loan account; provided that the unpaid principal balance may include the charges (other than interest) authorized by subsection (h) of this section.
- (C) Interest authorized by this subsection shall be deemed not to exceed the maximum interest permitted by this section if such interest permitted by this section if such interest is computed for each billing cycle at a monthly rate not to exceed that permitted in subsection (j) of this section by any of the following methods:
  - (i) By converting the monthly rate to a daily rate and multiplying such daily rate by each daily unpaid principal balance of the open-end loan account in the billing cycle, and then adding the products of all such multiplications (in which case the daily rate is determined by multiplying the authorized monthly rate by 12 and dividing by 365); or
  - (ii) By multiplying the monthly rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle (in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle); or
  - (iii) By converting the monthly rate to a daily rate and multiplying such daily rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle, and then multiplying the product so obtained by the number of days in the billing cycle (in which case the daily rate is determined by multiplying the authorized monthly rate by 12 and dividing by 365, and the average daily unpaid principal balance is the sum of the amounts unpaid for all days during the cycle divided by the number of days in the cycle); or

- (iv) By converting the monthly rate to a daily rate by the method set forth in subparagraph (i) and multiplying such daily rate times the sum of all the daily unpaid principal balances of the open-end loan account during the billing cycle.
- (D) For all of the above methods of computation, the unpaid principal balance of any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts (other than interest) charged to the borrower and deducting all payments and other credits made or received that day.
- (E) The borrower may pay all or any part of the unpaid balance in the borrower's open-end loan account, or the borrower may pay the unpaid balance in periodic installments, subject to minimum payment requirements, date of maturity and other conditions as determined by the licensee and set forth in the open-end loan agreement.
- (F) A licensee may not contract for and receive the fees, costs, and expenses permitted under subsection (h) of this section.
- (G) If credit life or disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance as such rate may be approved by the insurance commissioner pursuant to chapter 435, to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in this subsection for the calculation of loan interest. A licensee shall not be responsible for advancing premiums for credit life or disability insurance on a borrower who is delinquent in the making of the required minimum payments on the loan if one or more of such payments is past due for a period of ninety days or more; provided that the licensee shall advance to the insurer the amounts required to keep such insurance, if provided, in force during such ninety-day period, which amounts may be debited to the borrower's open-end loan account.
- (H) A licensee, until the open-end loan account is terminated, may retain any security interest in real or personal property given to secure the open-end loan account. Upon such termination the licensee shall, within ten business days following receipt of written demand by the borrower, release the mortgage, security interest, pledge, or other security for the open-end loan. For the purposes of this paragraph, termination of the open-end loan account by mutual agreement where the borrower has paid all amounts owed on the open-end loan account and the borrower has complied with all of the terms of the open-end loan agreement. Nothing in this paragraph shall preclude any licensee from exercising any other rights the licensee has to or in the security for open-end loans in the event of the borrower's default. Notwithstanding any other provision in this chapter, no open-end loan may be secured by a lien on the borrower's principal residence. The lender shall require certification, by the borrower, that the real property used

as security for the open-end loan is not the borrower's principal residence, and the lender may rely thereon.

- (I) If the open-end loan agreement is a retail installment contract, the licensee shall comply with the requirements of chapter 476."

SECTION [3.]† Section 408-17, Hawaii Revised Statutes, is amended to read:

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

- (1) Deliver to the borrower at the time any contract other than a contract for an open-end loan is made a statement showing clearly and distinctly the terms, the amount, and date of the loan and of its maturity, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of all charges and the actual effective rate of interest a year on the contract; this statement shall contain such additional information as the bank examiner may require;
- (2) Give to the borrower a plain and complete receipt for all payments of installments made on any loan at the time the payments are made or at the time of sending the borrower the periodic statement (as described in paragraph (5) of this section) for the billing cycle in which such payment was made, together with such additional information as the bank examiner may require;
- (3) Upon repayment in full of a loan other than an open-end loan, mark forthwith indelibly every application and security signed or executed by the borrower with respect to such loan (where the security does not also secure any other then existing obligation to the lender) with the word "paid" or "canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower with respect to the loan (where the security does not also secure any other then existing obligation to the lender);
- (4) Deliver to the borrower at the time any open-end loan account is opened a copy of the open-end agreement and, to the extent the following items are not covered by the loan agreement, a statement showing clearly and distinctly the terms under which the open-end loans are to be made, the nature of the security, if any, the name and address of the borrower and of the licensee, the agreed rates of charges and the actual effective rate of interest under section 408-15, together with such additional information as the bank examiner may require; and
- (5) Except in the case of an open-end loan account which the licensee deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower, or any one thereof, at the end of each billing cycle in which there is an outstanding balance of more than \$1 in the open-end loan account or with respect to which a finance charge is imposed, a periodic statement of the dates and amounts of interest and other charges, advances and other debits, and

†"[3]" substituted for "4" to correct manifest clerical error.

payments and other credits during the billing cycle, the balance of the account at the beginning of the billing cycle and as of the closing date of the billing cycle, and the minimum payment, if any, required on the account for the next billing cycle; together with such additional information as the bank examiner may require.

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

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

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

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

(Approved May 24, 1980.)

**ACT 115**

H.B. NO. 2062-80

A Bill for an Act Relating to the Judiciary.

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

**SECTION 1.** Section 571-8.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-8.5 Powers.** (a) The district family judges may:

- (1) Administer oaths;
- (2) Subpoena, summon, and compel the attendance of parties and witnesses from any part of the State, and compel the production of books, papers, documents including school, medical, and financial records, or tangible things;
- (3) Make and issue all orders and writs necessary or appropriate in aid of their original jurisdiction;
- (4) Perpetuate testimony under the rules and orders of the family court, and issue commissions for the perpetuation of testimony to be used on controversies pending before them;
- (5) Grant continuances in proceedings before them;
- (6) Enforce decrees and judgments; and punish contempts according to law;
- (7) In a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of a sentence;

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

## **ACT 116**

- (8) Appoint guardians ad litem for minors or persons who are incompetent or attorneys to represent parties in accordance with law;
- (9) To admit to bail persons rightfully confined in all bailable cases, or to dispense with bail as provided by the State Constitution;
- (10) To make and award such judgments, decrees, orders, and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to them by law or for the promotion of justice in matters pending before them.

(b) Every witness duly subpoenaed as provided in this section shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts."

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

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

(Approved May 24, 1980.)

## **ACT 116**

H.B. NO. 2073-80

A Bill for an Act Relating to Vocational Rehabilitation.

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

**SECTION 1.** Section 348-2, Hawaii Revised Statutes, is amended by amending the definition of "physical restoration" to read:

- "(5) The term "physical restoration" includes:
  - (A) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time; and includes psychiatric treatment, dentistry, physical therapy, occupational therapy, speech or hearing therapy, treatment of medical complications, and emergencies which are associated with or arise out of physical restoration services or are inherent in the condition under treatment, and other medical services related to rehabilitation;
  - (B) Necessary hospitalization (either in-patient or out-patient) and nursing care in connection with surgery or treatment specified in the preceding subparagraph (A);
  - (C) Prosthetic devices essential to obtaining or retaining employment."

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

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

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

(Approved May 24, 1980.)

**ACT 117**

H.B. NO. 2181-80

A Bill for an Act Relating to Employment Security.

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

**SECTION 1.** Chapter 383, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 383- Retirement payments.** For any week which begins after March 31, 1980 with respect to which an individual is receiving a governmental or other pension and claiming unemployment compensation, the weekly benefit amount payable to such individual for such weeks shall be reduced (but not below zero):

- (1) By one-half the prorated weekly amount of the pension, if at least half the cost of the pension plan was contributed by an employer who employed the individual during the base period; and
- (2) By the entire prorated weekly amount of the pension, if the entire cost of the pension plan was contributed by such employer; or
- (3) By the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on any previous work of such individual.

Paragraphs (1) and (2) of this section shall be applicable, if section 3304(a) (15) of the Federal Unemployment Tax Act is amended by Congress to allow for such reduction as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act.

Paragraph (3) of this section shall be applicable, only if such reduction is required as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act.

No portion of this section shall be applicable, if section 3304(a) (15) of the Federal Unemployment Tax Act is repealed in its entirety.

If Section 3304(a) (15) of the Federal Unemployment Tax Act, whether amended or not, is made effective at a later date by Congress, application of this section shall be effective at that later effective date."

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

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

(Approved May 24, 1980.)

**ACT 118**

H.B. NO. 2318-80

A Bill for an Act Relating to Dental Hygienists.

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

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

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

**"Sec. 26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 439 (Board of Cosmetology)
  - [3] Chapter 447 (Dental Hygienists)
  - [4][3] Chapter 463 (Board of Private Detectives and Guards)
  - [5][4] Chapter 468J (Travel Agencies)
  - [6][5] Chapter 471 (Board of Veterinary Examiners)
  - [7][6] Chapter 438 (Board of Barbers)
  - [8][7] Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E (Board of Speech Pathology and Audiology)
  - (8) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
  - (6) Chapter 466 (Board of Public Accountancy)
  - (7) Chapter 467 (Real Estate Commission)
  - (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry).
- (g) The following chapters are hereby repealed effective December 31, 1985:

- (1) Chapter 437 (Motor Vehicle Industry Licensing Board).
- [[(2)]] Chapter 440 (Boxing Commission).
- (h) The following chapter is hereby repealed effective December 31, 1986:
  - (1) Chapter 447 (Dental Hygienists)."

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

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

(Approved May 24, 1980.)

## ACT 119

H.B. NO. 2319-80

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

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

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

**"Sec. 26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 439 (Board of Cosmetology)
  - (3) Chapter 447 (Dental Hygienists)
  - (4) Chapter 463 (Board of Private Detectives and Guards)
  - (5) Chapter 468J (Travel Agencies)
  - [(6) Chapter 471 (Board of Veterinary Examiners)]
  - (7)[(6)Chapter 438 (Board of Barbers)]
  - [(8)][(7)Chapter 443 (Collection Agencies Board)]
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E (Board of Speech Pathology and Audiology)
  - (8) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)
  - (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)

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- (6) Chapter 466 (Board of Public Accountancy)
- (7) Chapter 467 (Real Estate Commission)
- (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry).
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board).
- [()](2)[()]] Chapter 440 (Boxing Commission).
- (h) The following chapter is hereby repealed effective December 31, 1986:
  - (I) Chapter 471 (Board of Veterinary Examiners)."

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

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

(Approved May 24, 1980.)

## ACT 120

H.B. NO. 2361-80

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Section 346-1, Hawaii Revised Statutes, is amended by adding a new definition of "residential treatment facility" to read:

"Residential treatment facility" means a facility which provides twenty-four-hour living accommodations, treatment, and rehabilitation to two or more persons who are alcohol or drug abusers, mentally ill, or socially or emotionally distressed persons. It shall not be considered a domiciliary care facility."

SECTION 2. Section 346-51, Hawaii Revised Statutes, is amended to read:

**"Sec. 346-51 Public assistance and child welfare services administered by department.** The department of social services and housing shall administer public assistance and child welfare services in the several counties except for payments administered under the Federal Supplemental Security Income Program or its successor agency. No person shall be denied the right to petition the department for additional assistance as established under section 346-53(i)."

SECTION 3. Section 346-53, Hawaii Revised Statutes, is amended to read:

**"Sec. 346-53 Determination of amount of assistance.** (a) The director shall adopt rules pursuant to chapter 91 concerning the determination of public assistance grants under this chapter. Public assistance grants shall be sufficient to maintain a standard consistent with this chapter. In granting public assistance to a person under this chapter the department may take into account part or all of the needs of the person's dependents or those persons essential to his well-being, provided that they are also eligible for public assistance. In the event that a public assistance grant to a recipient has taken into consideration only part of the needs of other eligible persons this public assistance grant shall be without prejudice to a separate public assistance grant to such other eligible persons or any of them, as may be proper to meet their remaining needs and in compliance with this chapter.

(b) The maximum basic needs allowance which the department shall initially pay a recipient considering income and resources in accordance with this chapter shall be \$100 plus an additional \$44 for each additional person whose needs have been taken into account by the department. Beginning January 1, 1978 and on or before January 1 of each odd-numbered year thereafter, the director shall submit a report to the legislature indicating the amount of additional moneys required to implement a cost of living increase for the adjusted basic needs allowance equal to the annual percentage increase, rounded to the nearest dollar:

- (1) In the average weekly wage in covered employment as computed by the director of labor and industrial relations pursuant to section 383-22, or
- (2) In the consumer price index for Hawaii as computed by the United States Department of Labor, whichever is lowest.

The director shall request that such amount be reflected in that portion of the executive budget relating to the department. If additional funds are appropriated for a cost of living adjustment, then the adjusted basic needs allowance shall be adjusted to reflect the appropriation. The department shall pay a recipient the maximum basic needs allowance if the department determines that his needs are not reduced by his income or resources.

(c) If a child is eligible for public assistance under section 346-55, and if the child lives in a home or a place of residence maintained as a home by a relative specified under section 346-55, and if such a relative is a person essential to the child's well-being, then the department shall pay in behalf of each child the basic needs allowance and shelter allowance as prescribed in this chapter. The department shall make such payment regardless of whether such relative does or does not receive public assistance.

(d) For recipients in nondomiciliary shelter, the shelter allowance (to include rent and utilities) shall be for cost paid, up to the maximum as provided in the following schedule:

- (1) \$175 for 1 person;
- (2) \$215 for 2 persons;
- (3) \$240 for 3 persons;
- (4) \$265 for 4 persons;
- (5) \$290 for 5 persons;
- (6) \$320 for 6 persons;
- (7) \$360 for 7 or more persons.

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(e) The director shall determine the amount of maximum shelter allowance for each recipient who is residing in a residential treatment facility. This amount shall be equal to the cost to each such facility for providing shelter to such recipient; provided that the amount shall not include any cost of such facility normally attributed to determining the basic needs allowance or for providing treatment and rehabilitation to the recipient. No maximum shelter allowance amount determined by the director shall exceed the amount under subsection (d). The director shall adopt the criteria for determining the maximum shelter allowance under this subsection by rule in accordance with chapter 91; provided that the actual amounts shall not be required to be adopted by rule.

(f) The director shall pursuant to chapter 91 determine the rate of payment for the different levels of domiciliary care provided to recipients eligible for Federal Supplemental Security Income or public assistance in accordance with state standards.

The rate of payment at which level a recipient enters an adult family boarding home or a care home licensed pursuant to sections 346-91 and 321-15.6, shall remain the same for as long as the recipient resides in that adult family boarding home or care home. The rate of payment may be raised if the recipient's condition so requires, or by rule of the department in accordance with this subsection; provided that notwithstanding the rate of payment at the time of entry, the department shall ensure that the recipient shall receive the quality of care consistent with the level of care as determined by the department; provided further that if the operator does not provide the quality of care consistent with the needs of the individual as determined by and to the satisfaction of the department, the department may reduce the rate of payment, or adjust the level of care, or remove the recipient to another facility. The department shall handle abusive practices under this section in accordance with chapter 91.

Nothing in this subsection shall allow the director to remove a recipient from an adult family boarding home, care home, or other similar institution if the recipient does not desire to be removed and the operator thereof is agreeable to the recipient remaining therein, except where the recipient requires a higher level of care than provided thereby, or where the recipient no longer requires any domiciliary care.

(g) The department shall establish rules pursuant to chapter 91 for supplement payments under the Federal Supplemental Security Income Program or its successor agency, such that a recipient's payments and benefits do not exceed the total of the maximum basic needs allowance and shelter allowance as provided by this chapter; provided that if a recipient sharing housing with a person receiving a shelter allowance from the department could qualify as an essential person to or dependent of such person, then the recipient shall be considered to live in free shelter. A recipient renting private housing or purchasing the home he lives in shall receive a shelter allowance for cost paid, up to the maximum established in subsection (d).

(h) The department shall pay rental and utility (to include gas, electricity, and water only) deposits once only for any person eligible for financial assistance by the department. However, under extraordinary circumstances as determined by the department, an additional rental and/or utility deposit may be granted.

(i) Any recipient may petition the department for additional assistance when his need is due to emergencies caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon, earthquake, flood, or fire determined by the director to have

caused losses as to require and justify additional assistance from the State. In addition any recipient may petition the department for additional assistance for the replacement or repair of household appliances. Such additional assistance shall be paid on an emergency basis, as determined by the department, to meet the cost of replacing or repairing household appliances. If the cost of repairs of household appliances is less than one-half the unit cost of the item, the department shall pay for the cost of repairs. If the cost of repairs of household appliances is more than one-half the unit cost of the item, the department shall replace the household appliance; provided the replacement cost shall not exceed \$350. For the purposes of this subsection "household appliances" means a refrigerator or a range.

The department shall establish an emergency fund, not to exceed one per cent of total financial assistance from state funds required by this chapter in the previous fiscal year. The director shall adopt rules pursuant to chapter 91 for determining in which cases to grant lump sum payments to recipients petitioning for additional assistance."

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

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

(Approved May 24, 1980.)

**ACT 121**

H.B. NO. 2362-80

A Bill for an Act Relating to Domiciliary Care.

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

**SECTION 1.** Section 346-1, Hawaii Revised Statutes, is amended by adding a new definition of "domiciliary care" to read:

"Domiciliary care" means the provision of twenty-four-hour living accommodations and personal care services to adults unable to care for themselves by persons unrelated to the recipient in private residences or other facilities. "Domiciliary care" is the type of care provided by licensed adult family boarding homes, family care homes, and residential care homes. "Domiciliary care" does not include the provision of rehabilitative treatment services provided by special treatment facilities."

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

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

(Approved May 24, 1980.)

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

## ACT 122

### ACT 122

H.B. NO. 2448-80

A Bill for an Act Relating to Sexual Abuse.

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

SECTION 1. Section 707-737, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 707-737 Sexual abuse in the second degree.** (1) A person commits the offense of sexual abuse in the second degree if:

- (a) He intentionally or knowingly has sexual contact with another person who is mentally defective, mentally incapacitated, or physically helpless, or causes such a person to have sexual contact with him; or
- (b) He intentionally or knowingly has sexual contact with another person who is under sixteen years old and at least fourteen years old and at least four years younger than him or causes such a person to have sexual contact with him.

(2) Sexual abuse in the second degree is a misdemeanor."

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

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

(Approved May 24, 1980.)

### ACT 123

H.B. NO. 2458-80

A Bill for an Act Relating to Procedure when Title of Vehicle Transferred; Delivery of Certificate Mandatory.

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

SECTION 1. Section 286-52, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Within twenty calendar days thereafter, the transferee shall forward both the certificate of ownership so indorsed and the certificate of registration to the director of finance who shall file the same. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of [\$2,] \$5, in addition to the fee provided in section 286-51, for a new certificate of ownership."

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

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

(Approved May 24, 1980.)

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

## ACT 124

H.B. NO. 2555-80

A Bill for an Act Relating to Dealers of Solar Energy Devices.

*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 BONDING OF SOLAR ENERGY DEVICE DEALERS”**

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

“Customer” means a person who has purchased a solar energy device from a dealer of a solar energy device.

“Dealer of a solar energy device” or “dealer” means any corporation or proprietorship singly or jointly selling at retail any solar energy device.

“Director” means the director of regulatory agencies.

“Solar energy device” means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation; provided that if the equipment sold can not be used as a solar device without its incorporation with other equipment, it must be installed in place and ready to be made operational in order to qualify as a “solar energy device.”

**Sec. -2 Bond.** The director shall require each dealer of a solar energy device to put up and maintain a bond in the sum of \$5,000, executed by the dealer as principal and by a surety company authorized to do business in the State to the benefit of customers.

**Sec. -3 Prohibition.** No dealer shall sell a solar energy device at retail in this State if the dealer has not placed and maintained a bond with the director under section -2.

**Sec. -4 Primary claim.** Primary claim to the bond shall be with a customer to whom the dealer of a solar energy device has sold a solar energy device.

A customer may bring an action on the bond if the solar energy device does not perform as the dealer stated it would or if a valid warranty, guarantee, or other condition on the solar energy device is invalidated prior to its expiration. Prior to bringing an action on the bond, the customer shall attempt to settle the dispute with the dealer.

**Sec. -5 Distribution.** Where the amounts of the bond of a dealer are insufficient for the claims of customers, the director shall distribute such amounts in an equitable manner to customers who are successful in their claims.

**Sec. -6 Rules.** The director shall adopt rules pursuant to chapter 91 for the purposes of this chapter.

**Sec. -7 Penalty.** Any dealer who violates this chapter shall be fined not less than \$100 nor more than \$500.”

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

(Approved May 24, 1980.)

**ACT 125**

H.B. NO. 2572-80

A Bill for an Act Relating to the Pest Control Operators Law.

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

SECTION 1. Section 460J-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(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 or 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 materials 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 therefor 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 workers' 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;
- (14) Conviction of any offense described in chapter 708 committed while in the performance of the person's regular occupation as a fumigator or pest control operator.

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."

SECTION 2. Section 460J-25, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 460J-25 Insurance.** No person shall engage in the business of pest control unless he has filed with the director of finance, a general liability insurance policy approved by the director in the minimum amount of \$20,000 for any one claim and a minimum aggregate of not less than \$50,000 for all claims, and for fumigation work, in the minimum amount of \$50,000, for all claims arising during a policy term of one year. If a policy cannot be obtained, the licensee may file with the director in lieu thereof a verified statement providing proof satisfactory to the director, of financial responsibility equivalent to that provided for by any such insurance policy; provided that no employee of any company need have such policy in effect with respect to work covered by a policy of the company by which he is employed. This section shall not apply to vault fumigation."

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

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

(Approved May 24, 1980.)

**ACT 126**

H.B. NO. 2897-80

A Bill for an Act Relating to Special Facility Revenue Bonds.

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

SECTION 1. **Findings and purpose.** The legislature finds and declares that ocean cargo transportation provided by persons engaged in maritime and maritime-related operations is essential to the social and economic well-being of the people of the State of Hawaii; that the cost of providing this service is incorporated in the rates and charges assessed to the users thereof, which is in turn passed on to the general public; that one of the significant economic factors that has a long-term adverse impact upon users and the general public is the extremely high cost of financing of construction of harbor special facilities through conventional means; that the avail-

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

ability and use of lower cost financing for that purpose will have a favorable financial impact upon the cost of transporting ocean cargo which in turn will benefit such users and the general public; and that it is therefore in the public interest and a public purpose that the department of transportation be allowed to make available lower cost financing through the issuance of special facility revenue bonds for the construction, acquisition, remodeling, furnishing, and equipping of state-owned special facilities, for use by persons engaged in maritime and maritime operations as leasehold tenants thereof.

SECTION 2. Chapter 266, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART  
SPECIAL FACILITY PROJECTS**

**Sec. 266- Definitions.** For the purpose of this part, if not inconsistent with the context:

- (1) “Special facility” means one or more buildings, structures, or facilities on land owned by the State for maritime operations, including cargo handling and control; storage, repair, maintenance, and servicing of marine and marine-related equipment; and offices and accommodations for the personnel and employees of persons engaged in maritime and maritime-related operations which are the subject of a special facility lease.
- (2) “Special facility lease” includes a contract, lease, or other agreement, or any combination thereof, the subject matter of which is the special facility.
- (3) “Remodeling” includes reconstruction, renovation, rehabilitation, improvement, betterment, or extension of a special facility.

**Sec. 266- Powers.** In addition and supplemental to the powers granted to the department by law, the department may:

- (1) With the approval of the governor, and without public bidding, enter into a special facility lease or an amendment or supplemental thereto whereby the department agrees with another person engaged in maritime and maritime-related operations to construct, acquire, or remodel and furnish or equip a special facility solely for the use by such other person to a special facility lease; provided that such special facility lease may be amendatory and supplemental to an existing lease between the department and such other person for the land upon which the special facility which is the subject of such special facility lease is to be situated.
- (2) With the approval of the governor, issue special facility revenue bonds in such principal amounts as may be necessary to yield the amount of the cost of any construction, acquisition, remodeling, furnishings, and equipping of any special facility; provided that the total principal amount of the special facility revenue bonds which may be issued pursuant to the authorization of this paragraph shall not exceed \$20,000,000.
- (3) Perform and carry out the terms and provisions of any special facility lease.
- (4) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct, or remodel and furnish or equip any special facility, or accept the assignment of any contract therefor entered into by the other person to the

- special facility lease.
- (5) Construct any special facility on land owned by the State.
  - (6) Agree with the other person to the special facility lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the special facility and the expenditure of moneys therefor shall be undertaken or supervised by such other person. Neither such undertaking by such other person nor the acceptance by the department of a contract theretofore entered into by such other person therefor, shall be subject to section 103-22.

**Sec. 266- Findings and determination for special facility leases.** The department shall not enter into any special facility lease unless the department shall first find and determine that:

- (1) The special facility which is to be the subject of such special facility lease will not be used to provide services, commodities, supplies, or facilities which are then adequately being made available through the harbors system of the State;
- (2) The use or occupancy of the special facility under such special facility lease would not result in the reduction of the revenues derived from the harbors system to an amount below the amount required to be derived therefrom by section 39-59; and
- (3) The entering into of such special facility lease would not be in violation of or result in a breach of any covenant contained in any resolution or certificate authorizing any bonds of the State and the department then outstanding.

**Sec. 266- Special facility lease.** (a) In addition to the conditions and terms set forth in this part, any special facility lease entered into by the department shall contain provisions obligating the other person to the special facility lease:

- (1) To pay to the department during the term of the special facility lease, whether the special facility is capable of being used or occupied or is being used or occupied by the other person, a rental or rentals at such time or times and in such amount or amounts as will be sufficient: to pay the principal and interest on all special facility revenue bonds issued for the special facility, to establish or maintain any reserves for such payments, and to pay all fees and expenses of the trustees, paying agents, transfer agents, and other fiscal agents for the special facility revenue bonds issued for the special facility.
  - (2) To pay to the department a ground rental equal to the fair market rental of the land, if the special facility is situated on land owned by the department.
  - (3) To either operate, maintain, and repair the special facility and pay the costs thereof or to pay to the department all costs of operation, maintenance, and repair of the special facility.
- (b) Any moneys derived by the department pursuant to subsection (a)(1) of this section shall be deemed revenues of the special facility. Any moneys received by the department pursuant to subsection (a)(2) and (3) of this section shall be paid into the harbor special fund and shall not be nor be deemed to be revenues of the special facility.

(c) The term and all renewals and extensions of the term of any special facility lease (including any amendments or supplements thereto) shall not extend beyond the reasonable life of the special facility which is the subject of such special facility lease, as estimated by the department at the time of the entering into thereof, or thirty-five years, whichever is less.

(d) Any special facility lease entered into by the department shall be subject to chapter 171 and shall contain such other terms and conditions as the department deems advisable to effectuate the purposes of this part.

**Sec. 266- Special facility revenue bonds.** All special facility revenue bonds authorized to be issued shall be issued pursuant to 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, as defined in section 266- (a)(1).
- (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 indenture or agreement. Any resolution or certificate, trust indenture, or trust agreement adopted, issued, or entered into by the department pursuant to this 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 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, redemption, of the revenue bonds, or may elect to limit the functions the director 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 destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or be 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 such paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director 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 harbor special 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 trust agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of such revenue bonds, signatures of the officers of the State upon such bonds and the coupons thereof as required by section 39-64 may be evidenced by their facsimile signatures.
- (11) The 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 the other person's expense, such requirement shall constitute compliance by the department with section 39-59(2), and none of the revenues derived by

## ACT 127

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.

**Sec. 266- Limitation on bond issuance.** No special facility revenue bonds shall be issued under this part after June 30, 1983."

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

(Approved May 24, 1980.)

## ACT 127

S.B. NO. 871

A Bill for an Act Relating to Land Transportation.

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

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding two new sections, to be appropriately designated, and to read as follows:

**"Sec. 286- Permanent registration of fleet vehicles.** (a) Notwithstanding any other law to the contrary, the registered owner or lessee of a fleet of twenty-five or more vehicles consisting of commercial motor vehicles, commercial trailers, or passenger automobiles may apply to the director of finance of the county in which the vehicles are to be operated, for permanent license plates, decals, and registration cards; provided that the vehicle shall not be registered in any other state.

(b) The application for initial issuance of permanent registration shall be filed in such form as the director of finance shall require. Upon initial application and payment of the required fees, the director of finance shall issue a distinguishing license plate or decal which indicates the vehicle has been registered under this section.

(c) Upon submission of the renewal of registration form and payment of normally required fees, the license plates, decals, and registration cards issued pursuant to this section for the vehicle shall remain valid; provided that a fleet vehicle registered under this section may be deleted from such identified fleet upon notification of the director of finance by the registered owner on the proper form, and if the distinguishing license plates, decals, and registration cards issued for the vehicle are surrendered. Failure to comply with the preceding sentence shall require payment by the fleet owner of fees due for registration of the vehicle as though the vehicle remained part of the fleet. Display of the distinguishing license plate or decal and registration card shall constitute *prima facie* evidence that the vehicle is currently registered.

The registered owner or lessee of any vehicle registered pursuant to this section shall display in a conspicuous place on both the right and the left side of each vehicle, the name, trademark, or logo of the company. The display of the name, trademark, or logo shall be printed in sharp contrast to the background of the vehicle and shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of fifty feet.

(d) Each director of finance shall adopt rules pursuant to chapter 91 for the application, payment of fees, fleet additions or deletions, and cancellation of distin-

guishing plates or decals and registration card issued to a vehicle of a fleet owner.

**Sec. 286- Fleet vehicles, fees.** Renewal fees for permanent registration of fleet vehicles pursuant to section 286- shall be paid pursuant to a schedule which shall be established by the director of finance. The fees determined to be due and owing under this section and section 286- shall be a lien upon all vehicles of the applicant subject to registration under this chapter, whether or not they are fleet vehicles."

SECTION 3.†New material is underscored.\*

SECTION 4. This Act shall take effect on July 1, 1981.

(Approved May 27, 1980.)

## ACT 128

S.B. NO. 2202-80

A Bill for an Act Relating to the Licensing of Radiation Therapy Technologists.

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

SECTION 1. Chapter 466J-O, Hawaii Revised Statutes, is hereby amended to read:

## “CHAPTER 466J RADIOLOGIC TECHNOLOGY”

**Sec. 466J-1 Definitions.** As used in this chapter:

“Approved school for radiologic technologists” and “approved training program for radiation therapy technologists” means a school or training program determined and accredited by the board as providing a course of instruction in radiologic technology which is adequate to meet the purposes of this chapter.

“Board” means board of radiologic technology.

“Radiologic technology” means the application of x-rays, cobalt 60 or electrons on human beings for diagnostic or therapeutic purposes.

“Radiologic technologist” means any person who applies x-rays to human beings for diagnostic purposes.

“Radiation therapy technologist” means any person who applies x-rays, cobalt 60 or electrons to human beings for therapeutic purposes.

“Supervision” means responsibility for, and control of, quality, radiation safety, and technical aspects of all x-ray, cobalt 60 or electrons examinations and procedures.

**Sec. 466J-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 nine members. The appointed membership shall be

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†So as enacted. There is no section 2.

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

composed of two persons licensed to practice medicine pursuant to chapter 453 and certified by the American Board of Radiology, 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, one person who practices radiologic technology for therapeutic purposes, and one person from the general public.

The governor shall reduce the terms of those 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 ninth, 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. 466J-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. 466J-4 Licenses required.** No person shall practice or offer to practice as a radiologic technologist or as a radiation therapy technologist without an appropriate license previously obtained and maintained in good standing in compliance with this chapter and the rules of the board. After July 1, 1974, 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 or as a radiation therapy 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. 466J-5 Radiologic technologists and radiation therapy technologists; qualifications, licenses, examination.** (a) An applicant for a license to practice as a radiologic technologist or as a radiation therapy 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, or an approved training program for radiation therapy 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 for radiologic technologists and for radiation therapy technologists.

(c) The applicant shall be required to pass the appropriate examination specified and administered by the board; provided that the board may accept in lieu of the examination a certificate of another agency or organization which certifies radiologic technologists or radiation therapy 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 July 1, 1974, 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 technologist or as a radiation therapy technologist shall pay a non-refundable fee of \$10.00 to the board, plus the cost of an 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) Any person who holds a license to practice as a radiation therapy technologist shall have the right to use the title "certified radiation therapy technologist", and the abbreviation C.R.T.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 radiation therapy technologist.

(h) The form of every license shall be prescribed by and issued in the name of the board.

**Sec. 466J-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 radiation

therapy technologists and in schools of medicine, podiatry, dentistry, or chiropractic, when such persons are operating x-ray machines under the direct supervision of a licensed technologist 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. 466J-7 Radiologic technology education programs.** (a) An institution desiring to conduct an education program to prepare certified radiologic technologists or certified radiation therapy 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. 466J-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 or as a radiation therapy technologist;
- (2) Is mentally incompetent;
- (3) Is guilty of unprofessional conduct; or
- (4) Has wilfully or repeatedly violated 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. 466J-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 or radiation therapy 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 or a certified radiation therapy 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 this chapter.

**Sec. 466J-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 or revoked, or whose license has 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 or as a radiation therapy technologist without having been issued a license, or after his license has been suspended or revoked, or has expired, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing as such radiologic technologist or radiation therapy 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 or radiation therapy technologist without having been issued a license or has been or is practicing as a radiologic technologist or as a radiation therapy technologist after his license has been revoked or has expired, the court, or any judge thereof, may enter a decree perpetually enjoining the defendant from further practicing as a radiologic technologist or as a radiation therapy 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 2. Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved May 27, 1980.)

ACT 129

S.B. NO. 3012-80

A Bill for an Act Relating to Registration of Lobbyists.

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

SECTION 1. Chapter 97, Hawaii Revised Statutes, is amended to read as follows:

(a) Section 97-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 97-1 Definitions.** When used in this chapter:

(1) "Administrative action" means the proposal, drafting, consideration,

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

amendment, enactment, or defeat by any administrative agency of any rule, regulation, or other action governed by section 91-3.

- (2) "Administrative agency" means a commission, board, agency or other body or official in the state government that is not a part of the legislative or judicial branch.
  - (3) "Contribution" includes a gift, subscription, forgiveness of a loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make a contribution.
  - (4) "Expenditure" includes a payment, distribution, forgiveness of a loan, advance, deposit, or gift of money or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make an expenditure. It excludes the expenses of preparing written testimony and exhibits for a hearing before the legislature or an administrative agency.
  - (5) "Legislative action" means the sponsorship, drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, amendment, report, nomination, appointment, or any other matter pending or proposed in the legislature.
  - (6) "Lobbyist" means:
    - (A) Any individual engaged for pay or other consideration who spends more than five hours in any month or \$275 in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials; or
    - (B) Any individual who spends \$275 or more of his own or any person's money in any six-month period for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials.
  - (7) "Lobbying" means communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of influencing any legislative or administrative action.
  - (8) "Person" means a corporation, individual, union, association, firm, sole proprietorship, partnership, committee, club, or any other organization or a representative of a group of persons acting in concert."
- (b) Section 97-2, Hawaii Revised Statutes, is amended to read as follows:
- "Sec. 97-2 Registration of lobbyists, requirements.** (a) Every lobbyist shall file a registration form with the state ethics commission within five days of becoming a lobbyist.
- (b) Each lobbyist shall provide and certify the following information:
    - (1) The name, mailing address, and business telephone number of the lobbyist.
    - (2) The name and principal place of business of each person by whom the lobbyist is retained or employed or on whose behalf he appears or works and a written authorization to act as a lobbyist from each person by whom he is employed or with whom he contracts.
    - (3) The subject areas on which the lobbyist expects to lobby.
  - (c) A lobbyist shall report any change in any of the information contained in the registration statement within ten days after the change has occurred.

(d) A lobbyist shall file a notice of termination within ten days after he ceases the activity which required his registration. The lobbyist and the employer of the lobbyist shall remain subject, however, to the requirements of chapter 97 for the period during which the registration was effective.

(e) This chapter shall not apply to:

- (1) Any individual person who represents himself and not any other person before the legislature or administrative agency; provided that such person must nonetheless register if he meets any of the provisions of section 97-3(a);
- (2) Any federal, state, or county official or employee acting in his official capacity;
- (3) Any elected public official acting in his official capacity;
- (4) Any newspaper or other regularly published periodical or radio or television station (including any individual who owns, publishes, or is employed by a newspaper or periodical or radio or television station) while publishing in the regular course of business news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislative or administrative action;
- (5) Any attorney who advises his clients on the construction or effect of proposed legislative or administrative action; provided that such attorney must nonetheless register if he meets any of the provisions of section 97-3(a); and
- (6) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of state government, and who makes an occasional appearance at the request of the legislature or an administrative agency, or the lobbyist even though receiving reimbursement or other payment from the legislature or administrative agency or the lobbyist for the appearance."

(c) Chapter 97, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated, and to read as follows:

**"Sec. 97- Renewal of registration.** Each registered lobbyist shall renew his registration by filing a registration and authorization form with the state ethics commission within ten days of the opening of each regular session of the legislature."

(d) Section 97-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 97-3 Contributions and expenditures; statement.** (a) The following persons shall file a statement of expenditures with the state ethics commission on June 30 and December 31 of each year:

(1) Each lobbyist.

(2) Each person who employs or contracts for the services of one or more lobbyists, whether independently or jointly with other persons. If a filer is an industry, trade, or professional association, only the association is the employer of the lobbyist.

(b) The June 30 report shall cover the period from December 15 of the preceding calendar year through June 15 of the year of the report; and the December 30 report shall cover the period from June 16 through December 14 of the same year.

(c) The statement shall contain the following information:

- (1) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of \$25 or more per day was made by the lobbyist during the statement period and the amount or value of such expenditure;
- (2) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of \$150 or more was made by the lobbyist during the statement period and the amount or value of such expenditures;
- (3) The total sum or value of all expenditures for the purpose of lobbying made by the lobbyist during the statement period in excess of \$275 during the statement period;
- (4) The name and address of each person making contributions to the lobbyist for the purpose of lobbying in the total sum of \$25 or more during the statement period and the amount or value of such contributions; and
- (5) The subject area of the legislative and administrative action which was supported or opposed by the lobbyist during the statement period.

(d) The receipt or expenditure of any money for the purpose of influencing the election or defeat of any candidate for an elective office or for the passage or defeat of any proposed measure at any special or general election is excluded from the reporting requirement of this section."

(e) Section 97-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 97-4 Manner of filing; public records.** All statements required by this chapter to be filed with the state ethics commission:

- (1) Shall be deemed properly filed when delivered or deposited in an established post office within the prescribed time, duly stamped, registered, or certified, and directed to the state ethics commission; provided, however, in the event it is not received, a duplicate of the statement shall be promptly filed upon notice by the state ethics commission of its nonreceipt; and
- (2) Shall be preserved by the state ethics commission for a period of four years from the date of filing; and shall constitute part of the public records of the state ethics commission and shall be open to public inspection pursuant to section 92-51."

(f) Chapter 97, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated, and to read as follows:

**"Sec. 97- Lobbyist list.** As soon as is feasible after the commencement of each regular session of the legislature, the state ethics commission shall publish a list of registered lobbyists, the names of the persons whom they represent, and other pertinent information but shall not include in such list the addresses of the lobbyists. The list shall be supplemented from time to time as may be necessary."

(g) Section 97-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 97-6 Administration.** It shall be the duty and responsibility of the state ethics commission:

- (1) On the verified complaint of any person, to investigate or cause to be investigated the activities of any lobbyist to determine whether the lobbyist is in compliance with this chapter; and
- (2) To refer for prosecution any violation of section 97-2, 97-3, or 97-5."

(h) Section 97-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 97-7 Penalties.** Any person who wilfully fails to file any statement or report required by this chapter or who wilfully files a statement or report containing false information or material omission of any fact, who engages in activities prohibited by section 97-5, or who fails to provide information required by section 97-2 or 97-3 shall be guilty of a petty misdemeanor."

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

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

(Approved May 27, 1980.)

## ACT 130

H.B. NO. 1976-80

A Bill for an Act Relating to the Hawaii Administrative Procedure Act.

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

SECTION 1. Section 91-9, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- “(b) The notice shall include a statement of:
  - (1) The date, time, place, and nature of hearing;
  - (2) The legal authority under which the hearing is to be held;
  - (3) The particular sections of the statutes and rules involved;
  - (4) An explicit statement in plain language of the issues involved and the facts alleged by the agency in support thereof; provided, that if the agency is unable to state such issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a bill of particulars shall be furnished;
  - (5) The fact that any party may retain counsel if he so desires and the fact that an individual may appear on his own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation or trust or association may represent the corporation, trust, or association.”

SECTION 2. Section 91-14, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The proceedings for review shall not stay enforcement of the agency decisions; but the reviewing court may order a stay if the following criteria have been met:

- (1) There is likelihood that the subject person will prevail on the merits of an appeal from the administrative proceeding to the court;
- (2) Irreparable damage to the subject person will result if a stay is not ordered;
- (3) No irreparable damage to the public will result from the stay order; and

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

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(4) Public interest will be served by the stay order."

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

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

(Approved May 27, 1980.)

## ACT 131

H.B. NO. 2066-80

A Bill for an Act Relating to the Water Carrier Law.

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

SECTION 1. Chapter 271G, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read:

**"Sec. 271G- Issuance of securities; execution of leases.** A water common carrier may, on securing the prior approval of the public utilities commission, and not otherwise, issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness, payable at periods of more than twelve months after the date thereof, and enter into long-term leases of more than three years and leverage leases, for the following purposes and no other, namely:

- (1) For the acquisition of property; or
- (2) For the construction, completion, extension, or improvement of or addition to its facilities or service; or
- (3) For the discharge or lawful refunding of its obligations; or
- (4) For the reimbursement of moneys actually expended from income or from any other moneys in its treasury not secured by or obtained from the issue of its stocks or stock certificates, or bonds, notes, or other evidences of indebtedness, for any of the aforesaid purposes, except maintenance of service, replacements, and substitutions not constituting capital expenditure in cases where the water carrier has kept its accounts for such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which the expenditures were made, and the sources of the funds in its treasury applied to the expenditures.

As used herein, "property" and "facilities", mean property and facilities used in all operations of a water carrier whether or not included in its regulated operations or rate base. A water carrier may not issue securities nor enter into long-term leases of more than three years and leverage leases, to acquire property or to construct, complete, extend or improve or add to its facilities or service, if the commission determines that the proposed purpose will have a material adverse effect on its operations. No carrier shall repurchase or reissue its own common stock without prior commission approval.

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

All stock and every stock certificate, and every bond, note, or other evidence of indebtedness of a water carrier not payable within twelve months, issued without an order of the commission authorizing the same, then in effect, shall be void. In addition, all long-term leases of more than three years and all leverage leases entered into by a water carrier without an order of the commission authorizing the same then in effect shall be void."

SECTION 2. New statutory material is underscored.\*

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

(Approved May 27, 1980.)

## ACT 132

H.B. NO. 2328-80

A Bill for an Act Relating to Harbors.

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

SECTION 1. Section 266-21.1, Hawaii Revised Statutes, is amended to read:

**"Sec. 266-21.1 Permits and fees for state small boat harbors.** (a) No person shall moor a vessel in a state small boat harbor without:

- (1) First obtaining a use permit from the department of transportation; and
- (2) Being the owner of the vessel.

(b) In order to obtain a permit or a permit renewal, the owner of a vessel shall provide, at his own expense:

- (1) A marine surveyor's inspection no more than two years old, certifying that the surveyor has inspected the vessel and considers it to fulfill the requirements set by the department of transportation; and

- (2) Documentation that he or she is the owner of the vessel. The documentation shall meet requirements established by the department of transportation.

(c) The permittee shall pay moorage fees to the department for the use permit which shall be based on, but not limited to, the use of the vessel, its effect on the harbor, and use of facilities; and, furthermore:

- (1) Moorage fees shall be established by the department and shall be higher for non-residents.

- (2) An application fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed. It shall be:

- (i) Set by the department; and
  - (ii) Not less than \$100 for non-residents.

- (3) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee which will be:

- (i) Not less than two times the moorage fee if the permittee is a state resident; and

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

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- (ii) Not less than three times the moorage fee if the permittee is a non-resident.
- (4) If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay in lieu of the moorage and liveaboard fees, a fee based on a percentage of the gross revenues derived from the vessel.

(d) After June 30, 1980, the department of transportation shall not renew or issue a permit to a person who is not the owner or lessee of the vessel which is moored or which the person desires to moor in a state small boat harbor.

For the purposes of this section, "owner" includes a legal owner of a vessel where there is no security interest held by anyone on the vessel, a buyer under a purchase money security interest, a debtor under any security interest, or a lessee of a vessel. A "legal owner" includes a person who holds unencumbered title to a vessel or is a secured party under a security interest in the vessel.

(e) The department may provide moorage space within state small boat harbors to accommodate visitors on cruising vessels.

(f) All revenues from the foregoing operations shall be deposited in the boating special fund.

(g) The department shall adopt rules pursuant to chapter 91 to further implement this section and other sections pertaining to state small boat harbors."

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

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

(Approved May 27, 1980.)

## ACT 133

H.B. NO. 2334-80

A Bill for an Act Relating to Motor Vehicles.

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

SECTION 1. Chapter 249, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 249- New motor vehicle with temporary number plates.** Any person who has purchased a new motor vehicle which has attached temporary number plates under section 286-53 shall register the new motor vehicle in accordance with this chapter within twenty days after taking possession of the motor vehicle. For the purposes of this chapter, the registration of such a motor vehicle shall be considered an original registration under section 249-7. Within thirty days of the original registration of such a motor vehicle, the director of finance shall furnish two number plates and the valid tag or emblem appropriate for the year of registration, if any, which shall be attached to the motor vehicle as provided under section 249-7. Upon attachment of the number plates, the temporary number plates provided under section 286-53 shall be destroyed."

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

SECTION 2. Section 249-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 249-7 Number plates.** Upon receipt of the tax the director of finance shall number and register the vehicle in the owner's name in a permanent record or book to be kept by him for this purpose, and shall furnish the owner thereof with a receipt showing upon its face the license number issued for the vehicle and the fact that the license tax has been paid thereon for the whole or the remainder of the current year in which the receipt is issued. The director of finance shall also furnish the owner, upon the original registration of the vehicle, two number plates for the vehicle or one plate in the case of trailers, semi-trailers, or motorcycles with the registration number marked thereon. The rear number plate shall have impressed thereon the year for which that series of number plates was first issued and during that year the number plates alone shall be evidence of the payment of the license tax. For original registration in subsequent years and upon the payment of the tax for each year subsequent to the year of original registration, a tag or emblem bearing a serial number and the year of issue shall be provided to the owner. Transfer of current number plates, tag, or emblem, except as authorized by this chapter or by chapter 286, is declared a misdemeanor, punishable by a fine of not more than \$50 for each offense.

Upon an original registration the director of finance shall fix, and shall charge to the owner, a fee equal to the cost of the number plate and tag or emblem plus the administrative cost of furnishing such plate and tag or emblem and effecting the registration. Upon the issuance of a new series of number plates as determined by the lieutenant governor, the director of finance shall charge the owner a fee equal to the costs of the number plate plus the administrative cost of furnishing such plates. Upon issuing a tag or emblem in subsequent years, the director of finance shall charge the owner a fee of 50 cents. The owner shall securely fasten the number plates on the vehicle, one on the front and the other on the rear thereof, in such a manner as to prevent the plates from swinging and at a minimum of twelve inches from the ground. Number plates shall at all times be displayed entirely unobscured and be kept reasonably clean. In the case of trailers, semi-trailers, or motorcycles, one plate shall be used and it shall be fastened to the rear thereof.

Upon the issuance of the tag or emblem in any year in which the number plates do not evidence the payment of the current year's tax and for each year subsequent to the year of the initial payment of the tax and the original registration of the vehicle, the owner shall affix the tag or emblem to the rear number plate.

After the initial payment of the tax and the original registration of a vehicle as herein specified, a motor vehicle shall not be required to be reweighed in any succeeding year unless it has been so altered or changed as to increase or diminish its weight. No new number plates shall, however, be issued to a new owner except as provided in sections 249-8 and 249-

Should an owner of a vehicle registered in any county, upon the disposition of the vehicle, request that the license plates furnished to him with respect to the registration of the vehicle be assigned to another vehicle subsequently acquired by him, the assignment may be made by the director of finance at his discretion. To defray additional administrative costs incurred by acceding to such requests, the director of finance shall charge a fee of \$5 for each such reassignment of license

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plates, in lieu of the fee for registration provided hereinafter. The procedure for registering the vehicles shall otherwise be identical with that provided by this section.

The director of finance shall, on or before the fifth day of each month, send to the chief of police of the county a list of the numbers issued by him and of changes in ownership recorded by him during the preceding month, together with a general description of the vehicles and the name and address of the owner to whom issued or registered. The chief of police shall retain each such list as a permanent record of his office."

SECTION 3. Section 249-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 249-11 Fraudulent use of plates and other misdemeanors; penalties.**

Any person who attaches to and uses on any vehicle plates not furnished in accordance with sections 249-1 to 249-13 or 286-53, or who fraudulently uses such number plates upon any vehicle other than the one for which the number plates were issued, or who molests or disturbs any vehicle which has been seized pursuant to sections 249-1 to 249-13, or any person who knowingly uses a motor vehicle, the tax upon which is delinquent, upon public highways of this State, or any director of finance who issues a certificate of registration or number plates to any person who has not paid the tax required by sections 249-1 to 249-13, or any person who violates any of the provisions of such sections, shall be fined not more than \$500."

SECTION 4. Section 286-53, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 286-53 Dealers in new motor vehicles.** (a) A manufacturer of or dealer in new motor vehicles having an established place of business, owning any such new vehicles and operating them upon the public highways exclusively for the purposes of his business, in lieu of registering each such new vehicle, may make application upon an official blank provided for that purpose to the director of finance for a general distinguishing number or symbol.

(b) Upon receipt of the application, the director of finance shall issue to the applicant a certificate of registration, containing the latter's name and business address, and the general distinguishing number or symbol assigned to him in such form and containing such further information as the director of finance may determine, and every new vehicle owned or controlled by the manufacturer or dealer, and permitted to be registered under a general distinguishing number, while being operated for the purposes of his business only, shall be regarded as registered thereunder until the vehicle is sold and the sale has been recorded by the director of finance.

(c) The director of finance shall also, upon receipt of the application, or thereafter, furnish to the manufacturer or dealer:

- (1) Permanent number plates which shall be attached to new motor vehicles which are used by the applicant only for demonstration of the new motor vehicles to customers upon the public highways if requested by the applicant. The price of each permanent number plate shall be established by the director of finance under chapter 91. Each permanent number plate shall display upon it the registration number which is assigned to the applicant and a different letter or symbol to differentiate it from other plates furnished

to the applicant. Permanent number plates which are detached from a new motor vehicle which has been sold may be used on another new motor vehicle; and

- (2) Temporary motor vehicle plates, if the applicant is a new motor vehicle dealer, which plates shall be blank except for an area on the lower right corner which shall be utilized for validation of the temporary plates. The validation shall not be reproducible by any person other than the director of finance, or director of finance of another county if an agreement is made to utilize a uniform validation, shall signify the official status of the temporary number plate, and be designed to be visible from a distance of two feet.

The directors of finance of any two or more counties may agree to utilize a uniform designation to be placed upon the temporary number plate. The director of finance shall establish the material used for the temporary number plate and a charge by rule under chapter 91 for each temporary number plate.

(d) Whenever the design of the number plates issued under chapter 249 is changed, the new motor vehicle dealer shall apply to the director of finance for the most current permanent number plates. Before issuing the current permanent number plates, the director of finance shall require each applicant to return the permanent number plates issued previously. If any permanent number plates issued previously have been lost or destroyed, the manufacturer or dealer who applies for the permanent number plates shall certify in writing to the director of finance that the permanent number plates have been lost or destroyed and that if any lost permanent number plates are found, they shall be returned forthwith to the director of finance. Upon receipt of the certificate, the director of finance shall issue an equal number of the most current permanent number plates as have been certified to be lost or destroyed.

(e) Whenever a new motor vehicle dealer sells a new motor vehicle to a person, the new motor vehicle dealer shall detach the permanent number issued under subsection (c) from that new motor vehicle and replace it with two temporary motor vehicle plates. The temporary number plates shall be attached in the same location as required for number plates under section 249-7. The new motor vehicle dealer shall print upon the temporary motor vehicle plates the:

- (1) Date which is thirty working days after the date which the person takes possession, which date shall be placed in the middle of each temporary number plate in numbers not less than four inches in height;
- (2) Name and address of the new owner;
- (3) Name and address of the new motor vehicle dealer;
- (4) Serial number of the new motor vehicle; and
- (5) Date the new motor vehicle owner took possession of the motor vehicle.

Items (2) through (5) shall be printed in the upper left corner of the temporary number plates.

The temporary number plates shall be valid through the date listed in item (1). Any person who operates a motor vehicle with an expired temporary number plate shall be fined not more than \$100.

(f) No manufacturer or dealer shall permit the operation of any motor vehicle owned or controlled by him upon any public highway, unless permanent number plates assigned to him are attached thereto, in the manner specified in this part;

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provided that the new vehicles may be operated without permanent number plates attached thereto on the initial continuous movement from the place of entry of the vehicle into this State to the warehouse, storeroom, salesroom, or other place of business selected by the manufacturer or dealer.

(g) Every manufacturer or dealer, upon the sale, lease, or other transfer by him of a new vehicle registered under a general distinguishing number, as herein provided, shall forthwith give notice of the transfer to the director of finance upon the appropriate official form, stating the date of the transfer, a description of the vehicle, the name and post office address of the transferee, and certifying that temporary number plates have been provided for the motor vehicle of the transferee.

Following the transfer, if application for registration has been made by or on behalf of the transferee, the vehicle may be operated until duly registered by the director of finance under chapter 249 and this chapter or until the expiration of the temporary number plates whichever occurs sooner.

(h) The director of finance may, at his discretion, grant a temporary permit to operate a vehicle, a registration for which has been applied for.

(i) For the purposes of this section:

- (1) "New motor vehicle dealer" means a dealer licensed under chapter 437 to engage in the business of selling at wholesale or retail or both, new motor vehicles or used motor vehicles;
- (2) "Permanent number plate" means a number plate furnished to a manufacturer or dealer under subsection (c)(1) for a motor vehicle which is similar to the number plate issued under section 249-7 and which allows the motor vehicle to be operated on the public highways; and
- (3) "Temporary number plate" means the number plate furnished to a new motor vehicle dealer under subsection (c)(2)."

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

**SECTION 6.** This Act shall take effect on January 1, 1980.

(Approved May 27, 1980.)

## ACT 134

H.B. NO. 2633-80

A Bill for an Act Relating to the Job Sharing Pilot Project in the Department of Education.

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

**SECTION 1. Purpose.** Act 150, Session Laws of Hawaii 1978, established a three-year pilot project in the department of education to test the feasibility of job-sharing. The purpose of this Act is to make two changes in the pilot project design for the remaining year of the test period: (1) to remove the restriction that only classroom teachers may apply, thereby enabling such personnel as school counselors and school

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

librarians to participate in job-sharing, and (2) to remove the restriction that only five per cent of the eligible personnel at any one school may participate. This Act also makes one technical change to correct an inadvertent omission in Act 150.

SECTION 2. Section 1, Act 150, Session Laws of Hawaii 1978, is amended to read as follows:

“SECTION 1. The legislature finds that the increasing mobility of society, changing patterns of socio-economic needs and values, and the economic realities of life in Hawaii require consideration of innovative approaches to ensuring the availability of sufficiently flexible employment opportunities to meet the varying needs of Hawaii’s people. Job-sharing, which would provide half-time positions in place of full-time positions, is an innovation which will increase the available employment options so that the people may have the opportunity to be employed on the basis of their financial or other needs, without, perhaps, the necessity of being employed on a full-time basis. The legislature further finds that the merits of job-sharing warrant systematic experimentation to determine its utility as an employment option. The department of education, the legislature finds, is an appropriate agency within which to initiate a job-sharing pilot project, due to the possibility of expanding the number of jobs under job-sharing and its possible impact upon the disproportionate numbers of unemployed teachers and other certificated school personnel in the State. Moreover, implementation of job-sharing may create more stimulating environments for school personnel in their professional capacities, and may also provide additional educational stimulus for students. The augmentation of school personnel skills may also be a result of job-sharing in the department of education, for school personnel would have greater time available to them to pursue additional training and education, further benefiting the educational system of the State.

The purpose of this Act, therefore, is to establish a voluntary job-sharing pilot project in the department of education.”

SECTION 3. Section 2, Act 150, Session Laws of Hawaii 1978, is amended to read as follows:

“SECTION 2. There is established a three-year job-sharing pilot project to be conducted by the department of education for the 1978–79, 1979–80, and 1980–81 academic years; provided that the department of education shall not implement the pilot project without first carefully developing its plans, procedures, and guidelines and shall initiate the project to the extent practicable during the 1978–79 academic year. Job-sharing, for the purpose of this Act, is the voluntary equal division of one full-time permanent position between two employees, each performing one-half of the work required for the permanent position. The two half-time positions resulting from the division of one full-time position shall constitute two job-sharing positions. The department of education shall devote no more than one hundred full-time, permanent positions to job-sharing, pursuant to this Act. The department shall administer the pilot project established by this Act, and shall, in consultation with the representatives of the appropriate bargaining units adopt guidelines for the implementation of this Act.”

SECTION 4. Section 3, Act 150, Session Laws of Hawaii 1978, is amended to read as follows:

"SECTION 3. The following shall constitute general requirements of the pilot project, and shall be followed in the implementation of this Act:

- (1) The superintendent of education shall announce the pilot project to all full-time, tenured, certificated personnel of the department excluding educational officers and shall solicit the voluntary requests of such personnel who may be interested in participating in the job-sharing pilot project.
- (2) The superintendent shall, in consultation with the recognized employee bargaining units, formulate and adopt guidelines for the implementation of this Act. Employees who respond to the announcement and others who may request information shall receive a full written description of the terms of the pilot project when the guidelines are finalized and those desiring to participate may apply to participate in the project. The employees who apply for participation shall obtain the concurrence of their immediate supervisor, other appropriate personnel officers, and the superintendent. Those who qualify shall then be interviewed by a personnel officer of the department. Participation shall be for school years 1978-79, 1979-80, or 1980-81, except as provided in paragraph (6) of this section.
- (3) Upon the selection of a permanent, full-time employee for job-sharing under this Act, the superintendent shall for the purposes of this Act, convert the position of the employee into two job-sharing positions, one of which shall be filled by the employee, and the other which shall be filled by hiring under this Act.
- (4) Persons hired to fill job-sharing positions shall be recruited through this Act; provided that any person hired for a job-sharing position shall possess the minimum requirements of the full-time position which was converted to job-sharing positions under this Act.
- (5) Job-sharing is, for the purpose of this Act, the voluntary sharing of a full-time, permanent employee's position with another employee, with each working one-half of the total number of hours of work required per week, and with each receiving half of the salary to which each is respectively entitled and at least half of each employee benefit afforded to full-time employees. Benefits that can be divided in half, such as number of days of sick leave, and are considered to be an equitable share when divided, shall be computed on that basis. Benefits that cannot be so divided, such as eligibility for membership in the public employees health plan shall be given to the job-sharers without such division, notwithstanding any contrary provision of chapter 87 or 88, Hawaii Revised Statutes. The newly hired job-sharer shall be excluded from collective bargaining as provided under chapter 89, Hawaii Revised Statutes.

The full-time permanent employee shall not lose membership in an employee bargaining unit because of participation in this project, any law to the contrary notwithstanding. Union membership or service fees paid by job-sharers under this Act shall be at a level consistent with normal union membership dues or service fees. The State's contribution to a job-sharer's prepaid health, prepaid dental, and any group life insurance plans shall be the same as for full-time employees, any other provision of the law to the

contrary notwithstanding. Job-sharers shall be covered under chapter 386, Hawaii Revised Statutes, and the applicable provisions of chapter 383, Hawaii Revised Statutes. Service credit for tenured teachers participating in the pilot project under this Act shall be given on the same basis as that for full-time employees. Nothing in this Act shall be construed, however, to vest any person with any rights to permanent employment status, whether under civil service or otherwise, which did not exist prior to the participation of the person in the job-sharing pilot project. The granting of tenure shall be under applicable statutes. No full-time position shall be abolished or reduced to a half-time position as a result of this Act, except for the purpose of job-sharing, and only for the time allowed for the project by this Act. In a reduction-in-force procedure, consideration of a job-sharer's tenure rights shall be on the same basis as that of a full-time employee. Nothing in this Act shall impair the employment or employment rights or benefits of any employee.

- (6) Participation in the pilot project shall require the commitment on the part of all parties to a contractual agreement; provided that the employee shall be given the option to contract for one or more years.
- (7) No job-sharing position created under this Act and committed to a specified period of time under the terms of the contractual agreement shall be converted to full-time status before the termination of the contractual agreement. A job-sharing vacancy created by the resignation, retirement, or other permanent or temporary severance of employment with the department of education on the part of any person shall be filled through recruitment of another person pursuant to this Act.
- (8) Upon the termination of contractual agreements under this Act, all job-sharing positions shall be reconverted to full-time positions, and the employees who held the full-time positions prior to their participation in the pilot project shall be entitled to resume their positions without loss of previous tenure, or other employee rights."

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

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

(Approved May 27, 1980.)

**ACT 135****H.B. NO. 2666-80**

A Bill for an Act Relating to Retail Installment Sales.

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

**SECTION 1.** Section 476-24, Hawaii Revised Statutes, is repealed.

**SECTION 2.** Section 476-25, Hawaii Revised Statutes, is repealed.

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

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SECTION 3. Section 476-26, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 476-27, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 476-28, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed.\*

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

(Approved May 27, 1980.)

## ACT 136

H.B. NO. 2809-80

A Bill for an Act Relating to Conduct of Elections.

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

SECTION 1. Section 11-92, Hawaii Revised Statutes, is amended to read as follows:

**"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. 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; provided, in the event of a flood, tsunami, earthquake, volcanic eruption, high wind, or other natural disaster occurring more than five days prior to an election which makes a precinct inaccessible, the chief election officer or county clerk in the case of county elections may consolidate precincts within a representative district. The chief election officer or county clerk in the case of county elections, shall give

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

notice of the consolidation in a newspaper of general circulation in the affected county prior to the opening of the precinct polling place as well as by radio and other broadcast media. Precinct officials and workers affected by the consolidation shall not forfeit their pay.

In the event the chief election officer or the county clerk in a county election determines that the number of candidates or issues on the ballot in a special, special primary, or special general election 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."

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

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

(Approved May 27, 1980.)

ACT 137

H.B. NO 2810-80

A Bill for an Act Relating to Election Registration.

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

SECTION 1. Section 11-25, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-25 Challenge by voters; grounds; procedure.** (a) Challenging prior to election day. Any registered voter may challenge the right of a person to be or to remain registered as a voter in any precinct for any cause not previously decided by the board of registration or the supreme court in respect to the same person; provided that, in an election of members of the board of trustees of the office of Hawaiian affairs the voter making the challenge must be registered to vote in that election. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall forthwith serve notice thereof on the person challenged. The clerk shall, as soon as possible, investigate and rule on the challenge.

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

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(b) Challenging on election day. Any voter rightfully in the polling place may challenge the right to vote of any person presenting himself to the precinct officials for voting purposes. The challenge shall be on the grounds that the voter is not the person he alleges himself to be, or that the voter is not entitled to vote in that precinct; provided that only in an election of members of the board of trustees of the office of Hawaiian affairs, a person registered to vote in that election may also challenge on the grounds that the voter is not Hawaiian. No other or further challenge shall be allowed. The challenge shall be considered and decided immediately by the precinct officials and the ruling shall be announced.

(c) If neither the challenger nor the challenged voter shall appeal the ruling of the clerk or the precinct officials, then the voter shall either be allowed to vote or be prevented from voting in accordance with the ruling. If an appeal is taken to the board of registration, the challenged voter shall be allowed to vote; provided that his ballot is placed in a sealed envelope to be later counted or rejected in accordance with the ruling on appeal. The chief election officer shall promulgate rules and regulations in accordance with chapter 91 to safeguard the secrecy of the challenged voter's ballot."

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

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

(Approved May 27, 1980.)

## ACT 138

H.B. NO. 2816-80

A Bill for an Act Relating to Elections.

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

SECTION 1. Section 13D-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 13D-2 Qualifications of board members.** No person shall be eligible for election or appointment to the board unless he is: (1) qualified and registered to vote under the provisions of section 13D-3, and (2) where residency on a particular island is a requirement, a resident on the island for which seat he is seeking election or appointment. No member of the board shall hold or be a candidate for any other public office under the state or county governments in accordance with Article II, section 6† of the Constitution of the State; nor shall a person be eligible for election or appointment to the board if that person is also a candidate for any other public office under the state or county governments. The term "public office", for purposes of this section, shall not include notaries public, reserve police officers, or officers of emergency organizations for civilian defense or disaster, or disaster relief."

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

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

†So as enacted. Probably should read section "7".

**"Sec. 13-2 Qualifications.** No person shall be eligible for election or appointment to the board of education unless he is a registered voter of the school board district from which he is to be elected or appointed and, where residency in a particular departmental school district is a requirement, a resident of the departmental school district for which seat he is seeking election or appointment. No member of the board shall hold or be a candidate for any other public office under the state or county governments in accordance with Article II, section 6<sup>†</sup> of the Constitution of the State; nor shall a person be eligible for election or appointment to the board of education if that person is also a candidate for any other public office under the state or county governments. The term "public office", for the purposes of this section, shall not include notaries public, reserve police officers, or officers of emergency organizations for civilian defense or disaster relief."

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

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

(Approved May 27, 1980.)

ACT 139

H.B. NO. 2845-80

A Bill for an Act Relating to Primary Elections.

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

SECTION 1. Section 12-1.5, Hawaii Revised Statutes, is repealed.

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

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

(Approved May 27, 1980.)

ACT 140

H.B. NO. 2850-80

A Bill for an Act Relating to the Uniform Controlled Substances Act.

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

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

"(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:

<sup>†</sup>So as enacted. Probably should read section "7".

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

- (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) Fenethylline;
- (9) Diethyltryptamine;
- (10) Dimethyltryptamine;
- (11) 4-methyl-2, 5-dimethoxyamphetamine;
- (12) Ibogaine;
- (13) Lysergic acid diethylamide;
- (14) Marijuana;
- (15) Mescaline;
- (16) Peyote;
- (17) N-ethyl-3-piperidyl benzilate;
- (18) N-methyl-3-piperidyl benzilate;
- (19) Psilocybin;
- (20) Psilocyn;
- (21) Tetrahydrocannabinols;
- (22) Ethylamine analog of phencyclidine (PCE);
- (23) Pyrrolidine analog of phencyclidine (PcPy, PHP);
- (24) Thiophene analog of phencyclidine (TPCP)."

SECTION 2. Section 329-20, Hawaii Revised Statutes, is amended by amending subsection (b) to read:

"(b) Depressants. 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) Chlordiazepoxide;
- (5) Clonazepam;
- (6) Clorazepate;
- (7) Diazepam;
- (8) Ethchlorvynol;
- (9) Ethinamate;
- (10) Flurazepam;
- (11) Lorazepam;
- (12) Mebutamate;
- (13) Meprobamate;
- (14) Methohexitol
- (15) Methylphenobarbital;
- (16) Oxazepam;
- (17) Paraldehyde;

- (18) Petrichloral;
- (19) Phenobarbital;
- (20) Prazepam."

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

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

(Approved May 27, 1980.)

**ACT 141**

H.B. NO. 3046-80

A Bill for an Act Relating to Certificate of Registration; Certificate of Ownership; Containers.

[Note. So in original. No enacting clause.]

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

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

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

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

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- (3)(A) Whenever a new vehicle is first registered hereunder, the director of finance shall issue a suitable container with the certificate of registration issued for the vehicle. Every owner upon receipt of a certificate of registration shall place the same in the container which must be kept within the vehicle for which it is registered and be presented at the request of a police officer, or in the event the vehicle is a motorcycle, shall carry such certificate in a convenient receptacle attached to the vehicle and which shall be presented at the request of a police officer.
- (B) This shall not apply to state or county vehicles readily identified by the license plates and markings on sides of said vehicles.
- (C) The container shall be furnished by the director of finance, for which he shall charge a sum not to exceed 50 cents. This requirement to carry the certificate of registration with the vehicle shall not apply when such certificate is removed from the vehicle for the purpose of application for renewal, or transfer of registration or to record a change in the registration."

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

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

(Approved May 27, 1980.)

## ACT 142

S.B. NO. 118

A Bill for an Act Relating to Professional and Occupational Boards and Commissions.

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

SECTION 1. Section 26H-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 26H-2 Policy.** The legislature hereby adopts the following policies concerning professional and vocational regulation within the State:

- (1) The regulation and licensing of professions and vocations by the State shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;
- (2) Where regulation of professions and vocations is reasonably necessary to protect consumers, government regulation in the form of full licensure or other restrictions on the professions or vocations should be retained or adopted;
- (3) Professional and vocational regulation shall be imposed where necessary to

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

protect consumers who, because of a variety of circumstances, may be at a disadvantage in choosing or relying on the provider of the service;

- (4) Evidence of abuses by providers of the service shall be accorded great weight in determining whether government regulation is desirable;
- (5) Professional and vocational regulation which artificially increases the costs of goods and services to the consumer should be avoided;
- (6) Professional and vocational regulation should be eliminated where its benefits to consumers are outweighed by its costs to taxpayers; and
- (7) Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons."

[SECTION 2.]†

**"Sec. 26H-5 Evaluation; report.** (a) The legislative auditor shall evaluate each board, commission, and regulatory program created under a chapter repealed by section 26H-4 and shall submit an evaluation report to the legislature prior to the convening of the regular session of the year of the repeal date. The evaluation shall assess whether the regulatory program established by the chapter complies with the policies established by section 26H-2 and whether the public interest requires that the chapter be reenacted, modified, or permitted to expire. Each board or commission and the director shall assist the auditor in collecting and reporting such data as the auditor may require to conduct the evaluation. Even if the auditor finds that the chapter should not be reenacted, the auditor shall evaluate the effectiveness and efficiency of the regulatory program and make appropriate recommendations to improve policies, procedures, and practices. The legislature may hold a public hearing on each evaluation report. If the auditor finds that a regulatory program within the chapter should be permitted to expire, the auditor shall make recommendations, if needed, for appropriate restrictions to be placed on the program subsequent to the termination of regulation.

(b) If the legislative auditor receives written comments from the board, commission, or department of regulatory agencies, the legislative auditor shall append the written comments to each copy of the evaluation report prior to submission to the legislature."

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

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

(Approved May 28, 1980.)

ACT 143

S.B. NO. 209

A Bill for an Act Relating to No-Fault Insurance.

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

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†"SECTION 2" has been supplied by revisor. It is apparent that some material is missing at this point. In S.B. No. 118, S.D. 2, the following reference to §26H-5 appeared: "SECTION 2. Section 26H-5, Hawaii Revised Statutes, is amended to read as follows:".

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

SECTION 1. Section 294-22, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(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 be able to 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 marijuana, 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 subparagraph (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; provided such licensed drivers are the registered owners of motor vehicles to be insured; provided further that not more than one vehicle per

public assistance unit shall be insured under this chapter unless extra vehicles are approved by the department of social services and housing as being necessary for medical or employment purposes.

- (B) Any licensed physically handicapped driver, including drivers with any auditory limitation. Each category of driver-owner under subparagraph (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 canceled. 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.

- (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."

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

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

(Approved May 28, 1980.)

A Bill for an Act Relating to the Compensation Law.

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

**SECTION 1.** Section 77-13, Hawaii Revised Statutes, is amended by amending subsection (f) to read:

- "(f) Salary ranges SC-1, SC-2, and SC-3 shall be utilized in the following manner:
- (1) Salary ranges SC-1, SC-2, and SC-3 may be utilized by the State and counties for physicians and psychiatrists positions.
  - (2) No position shall be classified and paid in salary ranges SC-1, SC-2, and SC-3 unless specifically recommended by the director of personnel services and approved by the governor, recommended by the administrative director of the courts and approved by the chief justice, or recommended by

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

## ACT 145

the personnel director of a county and approved by the respective council and mayor.

- (3) There shall be at any given period not more than sixteen positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by the State, not more than one position classified and paid in salary ranges SC-1, SC-2, and SC-3 by the judiciary and not more than eight positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by any county. Psychiatrists and physician positions shall be excluded from the above mentioned totals.
- (4) The salary of any employee assigned to SC-1, SC-2, or SC-3 shall not be more than ninety per cent of his director's salary.
- (5) The director of personnel services, the administrative director of the courts, and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2, and SC-3 are being used."

SECTION 2. New statutory material is underscored.\*

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

(Approved May 28, 1980.)

## ACT 145

S.B. NO. 1838-80

A Bill for an Act Relating to the Hawaii Crime Commission.

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

SECTION 1. Section 843-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 843-2 Hawaii Crime Commission.** (a) For a twelve-month period commencing July 1, 1980, and ending on June 30, 1981, the presently existing Hawaii crime commission shall remain in existence as established in the office of the lieutenant governor, for administrative purposes only.

Commencing on July 1, 1981, there is established within the office of the lieutenant governor, for administrative purposes only, the Hawaii crime commission. This commission shall have its existence terminated, if not renewed by the legislature, on January 30, 1984.

(b) The commission shall be composed of nine members, all of whom shall be appointed by the governor, with the advice and consent of the senate. The term for each member shall be from July 1, 1981, through January 30, 1984. The governor shall appoint a chairman with the advice and consent of the senate. All vacancies on the commission shall be filled for the unexpired term by the governor, with the senate's advice and consent. A vacancy in the chairman's position shall be filled by the governor in the same manner as an initial appointment. The commission, by a two-thirds vote may initiate the removal or suspension of the chairman from office, but only for neglect of duty, misconduct, or disability. The governor shall act upon the

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

vote of the commission to remove or suspend the chairman. The chairman shall have the power to vote only in the event of a tie vote.

(c) Each nominee appointed by the governor shall undergo security screening by the attorney general. The attorney general shall obtain each nominee's "criminal history record information," as defined in section 846-1(3), and provide such information to the governor and the senate.

(d) The members of the commission except the chairman shall not be compensated for their services but the members and the chairman shall be reimbursed for reasonable expenses necessary to the performance of their duties, including travel expenses.

(e) The governor may remove or suspend for cause any member of the commission except the chairman after due notice and public hearing conducted under chapter 91.

(f) The commission may receive and use gifts, money, services, or assistance from any federal, state, county, or private source for the implementation of the purposes of the Hawaii crime commission."

SECTION 2. Section 843-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 843-3 Hawaii crime commission, chairman, staff.** The chairman shall serve as the executive officer of the commission, and shall be vested with responsibility for the administrative function of the commission and shall authorize preliminary inquiry into research, investigation incident to research, and other projects. The chairman shall be compensated at the rate of \$75 a day for each day's actual attendance at a meeting and each day during which he spends four or more hours on commission business. There shall be such additional necessary staff to carry out the functions of the commission, who shall be hired by and serve at the pleasure of the chairman without regard to chapters 76 and 77. The persons so hired shall be entitled to participate in any employee benefit plan normally inuring to civil service employees, but shall not be considered civil service employees. This provision shall not affect the right of the chairman or commission to contract independently for services."

SECTION 3. Section 843-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 843-5 Commission, functions.** The commission shall have the following functions and shall perform the following duties:

- (1) Research and collect information regarding crime in Hawaii;
- (2) Investigate incident to research in order to study crime, criminal activity, and the operation of the criminal justice system;
- (3) Evaluate and make recommendations regarding the operations of existing programs, agencies, and other projects relating to crime, including but not necessarily related to the courts, police, and prosecutorial agencies;
- (4) Review and make recommendations regarding existing substantive laws;
- (5) Develop, recommend, and where appropriate, implement public education programs relating to educating the public as to the nature of crime;
- (6) Develop, recommend, and where appropriate, implement programs of

- public education to provide defensive living education to the public, and information regarding affirmative steps which may be taken to avoid the occurrence of crime, eliminate the possibility of becoming a victim of crime, and other information designed to defend against any aspect of crime;
- (7) Study and make recommendations for facilitating the reduction and prevention of destruction of public property, school violence, business and other white collar crimes, and criminal activity;
  - (8) Study, develop, and make recommendations for the protection of the community, including name check systems for businesses, and other measures designed to protect individuals and the State from crime and direct and indirect criminal influence;
  - (9) Report, to the legislature prior to the convening of each legislative session, on its activities of the preceding year and on a program of action for the coming year;
  - (10) Hold public and closed hearings;
  - (11) Receive, manage, and tender funds for rewards for apprehension and conviction of criminals; and
  - (12) Perform other functions and duties necessary to carry out the procedures established in section 843-6."

SECTION 4. Section 843-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 843-6 Conduct of business, procedures.** (a) Except where specifically otherwise provided by this chapter, the business and activities of the commission shall be conducted consistent with chapters 91 and 92. The commission shall possess all powers conferred under such chapters, including the power to subpoena as set forth in subsection (c).

(b) The commission may hold closed hearings when matters are to be considered which, if made public, may threaten the effectiveness of a study of criminal activity or of the criminal justice system; provided that all other meetings or hearings shall be otherwise conducted in accordance with chapters 91 and 92.

(c) In performing the functions and duties under this chapter, the commission is empowered to subpoena witnesses as allowed by rules of court upon subpoena signed by the chairman or acting chairman. The subpoena pursuant to section 92-16 shall be served in the same manner, and the witnesses subpoenaed shall be entitled to the same witness fees, as in the case of a witness subpoenaed to testify before a circuit court. Any circuit court upon the written application of the chairman or acting chairman of the commission shall have power to enforce obedience to the subpoena by contempt proceedings. The chairman or acting chairman may administer oaths to witnesses and require the testimony of such witnesses on matters germane to the subject under inquiry at the hearing. Any party to the hearing upon request shall be allowed to be represented by counsel and be allowed reasonable rights of examination and cross-examination of witnesses. Any false swearing by a witness at the hearing upon any material issue or matter shall constitute perjury, and be punishable as such.

(d) Agencies of the state and county governments shall cooperate with the commission to the extent necessary for the commission to perform its duties."

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

SECTION 6. This Act shall take effect on July 1, 1981; provided that the first paragraph of section 843-2(a) of SECTION 1 shall take effect upon its approval; and provided further that the provision for the appointment of the chairman and members of the commission as set out in section 843-2(b) and 843-2(c) of SECTION 1 shall take effect upon its approval, but the members of such commission shall not assume office until July 1, 1981.

(Approved May 28, 1980.)

## ACT 146

S.B. NO. 2006-80

A Bill for an Act Relating to State Highways.

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

SECTION 1. Section 264-6, Hawaii Revised Statutes, is amended to read:

**“Sec. 264-6 State highway not to be disturbed without permit.** No person or government agency, whether federal, state, or county, shall, in any manner or for any purpose do any of the following acts without a written permit from the director of transportation or his authorized representative:

- (1) Break up, dig up, disturb, undermine or dig under, or cause to be broken up, dug up, disturbed, undermined, or dug under, the right-of-way of any state highway; or
- (2) Place, erect, leave, or store any structure, motor or other vehicle, equipment, or any other object wholly or partially within the right-of-way of any state highway; provided that this paragraph shall not apply to the holding or displaying of movable signs, for the purpose of carrying on political campaign activities.”

SECTION 2. Section 264-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) Any person or government agency desiring the permit required by section 264-6 shall apply for a permit on a form prescribed by the director of transportation. Any permit issued shall be conditioned upon the adherence of the applicant to the requirements of sections 264-8 and 264-9; provided that on awarding any contract for the construction, reconstruction, maintenance or repair of any state highway or federal-aid highway project, the director of transportation or his authorized representative shall ascertain whether the work to be done by the terms of that contract will require the contractor, his employees, or his agents to engage in any of the activities enumerated in section 264-6(1) and (2) and, if one or more such activities is likely to be required, shall issue the permit required by section 264-6, waiving the fee requirements imposed by subsection (b) of this section.”

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

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

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

(Approved May 28, 1980.)

## ACT 147

S.B. NO. 2157-80

A Bill for an Act Relating to the Uniform Controlled Substances Act.

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

SECTION 1. Section 329-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) A registration under section 329-33 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department upon a finding that the registrant:

- (1) Has furnished false or fraudulent material information in any application filed under this chapter;
- (2) Has been convicted of a felony under any State or Federal law relating to any controlled substance;
- (3) Has had his federal registration suspended or revoked to manufacture, distribute, prescribe or dispense controlled substances; or
- (4) Has had his state license to practice his profession suspended or revoked by the applicable governing state board.”

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

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

(Approved May 28, 1980.)

## ACT 148

S.B. NO. 2457-80

A Bill for an Act Relating to Dogs: Licenses and Regulations; License Fee Controlled by Ordinance.

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

SECTION 1. Section 143-3, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 143-3 License fee controlled by ordinance.** Except where licenses are dispensed with pursuant to section 143-2, each county council shall have the power to fix the license fee for dogs on a biennial basis. Until and unless otherwise provided by ordinance the biennial license fee for each dog shall be \$4. Any person owning or having the custody or control of any dog shall pay the license fee to the director of

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

finance of the county in which the dog is owned, kept, or controlled. The license fee shall be due and payable on January 2 of every second year and shall be paid before March 11 of every second year, or within thirty days after the exemption ceases in the case of dogs becoming subject to this chapter.

The full amount of the fee shall be paid for any fraction of the license period for which a license is issued.

All moneys received by the director of finance under this chapter shall be paid into the general fund of such county."

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

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

(Approved May 28, 1980.)

**ACT 149**

S.B. NO. 2512-80

A Bill for an Act Relating to Public Purchasing and Contracting.

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

**SECTION 1.** Section 103-51, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 103-51 Printing, binding, and stationery work.** All printing, binding, and stationery work for the State or any county, or other political subdivision thereof shall be performed within the State, including all preparatory work, presswork, bindery work, and any other production related work, and all requests for bids or contracts for such work shall so stipulate; provided that whenever it is established that any such work cannot be performed within the State or that the lowest price for which such work can be procured within the State exceeds the bid or charge of a mainland manufacturer of such item by fifteen per cent, the work or any part thereof so affected may be performed outside the State.

No payment shall be made by the State or any county, or other political subdivision thereof for printing, binding, or stationery work unless it appears that the work was done within the State or was authorized to be done outside the State pursuant to this section. In addition, any manufacturer violating a stipulation in a bid or contract that all work will be performed within the State shall be subject to a civil penalty in an amount not to exceed the bid or contract price to be collected by a civil action filed by the attorney general on behalf of the State.

Every manufacturer responding to the requests for bids or contracts shall submit an affidavit stating that his employees engaged in the performance of the contract will be paid the prevailing wages, which shall include the cost to him of the fringe benefits, and will work under the prevailing hours of work. The prevailing wages and hours of work shall be for the locality in the State of Hawaii where the work is to be performed and shall be determined by the Director of Labor and Industrial Relations

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

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of the State. Any bid or proposal shall not be considered or accepted unless the affidavit is submitted.”

SECTION 2. New material is underscored.\*

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

(Approved May 28, 1980.)

## **ACT 150**

S.B. NO. 2862-80

A Bill for an Act Relating to Obstructing Public Administration.

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

SECTION 1. Section 710-1010, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) Obstruction of government operations is a petty misdemeanor.”

SECTION 2. New statutory material is underscored.\*

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

(Approved May 28, 1980.)

## **ACT 151**

H.B. NO. 1993-80

A Bill for an Act Relating to the Collection Agency Law.

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

SECTION 1. Section 443A-1, Hawaii Revised Statutes, is amended by amending the definition of “principal collector” to read:

“(5) “Principal collector” means a person who has been designated by a collection agency to assume responsibility for the operation and activities of its agency.”

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

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

(Approved May 28, 1980.)

## **ACT 152**

H.B. NO. 2137-80

A Bill for an Act Relating to Taxation.

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

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

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

"(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 deficiencies in vision or hearing, or other disability. For purposes of claiming the credit only, a minor child receiving support from the department of social services and housing of the State, social security survivor's benefits, and the like, may be considered a dependent and a qualified exemption of the parent or guardian."

SECTION 2. New statutory material is underscored.\*

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1979.

(Approved May 28, 1980.)

**ACT 153**

H.B. NO. 2175-80

A Bill for an Act Relating to Names.

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

SECTION 1. Section 574-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 574-2 Legitimate children.** The registrar of births shall register any child born in wedlock as having the child's father's name as its family name, and shall also register a given name for the child. The registrar shall register any child legitimated, as provided in section 338-21, as having either the child's father's name or its mother's name as a family name, and shall also register a given name for the child."

SECTION 2. Section 574-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 574-3 Illegitimate children.** The registrar of births shall register any illegitimate child as having the child's mother's name as a family name, and shall also register a given name for the child."

SECTION 3. Section 574-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 574-4 Report of name of newborn child.** The father or mother of any child shall report the name or names conferred upon the child to the registrar of births for the district in which the child was born, within three months after the birth of the child. The name of the child shall be registered as required in section 574-2 or 574-3 and the name of the child conferred upon it by its parents, if different from its registered name, shall also be registered."

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

SECTION 4. Section 574-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 574-5 How changed.** It shall not be lawful to change any name adopted or conferred under this chapter, except (1) upon an order of the lieutenant governor which order shall be founded upon a petition executed by the person desirous of changing his or her name, or, in case of a minor, by the parents or by such parent who has custody of the minor, with the consent of the non-custodial parent, or by the guardian of the person of the minor, which petition shall be accompanied by the payment of filing costs in the amount of \$5, and shall be published once in a newspaper of general circulation in the State in such order mentioned, and the petitioner shall deposit in the office of the lieutenant governor an affidavit executed by an officer of the newspaper publishing the order, the affidavit to show that the order has been published as provided herein, and to have attached thereto a clipping showing the order as published, or (2) by any court or judge of competent jurisdiction, embodying in a decree of adoption a provision for change of name of the person adopted, or embodying in a decree of divorce a provision that either party may upon the divorce resume the surname used by him or by her prior to the marriage or a surname declared and used during any prior marriage, or (3) upon legitimization pursuant to section 338-21.

The change of name provided for herein by order of the lieutenant governor shall be effective upon the date of the signing of the order.

In all cases of change of name, except as otherwise provided, the order or decree shall be recorded in the bureau of conveyances and reported to the registrar of births.

All changes of names made by decree of any governor, or by the president of the Republic of Hawaii, or by the president of the Provisional Government of Hawaii, or by any king or queen of the Hawaiian Islands, are ratified and confirmed."

SECTION 5. Section 338-21, Hawaii Revised Statutes, is amended to read:

**"Sec. 338-21 Legitimation.** (a) All children born out of wedlock, irrespective of the marriage of either parent to another, become legitimate (1) on the marriage of the parents with each other, (2) on the voluntary, written acknowledgment of paternity by the father and mother, or (3) on establishment of the parent and child relationship under chapter 584, and are entitled to the same rights as those born in wedlock and shall take the surname so stipulated by their parents or, if the parents do not agree on the surname, shall take the surname of the father. If legitimization is accomplished before the original certificate of birth is filed with the department of health, the original certificate of birth shall contain the name so stipulated. The child or children or the parents thereof may petition the department of health to issue a new certificate of birth in the new name of the legitimated child, and the department shall issue the new certificate of birth upon being satisfied that the child or children has or have been legitimated.

(b) The evidence upon which the new certificate is made, and the original certificate, shall be sealed and filed and may be opened only upon order of a court of record."

SECTION 6. Section 338-20, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 338-20 Adoption.** (a) In case of the adoption of any person born in the State, the department of health, upon receipt of a properly certified copy of the adoption decree, or certified abstract thereof on a form approved by the department, shall prepare a supplementary certificate in the name of the adopted person, as fixed or changed by the decree, and seal and file the original certificate of birth with the certified copy attached thereto.

(b) The registrar of births shall show on the supplemental birth certificate the names of parents as stated in the adoption decree pursuant to section 578-14.

(c) Any certified copy of final decree of adoption, or abstract thereof, of persons born in the State, rendered by courts of other states and territories subject to the jurisdiction of the United States, or courts of a foreign country, shall be considered properly certified when attested by the clerk of the court in which it was rendered with the seal of the court annexed, if there be a seal, together with a certificate of the presiding judge, chancellor, or magistrate that the attestation is in due form.

(d) If no original certificate of birth shall be on file with the department, the department may require such evidence as it deems necessary to establish the facts of birth before preparing a supplementary certificate in the new name of the adopted person; provided, that no such certificate shall be filed unless it shall be satisfactorily established that the adopted person was born in the State.

(e) Such sealed documents may be opened by the department only by an order of a court of record. Upon receipt of a certified copy of a court order setting aside a decree of adoption, the department shall restore the original certificate to its original place in the files."

SECTION 7. Section 578-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 578-14 Record of adoption.** A certified copy of the decree of adoption, or a certified abstract thereof on a form approved by the department of health shall, after such decree has become effective, be sent to the department. The department shall cause to be made a new record of the birth in the name of the individual, as fixed or changed by the decree, with the names of the adoptive parents, and, upon request of both adoptive parents, or the sole adoptive parent if there is only one, that the name or names of either or both of the natural parents appear on the certificate with the name of a natural parent who consents to be named on the certificate, and shall then cause to be sealed and filed the original birth certificate of the individual with the decree or the abstract thereof, and such sealed package shall be opened only by order of a court of record. If the birth of the individual occurred outside of the State, and a record of such birth exists, the certified copy of the decree or the abstract thereof, shall be transmitted by the department of health to the birth registration authorities of the place of the individual's birth with a request that such authorities take appropriate action with respect to the record of the individual's birth. If the birth of the individual occurred outside of the State, or if the birth of an individual born in the State has not been registered with the department of health, or if other good cause exists, the clerk of the court shall, upon request, and with the approval of the family court, upon the finding of the court that such action is for the best interests of the individual involved, furnish to the adoptive parents, or to the individual, or to any proper person acting in their behalf, a certified copy or abstract of the decree of adoption, or a certificate of

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adoption in such form as is approved by the court. If the parental rights of a parent or the parents of a minor child have been judicially terminated under chapter 571 prior to the entry of the decree, a certified copy of the decree shall be filed in the termination proceeding."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved May 28, 1980.)

## ACT 154

H.B. NO. 2185-80

A Bill for an Act Relating to Recording Fees in the Office of the Assistant Registrar of the Land Court in the State Bureau of Conveyances.

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

SECTION 1. Section 501-218, Hawaii Revised Statutes, is amended to read:

"**Sec. 501-218 Schedule of fees.** Except where otherwise provided the fees payable under this chapter are as follows:

- (1) For every application [to bring land under] filed pursuant to this chapter, including indexing and recording the same, and transmitting to registrar, when filed with assistant registrar, \$3.
- (2) For every plan filed, \$1..
- (3) For indexing any instrument recorded while application for registration is pending, 25 cents.
- (4) For examining title, \$10 and two-tenths of one per cent of the assessed value of the land and improvements on the basis of the last assessment for taxation, or the value of the same as determined under section 501-211 when the land was not separately assessed.
- (5) For verifying and checking map on the ground, for lots of one acre or less, \$25; an addition of \$1 an acre or fraction thereof for all area over one acre and up to one hundred acres; an addition of 50 cents an acre or fraction thereof for all area over one hundred acres and up to five hundred acres; an addition of 50 cents an acre or fraction thereof for all area over five hundred acres and up to one thousand acres; an addition of 25 cents an acre or fraction thereof for all area over one thousand acres.
- (6) For checking survey and map as to form and mathematical correctness but not on the ground, \$3 an hour.
- (7) For approving subdivision of registered land, and for checking same as to form and mathematical correctness but not on the ground, \$3 an hour.
- (8) For all services by a sheriff or other police officer under this chapter, the same fees as are now provided by law for like services.
- (9) For each instrument affecting a title not reported in applicant's filed abstract of title, \$2.

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

- (10) For filing an amended application, \$1.  
(11) For each notice by publication, 25 cents.  
(12) For entering any general default, \$1.  
(13) For filing any answer, \$1, to be paid by the party filing the same.  
(14) For every subpoena, \$1.  
(15) For swearing each witness, 10 cents.  
(16) For entering any discontinuance, \$1.  
(17) For filing notice of appeal, \$1.  
(18) For entry of order dismissing application, or decree of registration, and sending memorandum to assistant registrar, \$1.  
(19) For copy of decree of registration, \$1.  
(20) For entry of original certificate of title and issuing owner's duplicate certificate, or for making and entering a new certificate of title including issue of one owner's duplicate, [\$10] \$20 if contained within four pages. For each additional page or fraction thereof, \$1.  
(21) For each owner's duplicate certificate after the first, [\$5] \$10 if contained within four pages. For each additional page or fraction thereof, \$1.  
(22) For the registration of every instrument, including entering, indexing, filing, attesting registration, and making and attesting memorandum on certificates not in excess of four, [\$2.50,] \$5, except where herein otherwise provided, and 50 cents for each additional memorandum on certificates in excess of four required by any one instrument.  
(23) For the certification of a copy of any instrument, the same fees as are provided by section 502-25.  
(24) For filing and registering an adverse claim, \$3.  
(25) For entering statement of change of residence and post office address, including indorsing and attesting same on a duplicate certificate, [\$1.] \$2.50.  
(26) For entering any note in the entry book or in the registration book, \$1.  
(27) For registration of a suggestion of death, fact of marriage, order for subdivision, or notice of issue of an order in bankruptcy, \$1.  
(28) For filing any petition after original registration, \$1.  
(29) For filing any order after original registration, \$1.  
(30) In all cases not expressly provided for by law the fees of all public officers for any official duty or service under this chapter shall be at a rate established by the court.  
(31) For any application made by or in the name of the State, or any political subdivision thereof, any proceedings had upon such application or any dealing with registered land by the State, or any political subdivision thereof, as owner, no fees shall be charged."

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

SECTION 3. This Act shall take effect July 1, 1980.

(Approved May 28, 1980.)

A Bill for an Act Relating to Aeronautics.

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

SECTION 1. Section 261-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 261-12 Rules, standards.** (a) Powers to adopt. The director of transportation may perform such acts, issue and amend such orders, adopt such reasonable general or special rules and procedures, and establish such minimum standards, consistent with this chapter, as the director deems necessary to carry out this chapter and to perform the duties assigned thereunder, all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons operating, using, or traveling in aircraft, and the safety of persons and property on land or water, and developing and promoting aeronautics in the State. No rule of the director shall apply to airports or air navigation facilities owned or operated by the United States.

In furtherance of the duties assigned under this chapter, the director may adopt rules relating to:

- (1) Safety measures, requirements and practices in or about the airport premises;
- (2) The licensing and regulation of persons engaged in commercial activities in or about the airport premises;
- (3) The regulation of equipment and motor vehicles operated in or about the airport operational area;
- (4) Airport security measures or requirements, and designation of sterile passenger holding areas and operational areas;
- (5) The regulation of motor vehicles and traffic;
- (6) Any other matter relating to the health, safety and welfare of the general public and persons operating, using, or traveling in aircraft.

(b) Definitions. For the purpose of this section, if not inconsistent with the context:

"Sterile passenger holding area" means any portion of a public airport designated by the director and identified by appropriate signs as an area into which access is conditioned upon the prior inspection of persons and property in accordance with the approved Federal Aviation Administration air carrier screening program.

"Operational area" means any portion of a public airport, from which access by the public is prohibited by fences or appropriate signs, and which is not leased or demised to anyone for exclusive use and includes runways, taxiways, all ramps, cargo ramps and apron areas, aircraft parking and storage areas, fuel storage areas, maintenance areas, and any other area of a public airport used or intended to be used for landing, takeoff or surface maneuvering of aircraft or used for embarkation or debarkation of passengers.

Notwithstanding the restriction on access by the public into operational areas, entry may be authorized for airport operational area related purposes with the prior permission of the director or his duly authorized representative.

(c) Conformity to federal legislation and rules. No rules, orders, or standards

prescribed by the director shall be inconsistent with, or contrary to, any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto.

(d) How made. All rules having the force and effect of law, shall be adopted by the director pursuant to chapter 91.

(e) Distribution. The director shall provide for the publication and general distribution of all of its rules and procedures having general effect."

SECTION 2. Section 261-21, Hawaii Revised Statutes, is amended to read:

**"Sec. 261-21 Penalties.** (a) Any person violating this chapter, or any of the rules or orders issued pursuant thereto relating to (1) safety measures, practices, or requirements, and (2) airport security measures or requirements, duly adopted or served, shall be guilty of a misdemeanor.

(b) Any person violating any rule relating to motor vehicles and traffic control or the operation of any equipment or motor vehicle in or on the operational area of the airport shall be guilty of an offense as defined under the Penal Code and be fined not more than \$500."

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

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

(Approved May 28, 1980.)

ACT 156

H.B. NO. 2258-80

A Bill for an Act Relating to Suspension of Sentence and Probation.

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

SECTION 1. Section 706-627, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) In the event the court, following hearing, refuses to revoke the probation or suspension or grant the requested increases in requirements thereof because the defendant's failure to comply therewith was excusable, the defendant may be granted the period of tolling of the probation or suspension for purposes of computation of the remaining probation or suspension, if any."

SECTION 2. Section 706-628, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 706-628 Revocation of probation or suspension of sentence; resentence.** (1) At any time before the discharge of the defendant or the termination of the period of probation†† suspension of sentence, the court, if satisfied that the defendant has inexcusably failed to comply with a substantial requirement imposed as a condi-

†So as enacted. There are no sections 3 and 4.

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

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

## ACT 157

tion of the order or if the defendant has been convicted of another crime, may, but if convicted of a felony, shall, revoke the suspension or probation and sentence or resentence the defendant, as provided in subsection (2).

(2) When the court revokes a suspension or probation, it shall impose on the defendant any sentence that might have been imposed originally for the crime of which he was convicted."

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

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

(Approved May 28, 1980.)

## ACT 157

H.B. NO. 2292-80

A Bill for an Act Relating to School Attendance.

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

SECTION 1. Section 298-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 298-9 Attendance compulsory; exceptions.** Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend either a public or private school for and during such school year, and any parent, guardian, and other person having the responsibility for or care of a child whose attendance at school is obligatory shall send the child to some such school. Such attendance shall not be compulsory in the following cases:

- (1) Where the child is physically or mentally unable to attend school (deafness and blindness excepted) of which fact the certificate of a duly licensed physician shall be sufficient evidence;
- (2) Where a competent person is employed as a tutor in the family wherein the child resides and proper instruction is thereby imparted as approved by the superintendent;
- (3) Where the child who has reached the fifteenth anniversary of birth is suitably employed and has been excused from school attendance by the school department [or]† its authorized agents, the family court or the district judge;
- (4) Where, upon investigation by the family court, when feasible, or by the district judge, it has been shown that for any other reason the child may properly remain away from school;
- (5) Where a child graduated from a high school or vocational school; or

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

†"[or]" substituted for "of" to correct manifest clerical error.

(6) Where the child is enrolled in an appropriate alternative educational program as approved by the superintendent in accordance with the plans and policies of the department of education."

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

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

(Approved May 28, 1980.)

**ACT 158**

H.B. NO. 2322-80

A Bill for an Act Relating to the Board of Private Detectives and Guards.

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

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

**"Sec. 26H-4 Repeal dates.** (a) The following chapters are hereby repealed effective December 31, 1979:

- (1) Chapter 443 (Collection Agencies Board)
- (2) Chapter 467A (Rental Agencies)
- (b) The following chapters are hereby repealed effective December 31, 1980:
  - (1) Chapter 436 (Board of Examiners for Abstract Makers)
  - (2) Chapter 439 (Board of Cosmetology)
  - (3) Chapter 447 (Dental Hygienists)
  - [4] Chapter 463 (Board of Private Detectives and Guards)
  - [5] Chapter 468J (Travel Agencies)
  - [6] Chapter 471 (Board of Veterinary Examiners)
  - [7] Chapter 438 (Board of Barbers)
  - [8] Chapter 443 (Collection Agencies Board)
- (c) The following chapters are hereby repealed effective December 31, 1981:
  - (1) Chapter 441 (Cemetery Board)
  - (2) Chapter 451A (Board of Hearing Aid Dealers and Fitters)
  - (3) Chapter 457B (Board of Examiners of Nursing Home Administrators)
  - (4) Chapter 458 (Board of Dispensing Opticians)
  - (5) Chapter 459 (Board of Examiners in Optometry)
  - (6) Chapter 465 (Board of Certification for Practicing Psychologists)
  - (7) Chapter 468E (Board of Speech Pathology and Audiology)
  - (8) Chapter 452 (Board of Massage)
- (d) The following chapters are hereby repealed effective December 31, 1982:
  - (1) Chapter 436D (Board of Acupuncture)
  - (2) Chapter 437B (Motor Vehicle Repair Industry Board)
  - (3) Chapter 442 (Board of Chiropractic Examiners)
  - (4) Chapter 448E (Board of Electricians and Plumbers)

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

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- (5) Chapter 464 (Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects)
- (6) Chapter 466 (Board of Public Accountancy)
- (7) Chapter 467 (Real Estate Commission)
- (8) Chapter 448H (Elevator Mechanics Licensing Board)
- (e) The following chapters are hereby repealed effective December 31, 1983:
  - (1) Chapter 444 (Contractors License Board)
  - (2) Chapter 448 (Board of Dental Examiners)
  - (3) Chapter 453 (Board of Medical Examiners)
  - (4) Chapter 457 (Board of Nursing)
  - (5) Chapter 460 (Board of Osteopathic Examiners)
  - (6) Chapter 460J (Pest Control Board)
  - (7) Chapter 461 (Board of Pharmacy)
- (f) The following chapters are hereby repealed effective December 31, 1984:
  - (1) Chapter 455 (Board of Examiners in Naturopathy)
  - (2) Chapter 463E (Podiatry).
- (g) The following chapters are hereby repealed effective December 31, 1985:
  - (1) Chapter 437 (Motor Vehicle Industry Licensing Board).
- [[](2)[[]] Chapter 440 (Boxing Commission).
  - (h) The following chapter is hereby repealed effective December 31, 1986:
    - (1) Chapter 463 (Board of Private Detectives and Guards)."

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

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

(Approved May 28, 1980.)

**ACT 159**

H.B. NO. 2540-80

A Bill for an Act Relating to Taxation.

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

SECTION 1. **Purpose.** The State, in its efforts to conform the State Income Tax Law with the Internal Revenue Code, adopted Public Law 94-455, section 2005(a), with respect to carryover basis of inherited property for taxable years beginning after December 31, 1976. The provisions of Public Law 95-600 suspending the carryover provisions to December 31, 1979, were also made operative for State purposes. Due to taxpayer protest on these changes, H.R. 3919, "An Act to Impose a Windfall Profit Tax on Domestic Crude Oil" concerning repeal of the carryover basis of inherited property, may be enacted in 1980.

The purpose of this Act is to adopt the provisions of H.R. 3919 or such similar law concerning the carryover basis of inherited property for income tax purposes.

SECTION 2. **Adoption.** (a) If the provisions of H.R. 3919, "An Act to Impose a Windfall Profit Tax on Domestic Crude Oil", concerning the carryover basis of inherited property for income tax purposes, or similar law concerning such carryover basis, are enacted by Congress during the calendar year 1980, then the provisions of

H.R. 3919 or such similar law concerning the carryover basis of inherited property for income tax purposes and, in particular, provisions:

- (1) Repealing Public Law 94-455, section 2005(a) (with respect to carryover basis of inherited property for taxable years beginning after December 31, 1976) adopted in section 235-2.2, Hawaii Revised Statutes, and repealing Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) made operative by section 235-2.3, Hawaii Revised Statutes;
- (2) Reviving prior law;
- (3) Making conforming changes to:
  - (A) Section 1016(c) (with respect to increase in basis in the case of certain involuntary conversions) of the Internal Revenue Code of 1954, as amended; and
  - (B) Section 1040 (with respect to use of farm, etc., real property to satisfy pecuniary bequest) of the Internal Revenue Code of 1954, as amended;
- (4) Election of carryover basis rules by certain estates; and
- (5) Effective date;

are adopted and made operative for the State of Hawaii on the date of such enactment by Congress.

Any law enacted by Congress substituting a carryover basis substantially different from that in existence prior to January 1, 1977 shall not be adopted or made operative by this section.

(b) If H.R. 3919 or similar law referred to in subsection (a) of this section is enacted by Congress during the calendar year 1980, the department of taxation shall submit appropriate amendments to chapter 235, Hawaii Revised Statutes, as part of the bill required to be submitted to the 1981 regular session of the legislature by section 235-2.3(o), Hawaii Revised Statutes.

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

(Approved May 28, 1980.)

ACT 160

H.B. NO. 2733-80

A Bill for an Act Relating to County Licenses.

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

**SECTION 1.** Section 445-9, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 445-9 Canceled on transferring, etc., business; penalty.** If any licensee closes out, transfers, or assigns the business for which a license is held, during the term for which the same was issued, he shall within thirty days from the date of such closing out, transfer, or assignment, notify the treasurer of such fact in writing and return the license to the treasurer for cancellation, under a penalty not to exceed \$100 for failure to do so.”

## ACT 161

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

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

(Approved May 28, 1980.)

## ACT 161

H.B. NO. 2853-80

A Bill for an Act Relating to Harbors.

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

SECTION 1. The purpose of this Act is to amend Section 266-2, Hawaii Revised Statutes, to clarify the law relating to the authority of the State to plan, construct, operate, and maintain harbors throughout the State without the approval of county agencies.

SECTION 2. Section 266-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 266-2 Powers and duties of department.** The department of transportation shall have and exercise all the powers and shall perform all the duties which may lawfully be exercised by or under the State relative to the control and management of the shores, shore waters, navigable streams, harbors, harbor and waterfront improvements, ports, docks, wharves, quays, bulkheads, and landings belonging to or controlled by the State, and the shipping using the same, and shall have the authority to use and permit and regulate the use of the wharves, piers, bulkheads, quays, and landings belonging to or controlled by the State for receiving or discharging passengers and for loading and landing merchandise, with a right to collect wharfage and demurrage thereon or therefor, and, subject to all applicable provisions of law, to fix and regulate from time to time rates for services rendered in mooring vessels, charges for the use of moorings belonging to or controlled by the State, rates or charges for wharfage or demurrage, rents or charges for warehouses or warehouse space, for offices or office space, for storage of freight, goods, wares and merchandise, for storage space, for the use of donkey engines, derricks, or other equipment belonging to the State, under the control of the department, and to make other charges including toll or tonnage charges on freight passing over or across wharves, docks, quays, bulkheads, or landings. The department shall likewise have power to appoint and remove clerks, wharfingers, and their assistants, pilot boat crews, and all such other employees as may be necessary, and to fix their compensation; to make rules pursuant to chapter 91 and not inconsistent with law; and generally shall have all powers necessary fully to carry out this chapter.

Notwithstanding any law or provision to the contrary, the department of transportation is authorized to plan, construct, operate, and maintain any harbor facility in the State, including the acquisition and use of lands necessary to stockpile dredged spoils, without the approval of county agencies.

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

All moneys appropriated for harbor improvements, including new construction, reconstruction, repairs, salaries, and operating expenses, shall be expended under the supervision and control of the department, subject to this chapter and chapter 103.

All contracts and agreements authorized by law to be entered into by the department shall be executed on its behalf by the director of transportation.

The department shall prepare and submit annually to the governor a report of its official acts during the preceding fiscal year, together with its recommendations as to harbor improvements throughout the State."

**SECTION 3.** New statutory material is underscored.\*

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

(Approved May 28, 1980.)

**ACT 162**

H.B. NO. 3045-80

A Bill for an Act Relating to Procedure When Title of Vehicle Transferred; Delivery of Certificate Mandatory.

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

**SECTION 1.** Section 286-52, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 286-52 Procedure when title of vehicle transferred; delivery of certificate mandatory.** (a) Upon a transfer of the title or interest of a legal owner in or to a vehicle registered under this part, the person whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of ownership issued for the vehicle, together with the address of the transferee in the appropriate space provided upon the certificate.

(b) Within twenty calendar days thereafter, the transferee shall forward both the certificate of ownership so indorsed and the certificate of registration to the director of finance who shall file the same. Whenever a transferee fails to comply with these provisions, the director of finance shall charge a fee of \$2, in addition to the fee provided in section 286-51, for a new certificate of ownership.

(c) Subsection (b) of this section, requiring a transferee to forward the certificate of ownership after indorsement and the certificate of registration to the director of finance, shall not apply to the transferee of a vehicle who was not intending to and does not drive the vehicle or permit the vehicle to be driven upon the public highways, but every such transferee shall, upon transferring the transferee's interest or title to another, give notice of the transfer to the director of finance and indorse the certificate of ownership to the new legal owner and the certificate of registration to the new owner; provided that if the director of finance has ascertained as of the date of the application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to the registered owner for stopping, standing, or parking

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

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in violation of traffic ordinances within the county, the director may require, as a condition precedent to the transfer, that the registered owner deposit or pay bail with respect to all such summons or citations.

(d) The director of finance, upon receipt of the certificate of ownership properly indorsed and the certificate of registration of the vehicle, shall register the vehicle, and shall issue to the owner and legal owner entitled thereto by reason of the transfer a new certificate of registration and the certificate of ownership, respectively, in the manner and form hereinabove provided for original registration.

(e) Until the director of finance has issued the new certificate of registration and certificate of ownership as in subsection (d) provided, delivery of such vehicle shall be deemed not to have been made and title thereto shall be deemed not to have passed, and the intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose, notwithstanding any provision of the Uniform Commercial Code; provided that a security interest in a motor vehicle shall be perfected as provided in the Uniform Commercial Code, sections 490:9-302(3)(b) and 490:9-302(4), and that the validity, attachment, priority, and enforcement of such security interest shall be governed by Article 9 of the Code.

(f) In the event of the transfer by operation of law of the title or interest of a legal owner in and to a vehicle registered under this part, as upon inheritance, devise, or bequest, order in bankruptcy, or insolvency, execution sale, repossession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the person whose title or interest is so transferred, the certificate of ownership shall be signed upon the spaces provided by the personal representative, receiver, trustee, sheriff, or other representative, or successor in interest of the person whose title or interest is so transferred in lieu of such person. Every personal representative, receiver, trustee, sheriff, or other representative hereinabove referred to shall file with the director of finance a notice of any transfer by sale, lease, or otherwise by such person, of any such vehicle, together with evidence satisfactory to the director of finance of all facts entitling such representative to make the transfer. Upon notice given to the director of finance that transfer by operation of law of the title or interest of a legal owner or a registered owner has been effected pursuant to any provision of law, the director of finance shall send to the legal owner or the registered owner or both a notice by registered mail of such action and requesting the delivery to the director of finance of the certificate of ownership or the certificate of registration, as the case may be, within ten days after date of mailing of the notice, and any person who refuses or neglects to deliver the same to the director of finance pursuant to the notice shall be guilty of a misdemeanor and shall be punished as provided in section 286-61.

(g) Nothing in the foregoing subsections shall prevent a legal owner from assigning the title or interest in or to a vehicle registered under this part to another legal owner at any time without the consent of and without affecting the interest of the holder of the certificate of registration thereof. Upon filing with the director of finance of a certificate of ownership endorsed by the legal owner and a transferee of legal ownership, the director of finance shall, whether the certificate of registration has expired or not, enter the name of the new legal owner upon the records of the director's office and shall forthwith issue a new certificate of ownership to the new

legal owner in the form for original registration. Upon so doing, the director of finance shall send to the registered owner a notice by mail of the action.

(h) Any person who refuses or neglects to deliver a certificate of ownership to a transferee entitled thereto under this part, shall be punished as provided in section 286-61.

(i) Every dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, shall immediately give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every such notice shall contain the date of the transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in the official form.

(j) Every person, other than a dealer, upon transferring a motor vehicle, whether by sale, lease, or otherwise, shall within ten days give notice of the transfer to the director of finance upon the official form provided by the director of finance. Every notice shall contain the date of transfer, the names and addresses of the transferor and transferee, and such description of the vehicle as may be called for in the official form. Any person who violates this subsection shall be fined not more than \$100.

(k) Whenever the registered owner of any motor vehicle or any licensed dealer has given notice to the director of finance of a transfer of the title or interest in the motor vehicle, as provided in subsection (i) or (j) of this section, and has delivered the certificate of ownership bearing the transferor's signature to the transferee as required by subsection (a) of this section, the transferor shall be relieved from any liability, civil or criminal, which the transferor might subsequently incur by reason only of being the registered owner of the vehicle.

(l) A licensed dealer who has forwarded a properly indorsed certificate of ownership and certificate of registration to the director of finance shall be relieved of any civil liability, provided a specific written authorization to forward the certificates has been obtained from the transferee.

(m) Any person who falsely or fraudulently gives notice to the director of finance of a transfer of title or interest in a motor vehicle shall be subject to the penalty provided in section 286-61."

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

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

(Approved May 28, 1980.)

ACT 163

S.B. NO. 43

A Bill for an Act Relating to State Boundaries (Constitutional Amendments of Article XV, Section 1).

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

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

## ACT 164

SECTION 1. **Purpose.** The purpose of this bill is to implement Article XV of the Constitution of the State of Hawaii as amended by the Hawaii Constitutional Convention of 1978 and pertaining to state boundaries.

SECTION 2. Section 4-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 4-3 Districts include archipelagic waters, etc.** Each of the districts includes archipelagic waters and smaller islands adjacent thereto."

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

(Approved May 29, 1980.)

ACT 164

S.B. NO. 1827-80

A Bill for an Act Relating to the Hawaii Rules of Evidence.

*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 RULES OF EVIDENCE**

Sec. -1 **Enactment.** The Hawaii Rules of Evidence as set forth in this section is enacted:

### **HAWAII RULES OF EVIDENCE**

#### **ARTICLE I. GENERAL PROVISIONS**

**Rule 100 Title and citation.** These rules shall be known and cited as the Hawaii Rules of Evidence. Each rule shall be cited by its number. A complete citation to a rule may read as follows: Rule   , Hawaii Rules of Evidence, Chapter   , Hawaii Revised Statutes.

**Rule 101 Scope.** These rules govern proceedings in the courts of the State of Hawaii, to the extent and with the exceptions stated in rule 1101.

**Rule 102 Purpose and construction.** These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

**Rule 102.1 Effect of commentary.** The commentary to these rules when published may be used as an aid in understanding the rules, but not as evidence of legislative intent.

**Rule 103 Rulings on evidence.** (a) Effect of erroneous ruling. Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and:

(1) Objection. In case the ruling is one admitting evidence, a timely objection

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

or motion to strike appears of record, stating the specific ground of objection, if the specific ground was not apparent from the context; or

(2) Offer of proof. In case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked.

(b) Record of offer and ruling. The court may add any other or further statement which shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. It may direct the making of an offer in question and answer form.

(c) Hearing of jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to prevent inadmissible evidence from being suggested to the jury by any means, such as making statements or offers of proof or asking questions in the hearing of the jury.

(d) Plain error. Nothing in this rule precludes taking notice of plain errors affecting substantial rights although they were not brought to the attention of the court.

**Rule 104 Preliminary questions.** (a) Questions of admissibility generally. Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court, subject to the provisions of subsection (b). In making its determination the court is not bound by the rules of evidence except those with respect to privileges.

(b) Relevancy conditioned on fact. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition.

(c) Hearing of jury. Hearings on the admissibility of confessions shall in all cases be conducted out of the hearing of the jury. Hearings on other preliminary matters shall be so conducted when the interests of justice require or, when an accused is a witness, if he so requests.

(d) Testimony by accused. The accused does not, by testifying upon a preliminary matter, subject himself to cross-examination as to other issues in the case.

(e) Weight and credibility. This rule does not limit the right of a party to introduce before the jury evidence relevant to weight or credibility.

**Rule 105 Limited admissibility.** When evidence which is admissible as to one party or for one purpose but not admissible as to another party or for another purpose is admitted, the court, upon request, shall restrict the evidence to its proper scope and instruct the jury accordingly.

**Rule 106 Remainder of or related writings or recorded statements.** When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require him at that time to introduce any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

## ARTICLE II. JUDICIAL NOTICE

**Rule 201 Judicial notice of adjudicative facts.** (a) Scope of rule. This rule governs only judicial notice of adjudicative facts.

(b) Kinds of facts. A judicially noticed fact must be one not subject to reason-

able dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court, or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) When discretionary. A court may take judicial notice, whether requested or not.

(d) When mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) Opportunity to be heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) Time of taking notice. Judicial notice may be taken at any stage of the proceeding.

(g) Instructing jury. In a civil proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

**Rule 202 Judicial notice of law.** (a) Scope of rule. This rule governs only judicial notice of law.

(b) Mandatory judicial notice of law. The court shall take judicial notice of (1) the common law, (2) the constitutions and statutes of the United States and of every state, territory, and other jurisdiction of the United States, (3) all rules adopted by the U.S. Supreme Court or by the Hawaii Supreme Court, and (4) all duly enacted ordinances of cities or counties of this State.

(c) Optional judicial notice of law. Upon reasonable notice to adverse parties, a party may request that the court take, and the court may take, judicial notice of (1) all duly adopted federal and state rules of court, (2) all duly published regulations of federal and state agencies, (3) all duly enacted ordinances of municipalities or other governmental subdivisions of other states, (4) any matter of law which would fall within the scope of this subsection or subsection (b) of this rule but for the fact that it has been replaced, superseded, or otherwise rendered no longer in force, and (5) the laws of foreign countries, international law, and maritime law.

(d) Determination by court. All determinations of law made pursuant to this rule shall be made by the court and not by the jury, and the court may consider any relevant material or source, including testimony, whether or not submitted by a party or admissible under these rules.

### **ARTICLE III. PRESUMPTIONS**

**Rule 301 Definitions.** The following definitions apply under this article:

(1) "Presumption" is (A) a rebuttable assumption of fact, (B) that the law requires to be made, (C) from another fact or group of facts found or otherwise established in the action.

(2) The following are not presumptions under this article:

(A) Conclusive presumption. The trier of fact is compelled by law to accept an assumption of fact as conclusive, regardless of the strength of the opposing evidence; or

(B) Inference. The trier of fact may logically and reasonably make an

assumption from another fact or group of facts found or otherwise established in the action, but is not required to do so; or

- (C) Pre-evidentiary assumption. The trier of fact is compelled by law to accept the assumption as either rebuttable or conclusive without regard to any other fact determination.
- (3) "Burden of producing evidence" means the obligation of a party to introduce evidence of the existence or nonexistence of a relevant fact sufficient to avoid an adverse peremptory finding on that fact.
- (4) "Burden of proof" means the obligation of a party to establish by evidence a requisite degree of belief concerning a relevant fact in the mind of the trier of fact. The burden of proof may require a party to establish the existence or nonexistence of a fact by a preponderance of the evidence or by clear and convincing proof.

**Rule 302 Presumptions in civil proceedings.** (a) General rule. In all civil proceedings not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed either (1) the burden of producing evidence, or (2) the burden of proof.

(b) Inconsistent presumptions. If two presumptions are mutually inconsistent, the presumption applies that is founded upon weightier considerations of policy and logic. If considerations of policy and logic are of equal weight neither presumption applies.

(c) Applicability of federal law. In all civil proceedings, the effect of a presumption respecting a fact which is an element of a claim or defense as to which federal law supplies the rule of decision is determined in accordance with federal law.

**Rule 303 Presumptions imposing burden of producing evidence.** (a) General rule. A presumption established to implement no public policy other than to facilitate the determination of the particular action in which the presumption is applied imposes on the party against whom it is directed the burden of producing evidence.

(b) Effect. The effect of a presumption imposing the burden of producing evidence is to require the trier of fact to assume the existence of the presumed fact unless and until evidence is introduced which would support a finding of its nonexistence, in which case no instruction on presumption shall be given and the trier of fact shall determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption. Nothing in this rule shall be construed to prevent the drawing of any inferences.

(c) Presumptions. The following presumptions, and all other presumptions established by law that fall within the criteria of subsection (a) of this rule, are presumptions imposing the burden of producing evidence:

- (1) Money delivered by one to another. Money delivered by one to another is presumed to have been due to the latter.
- (2) Thing delivered by one to another. A thing delivered by one to another is presumed to have belonged to the latter.
- (3) Obligation delivered up to the debtor. An obligation delivered up to the debtor is presumed to have been paid.

- (4) Obligation possessed by creditor. An obligation possessed by a creditor is presumed not to have been paid.
- (5) Payment of earlier rent or installments. The payment of earlier rent or installments is presumed from a receipt for later rent or installments.
- (6) Things possessed. The things which a person possesses are presumed to be owned by him.
- (7) Exercise of act of ownership. A person who exercises acts of ownership over property is presumed to be the owner of it.
- (8) Judgment determines, sets forth rights of parties. A judgment, when not conclusive, is presumed to correctly determine or set forth the rights of the parties, but there is no presumption that the facts essential to the judgment have been correctly determined.
- (9) Writing. A writing is presumed to have been truly dated.
- (10) Letter properly addressed and mailed. A letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail.
- (11) Trustee's conveyance to a particular person. A trustee or other person, whose duty it was to convey real property to a particular person, is presumed to have actually conveyed to him when such presumption is necessary to perfect title of such person or his successor in interest.
- (12) Ancient document affecting real or personal property interest. A deed or will or other writing purporting to create, terminate, or affect an interest in real or personal property is presumed authentic if:
  - (A) It is at least twenty years old;
  - (B) It is in such condition as to create no reasonable suspicion concerning its authenticity;
  - (C) It was kept, or if found was found, in a place where such writing, if authentic, would be likely to be kept or found; and
  - (D) Persons having an interest in the matter have been generally acting as if it were authentic.
- (13) Book purporting to be published by public authority. A book purporting to be printed or published by public authority is presumed to have been so printed or published.
- (14) Book purporting to contain reports of adjudged cases. A book purporting to contain reports of cases adjudged in the tribunals of the state or nation where the book is published is presumed to contain correct reports of such cases.
- (15) Continuation of a fact, condition, or state. A fact, condition, or state of things is presumed to continue.

**Rule 304 Presumptions imposing burden of proof.** (a) General rule. A presumption established to implement a public policy other than, or in addition to, facilitating the determination of the particular action in which the presumption is applied imposes on the party against whom it is directed the burden of proof.

(b) Effect. The effect of a presumption imposing the burden of proof is to require the trier of fact to assume the existence of the presumed fact unless and until evidence is introduced sufficient to convince the trier of fact of the nonexistence of the presumed fact. Except as otherwise provided by law or by these rules, proof by a

preponderance of the evidence is necessary and sufficient to rebut a presumption established under this rule.

(c) Presumptions. The following presumptions, and all other presumptions established by law that fall within the criteria of subsection (a) of this rule, are presumptions imposing the burden of proof.

- (1) Owner of legal title is owner of beneficial title. The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof.
- (2) Official duty regularly performed; lawful arrest. It is presumed that official duty has been regularly performed. This presumption does not apply on an issue as to the lawfulness of an arrest if it is found or otherwise established that the arrest was made without a warrant.
- (3) Intention of ordinary consequences of voluntary act. A person is presumed to intend the ordinary consequences of his voluntary act.
- (4) Doing of an unlawful act. An unlawful intent is presumed from the doing of an unlawful act.
- (5) Any court, any judge acting as such. Any court of this State or the United States, or any court of general jurisdiction in any other state or nation, or any judge of such a court, acting as such, is presumed to have acted in the lawful exercise of its jurisdiction. This presumption applies only when the act of the court or judge is under collateral attack.
- (6) Ceremonial marriage. A ceremonial marriage is presumed to be valid.
- (7) Death. A person who is absent for a continuous period of five years, during which he has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, is presumed to be dead.

**Rule 305 Prima facie evidence.** A statute providing that a fact or a group of facts is prima facie evidence of another fact establishes a presumption within the meaning of this article unless the statute expressly provides that such prima facie evidence is conclusive.

**Rule 306 Presumptions in criminal proceedings.** (a) Presumptions against the accused.

- (1) Scope. Except as otherwise provided by statute, in criminal proceedings, presumptions against an accused, recognized at common law or created by statute, including statutory provisions that certain facts are prima facie evidence of other facts or of guilt, are governed by this subsection.
- (2) Submission to jury. When a presumed fact establishes an element of the offense or negatives a defense, the court may submit the presumption to the jury only if a reasonable juror on the evidence as a whole, including the evidence of the basic facts, could find the presumed fact beyond a reasonable doubt.
- (3) Instructing the jury. The court may not direct the jury to find a presumed fact against the accused. Whenever a presumption against the accused is submitted to the jury, the court shall instruct the jury that, if it finds the basic facts beyond a reasonable doubt, it may infer the presumed fact but is not required to do so. In addition, if the presumed fact establishes an element of the offense or negatives a defense, the court shall instruct the

jury that its existence, on all the evidence, must be proved beyond a reasonable doubt.

(b) Presumptions against the State. Except as otherwise provided by statute, in criminal proceedings, presumptions against the State, recognized at common law or created by statute, impose on the State either (1) the burden of producing evidence, or (2) the burden of proof.

(c) Inconsistent presumptions. If two presumptions are mutually inconsistent, the presumption applies that is founded upon weightier considerations of policy and logic. If considerations of policy and logic are of equal weight, neither presumption applies.

#### **ARTICLE IV. RELEVANCY AND ITS LIMITS**

**Rule 401 Definition of "relevant evidence".** "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

**Rule 402 Relevant evidence generally admissible; irrelevant evidence inadmissible.** All relevant evidence is admissible, except as otherwise provided by the Constitutions of the United States and the State of Hawaii, by statute, by these rules, or by other rules adopted by the supreme court. Evidence which is not relevant is not admissible.

**Rule 403 Exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time.** Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

**Rule 404 Character evidence not admissible to prove conduct; exceptions; other crimes.** (a) Character evidence generally. Evidence of a person's character or a trait of his character is not admissible for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

- (1) Character of accused. Evidence of a pertinent trait of his character offered by an accused, or by the prosecution to rebut the same;
- (2) Character of victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;
- (3) Character of witness. Evidence of the character of a witness, as provided in rules 607, 608, 609, and 609.1.

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible where such evidence is probative of any other fact that is of consequence to the determination of the action, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, modus operandi, or absence of mistake or accident.

**Rule 405 Methods of proving character.** (a) Reputation or opinion. In all cases in which evidence of character or a trait of character of a person is admissible,

proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

(b) Specific instances of conduct. In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of his conduct.

**Rule 406 Habit; routine practice.** Evidence of the habit of a person or of the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice.

**Rule 407 Subsequent remedial measures.** When, after an event, measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This rule does not require the exclusion of evidence of subsequent measures when offered for another purpose, such as proving dangerous defect in products liability cases, ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.

**Rule 408 Compromise and offers to compromise.** Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

**Rule 409 Payment of medical and similar expenses.** Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury.

**Rule 410 Inadmissibility of pleas, plea discussions, and related statements.** Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

- (1) A plea of guilty which was later withdrawn;
- (2) A plea of nolo contendere;
- (3) Any statement made in the course of any proceedings under Rule 11 of the Hawaii Rules of Penal Procedure or comparable federal or state procedure regarding either of the foregoing pleas; or
- (4) Any statements made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

However, such a statement is admissible (i) in any proceeding wherein another statement made in the course of the same plea or plea discussions has been introduced

and the statement ought in fairness be considered contemporaneously with it, or (ii) in a criminal proceeding for perjury or false statement if the statement was made by the defendant under oath, on the record and in the presence of counsel.

**Rule 411 Liability insurance.** Evidence that a person was or was not insured against liability is not admissible upon the issue whether he acted negligently or otherwise wrongfully. This rule does not require the exclusion of evidence of insurance against liability when offered for another purpose, such as proof of agency, ownership, or control, or bias or prejudice of a witness.

**Rule 412 Rape cases; relevance of victim's past behavior.** (a) Notwithstanding any other provision of law, in a criminal case in which a person is accused of rape or sexual assault under any of the provisions of chapter 707, part V of the Hawaii Penal Code, reputation or opinion evidence of the past sexual behavior of an alleged victim of such rape or sexual assault is not admissible.

(b) Notwithstanding any other provision of law, in a criminal case in which a person is accused of rape or sexual assault under any of the provisions of chapter 707, part V of the Hawaii Penal Code, evidence of a victim's past sexual behavior other than reputation or opinion evidence is also not admissible, unless such evidence other than reputation or opinion evidence is:

- (1) Admitted in accordance with subsection (c)(1) and (2) and is constitutionally required to be admitted; or
  - (2) Admitted in accordance with subsection (c) and is evidence of:
    - (A) Past sexual behavior with persons other than the accused, offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen or injury; or
    - (B) Past sexual behavior with the accused and is offered by the accused upon the issue of whether the alleged victim consented to the sexual behavior with respect to which rape or sexual assault is alleged.
- (c) (1) If the person accused of committing rape or sexual assault intends to offer under subsection (b) evidence of specific instances of the alleged victim's past sexual behavior, the accused shall make a written motion to offer such evidence not later than fifteen days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.
- (2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If the court determines that the offer of proof contains evidence described in subsection (b), the court shall order a hearing in chambers to determine if such evidence is admissible. At such hearing the parties may call witnesses, including the alleged victim, and offer relevant evidence. Notwithstanding subsection (b) of rule 104, if the relevancy of the evidence which the accused seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept

evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

(3) If the court determines on the basis of the hearing described in paragraph (2) that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined.

(d) For purposes of this rule, the term "past sexual behavior" means sexual behavior other than the sexual behavior with respect to which rape or sexual assault is alleged.

## ARTICLE V. PRIVILEGES

**Rule 501 Privileges recognized only as provided.** Except as otherwise required by the Constitution of the United States, the Constitution of the State of Hawaii, or provided by Act of Congress or Hawaii statute, and except as provided in these rules or in other rules adopted by the Supreme Court of the State of Hawaii, no person has a privilege to:

- (1) Refuse to be a witness; or
- (2) Refuse to disclose any matter; or
- (3) Refuse to produce any object or writing; or
- (4) Prevent another from being a witness or disclosing any matter or producing any object or writing.

**Rule 502 Required reports privileged by statute.** A person, corporation, association, or other organization or entity, either public or private, making a return or report required by law to be made has a privilege to refuse to disclose and to prevent any other person from disclosing the return or report, if the law requiring it to be made so provides. A public officer or agency to whom a return or report is required by law to be made has a privilege to refuse to disclose the return or report if the law requiring it to be made so provides. No privilege exists under this rule in actions involving perjury, false statements, fraud in the return or report, or other failure to comply with the law in question.

**Rule 503 Lawyer-client privilege.** (a) Definitions. As used in this rule:

- (1) A "client" is a person, public officer, or corporation, association, or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services from him.
- (2) A "representative of the client" is one having authority to obtain professional legal services, or to act on advice rendered pursuant thereto, on behalf of the client.
- (3) A "lawyer" is a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.
- (4) A "representative of the lawyer" is one directed by the lawyer to assist in the rendition of professional legal services.
- (5) A communication is "confidential" if not intended to be disclosed to third persons other than those to whom disclosure would be in furtherance of the

rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client (1) between himself or his representative and his lawyer or his lawyer's representative, or (2) between his lawyer and the lawyer's representative, or (3) by him or his representative or his lawyer or a representative of his lawyer to a lawyer or a representative of a lawyer representing another party in a pending action and concerning a matter of common interest, or (4) between representatives of the client or between the client and a representative of the client, or (5) among lawyers and their representatives representing the same client.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, the personal representative of a deceased client, or the successor, trustee, or similar representative of a corporation, association, or other organization, whether or not in existence. The person who was the lawyer or the lawyer's representative at the time of the communication shall claim the privilege on behalf of the client unless expressly released by the client.

(d) Exceptions. There is no privilege under this rule:

- (1) Furtherance of crime or fraud. If the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud; or
- (2) Claimants through same deceased client. As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction; or
- (3) Breach of duty by lawyer or client. As to a communication relevant to an issue of breach of duty by the lawyer to his client or by the client to his lawyer; or
- (4) Document attested by lawyer. As to a communication relevant to an issue concerning an attested document to which the lawyer is an attesting witness; or
- (5) Joint clients. As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to a lawyer retained or consulted in common, when offered in an action between any of the clients.

**Rule 504 Physician-patient privilege.** (a) Definitions. As used in this rule:

- (1) A "patient" is a person who consults or is examined or interviewed by a physician.
- (2) A "physician" is a person authorized, or reasonably believed by the patient to be authorized, to practice medicine in any state or nation.
- (3) A communication is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician, including members of the patient's family.

(b) General rule of privilege. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of his physical, mental, or emotional condition, including alcohol or drug addiction, among himself, his physician, and persons who are participating in the diagnosis or treatment under the direction of the physician, including members of the patient's family.

(c) Who may claim the privilege. The privilege may be claimed by the patient, his guardian or conservator, or the personal representative of a deceased patient. The person who was the physician at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient.

(d) Exceptions.

- (1) Proceedings for hospitalization. There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the patient for mental illness or substance abuse, or in proceedings for the discharge or release of a patient previously hospitalized for mental illness or substance abuse.
- (2) Examination by order of court. If the court orders an examination of the physical, mental, or emotional condition of a patient, whether a party or a witness, communications made in the course thereof are not privileged under this rule with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.
- (3) Condition an element of claim or defense. There is no privilege under this rule as to a communication relevant to the physical, mental, or emotional condition of the patient in any proceeding in which he relies upon the condition as an element of his claim or defense or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of his claim or defense.
- (4) Proceedings against physician. There is no privilege under this rule in any administrative or judicial proceeding in which the competency, practitioner's license, or practice of the physician is at issue, provided that the identifying data of the patients whose records are admitted into evidence shall be kept confidential unless waived by the patient. The administrative agency, board, or commission may close the proceeding to the public to protect the confidentiality of the patient.

**Rule 504.1 Psychologist-client privilege.** (a) Definitions. As used in this rule:

- (1) A "client" is a person who consults or is examined or interviewed by a psychologist.
- (2) A "psychologist" is a person certified, or reasonably believed by the client to be certified, to practice psychology under chapter 465, while engaged in interviewing, counseling, or psychotherapy with respect to behavioral problems, including substance addiction or abuse.
- (3) A communication is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the client in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the counseling or psychotherapy under the direction of the psychologist, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling or psychotherapy with respect to behavioral problems, including substance addiction or abuse, among himself, his psychologist, and persons who are participating in the counseling or psychotherapy under the direction of the psychologist, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the psychologist at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the client.

(d) Exceptions.

(1) Proceedings for hospitalization. There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the client for mental illness or substance abuse, or in proceedings for the discharge or release of a client previously hospitalized for mental illness or substance abuse.

(2) Examination by order of court. If the court orders an examination of the physical, mental, or emotional condition of a client, whether a party or a witness, communications made in the course thereof are not privileged under this rule with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.

(3) Condition an element of claim or defense. There is no privilege under this rule as to a communication relevant to the physical, mental, or emotional condition of the client in any proceeding in which he relies upon the condition as an element of his claim or defense or, after the client's death, in any proceeding in which any party relies upon the condition as an element of his claim or defense.

(4) Proceedings against psychologist. There is no privilege under this rule in any administrative or judicial proceeding in which the competency, practitioner's license, or practice of the psychologist is at issue, provided that the identifying data of the clients whose records are admitted into evidence shall be kept confidential unless waived by the client. The administrative agency, board, or commission may close the proceeding to the public to protect the confidentiality of the client.

**Rule 505 Spousal privilege.** (a) Criminal proceedings. In a criminal proceeding, the spouse of the accused has a privilege not to testify against the accused. This privilege may be claimed only by the spouse who is called to testify.

(b) Confidential marital communications; all proceedings.

(1) Definition. A "confidential marital communication" is a private communication between spouses that is not intended for disclosure to any other person.

(2) Either party to a confidential marital communication has a privilege to refuse to disclose and to prevent any other person from disclosing that communication.

(c) Exceptions. There is no privilege under this rule (1) in proceedings in which one spouse is charged with a crime against the person or property of (A) the other, (B) a child of either, (C) a third person residing in the household of either, or

(D) a third person committed in the course of committing a crime against any of these, or (2) as to matters occurring prior to the marriage.

**Rule 506 Communications to clergymen.** (a) Definitions. As used in this rule:

- (1) A "clergyman" is a minister, priest, rabbi, Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the person consulting him.
- (2) A communication is "confidential" if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

(b) General rule of privilege. A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a clergyman in his professional character as spiritual advisor.

(c) Who may claim the privilege. The privilege may be claimed by the person, by his guardian or conservator, or by his personal representative if he is deceased. The clergyman may claim the privilege on behalf of the person. His authority so to do is presumed in the absence of evidence to the contrary.

**Rule 507 Political vote.** Every person has a privilege to refuse to disclose the tenor of his vote at a political election conducted pursuant to chapter 11, by secret ballot unless the vote was cast illegally.

**Rule 508 Trade secrets.** A person has a privilege, which may be claimed by him or his agent or employee, to refuse to disclose and to prevent other persons from disclosing a trade secret owned by him, if allowance of the privilege will not tend to conceal fraud or otherwise work injustice. When disclosure is directed, the judge shall take such protective measure as the interests of the holder of the privilege and of the parties and the furtherance of justice may require.

**Rule 509 Privilege against self-incrimination.** To the extent that such privilege exists under the Constitution of the United States or the State of Hawaii, a person has a privilege to refuse to disclose any matter that may tend to incriminate him.

**Rule 510 Identity of informer.** (a) Rule of privilege. The government or a state or subdivision thereof has a privilege to refuse to disclose the identity of a person who has furnished information relating to or assisting in an investigation of a possible violation of law to a law enforcement officer or member of a legislative committee or its staff conducting an investigation.

(b) Who may claim. The privilege may be claimed by an appropriate representative of the government, regardless of whether the information was furnished to an officer of the government or of a state or subdivision thereof. The privilege may be claimed by an appropriate representative of a state or subdivision if the information was furnished to an officer thereof, except that in criminal cases the privilege shall not be allowed if the government objects.

(c) Exceptions.

- (1) Voluntary disclosure; informer a witness. No privilege exists under this rule if the identity of the informer or his interest in the subject matter of his communication has been disclosed to those who would have cause to resent the communication by a holder of the privilege or by the informer's own action, or if the informer appears as a witness for the government.

- (2) Testimony on merits. If it appears from the evidence in the case or from other showing by a party that an informer may be able to give testimony necessary to a fair determination of the issue of guilt or innocence in a criminal case or of a material issue on the merits in a civil case to which the government is a party, and the government invokes the privilege, the judge shall give the government an opportunity to show in camera facts relevant to determining whether the informer can, in fact, supply that testimony. The showing will ordinarily be in the form of affidavits, but the judge may direct that testimony be taken if he finds that the matter cannot be resolved satisfactorily upon affidavit. If the judge finds that there is a reasonable probability that the informer can give the testimony, and the government elects not to disclose his identity, the judge on motion of the defendant in a criminal case shall dismiss the charges to which the testimony would relate, and the judge may do so on his own motion. In civil cases, he may make any order that justice requires. Evidence submitted to the judge shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed without consent of the government. All counsel and parties shall be permitted to be present at every stage of proceedings under this paragraph except a showing in camera, at which no counsel or party shall be permitted to be present.
- (3) Legality of obtaining evidence. If information from an informer is relied upon to establish the legality of the means by which evidence was obtained and the judge is not satisfied that the information was received from an informer reasonably believed to be reliable or credible, he may require the identity of the informer to be disclosed. The judge shall, on request of the government, direct that the disclosure be made in camera. All counsel and parties concerned with the issue of legality shall be permitted to be present at every stage of proceedings under this paragraph except a disclosure in camera, at which no counsel or party shall be permitted to be present. If disclosure of the identity of the informer is made in camera, the record thereof shall be sealed and preserved to be made available to the appellate court in the event of an appeal, and the contents shall not otherwise be revealed without consent of the government.

**Rule 511 Waiver of privilege by voluntary disclosure.** A person upon whom these rules confer a privilege against disclosure waives the privilege if he or his predecessor while holder of the privilege voluntarily discloses or consents to disclosure of any significant part of the privileged matter. This rule does not apply if the disclosure itself is a privileged communication.

**Rule 512 Privileged matter disclosed under compulsion or without opportunity to claim privilege.** Evidence of a statement or other disclosure of privileged matter is not admissible against the holder of the privilege if the disclosure was (1) compelled erroneously, or (2) made without opportunity to claim the privilege.

**Rule 513 Comment upon or inference from claim of privilege; instructions.** (a) Comment or inference not permitted. The claim of a privilege, whether in the present proceeding or upon a prior occasion, is not a proper subject of comment by judge or counsel. No inference may be drawn therefrom.

(b) Claiming privilege without knowledge of jury. In jury cases, proceedings shall be conducted, to the extent practicable, so as to facilitate the making of claims of privilege without the knowledge of the jury.

(c) Jury instruction. Upon request, any party exercising a privilege (1) is entitled to an instruction that no inference may be drawn therefrom, or (2) is entitled to have no instruction on the matter given to the jury. Conflicting requests among multiple parties shall be resolved by the court as justice may require.

## ARTICLE VI. WITNESSES

**Rule 601 General rule of competency.** Every person is competent to be a witness except as otherwise provided in these rules.

**Rule 602 Lack of personal knowledge.** A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the testimony of the witness himself. This rule is subject to the provisions of rule 703, relating to opinion testimony by expert witnesses.

**Rule 603 Oath or affirmation.** Before testifying, every witness shall be required to declare that he will testify truthfully, by oath or affirmation administered in a form calculated to awaken his conscience and impress his mind with his duty to do so.

**Rule 603.1 Disqualifications.** A person is disqualified to be a witness if he is (1) incapable of expressing himself so as to be understood, either directly or through interpretation by one who can understand him, or (2) incapable of understanding the duty of a witness to tell the truth.

**Rule 604 Interpreters.** An interpreter is subject to the provisions of these rules relating to qualification as an expert and the administration of an oath or affirmation that he will make a true translation.

**Rule 605 Competency of judge as witness.** The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

**Rule 606 Competency of juror as witness.** (a) At the trial. A member of the jury may not testify as a witness before that jury in the trial of the case in which he is sitting as a juror.

(b) Inquiry into validity of verdict or indictment. Upon an inquiry into the validity of a verdict or indictment, a juror may not testify concerning the effect of anything upon his or any other juror's mind or emotions as influencing him to assent to or dissent from the verdict or indictment or concerning his mental processes in connection therewith. Nor may his affidavit or evidence of any statement by him indicating an effect of this kind be received.

**Rule 607 Who may impeach.** The credibility of a witness may be attacked by any party, including the party calling him.

**Rule 608 Evidence of character and conduct of witness.** (a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations:

- (1) The evidence may refer only to character for truthfulness or untruthfulness, and
- (2) Evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.
  - (b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting his credibility, other than conviction of crime as provided in rule 609 and bias, interest, or motive as provided in rule 609.1, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness (1) concerning his character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of his privilege against self-incrimination when examined with respect to matters which relate only to credibility.

**Rule 609 Impeachment by evidence of conviction of crime.** (a) General rule.

For the purpose of attacking the credibility of a witness, evidence that he has been convicted of a crime is inadmissible except when the crime is one involving dishonesty. However, in a criminal case where the defendant takes the stand, the defendant shall not be questioned or evidence introduced as to whether he has been convicted of a crime, for the sole purpose of attacking credibility, unless the defendant has himself introduced testimony for the purpose of establishing his credibility as a witness, in which case he shall be treated as any other witness as provided in this rule.

(b) Effect of pardon. Evidence of a conviction is not admissible under this rule if the conviction has been the subject of a pardon.

(c) Juvenile convictions. Evidence of juvenile convictions is admissible to the same extent as are criminal convictions under subsection (a) of this rule.

(d) Pendency of appeal. The pendency of an appeal therefrom does not render evidence of a conviction inadmissible. Evidence of the pendency of an appeal is admissible.

**Rule 609.1 Evidence of bias, interest, or motive.** (a) General rule. The credibility of a witness may be attacked by evidence of bias, interest, or motive.

(b) Extrinsic evidence of bias, interest, or motive. Extrinsic evidence of a witness' bias, interest, or motive is not admissible unless, on cross-examination, the matter is brought to the attention of the witness and the witness is afforded an opportunity to explain or deny the matter.

**Rule 610 Religious beliefs or opinions.** Evidence of beliefs or opinions of a witness on matters of religion is not admissible for the purpose of showing that by reason of their nature his credibility is impaired or enhanced.

**Rule 611 Mode and order of interrogation and presentation.** (a) Control by court. The court shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.

(b) Scope of cross-examination. Cross-examination should be limited to the subject matter of the direct examination and matters affecting the credibility of the

witness. The court may, in the exercise of discretion, permit inquiry into additional matters as if on direct examination.

(c) Leading questions. Leading questions should not be used on the direct examination of a witness except as may be necessary to develop his testimony. Ordinarily, leading questions should be permitted on cross-examination. When a party calls a hostile witness, an adverse party, or a witness identified with an adverse party, interrogation may be by leading questions.

**Rule 612 Writing used to refresh memory.** If a witness uses a writing to refresh his memory for the purpose of testifying, either:

- (1) While testifying, or
- (2) Before testifying, if the court in its discretion determines it is necessary in the interests of justice,

an adverse party is entitled to have the writing produced at the hearing, to inspect it, to cross-examine the witness thereon, and to introduce in evidence those portions which relate to the testimony of the witness. If it is claimed that the writing contains matters not related to the subject matter of the testimony the court shall examine the writing in camera, excise any portions not so related, and order delivery of the remainder to the party entitled thereto. Any portion withheld over objections shall be preserved and made available to the appellate court in the event of an appeal. If a writing is not produced or delivered pursuant to order under this rule, the court shall make any order justice requires, except that in criminal cases when the prosecution elects not to comply, the order shall be one striking the testimony or, if the court in its discretion determines that the interests of justice so require, declaring a mistrial.

**Rule 613 Prior statements of witnesses.** (a) Examining witness concerning prior statement. In examining a witness concerning a prior statement made by him, whether written or not, the statement need not be shown nor its contents disclosed to him at that time, but on request the same shall be shown or disclosed to opposing counsel.

(b) Extrinsic evidence of prior inconsistent statement of witness. Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless, on direct or cross-examination, (1) the circumstances of the statement have been brought to the attention of the witness, and (2) the witness has been asked whether he made the statement.

(c) Prior consistent statement of witness. Evidence of a statement previously made by a witness that is consistent with his testimony at the trial is admissible to support his credibility only if it is offered after:

- (1) Evidence of his prior inconsistent statement has been admitted for the purpose of attacking his credibility, and the consistent statement was made before the inconsistent statement; or
- (2) An express or implied charge has been made that his testimony at the trial is recently fabricated or is influenced by bias or other improper motive, and the consistent statement was made before the bias, motive for fabrication, or other improper motive is alleged to have arisen; or
- (3) His credibility has been attacked at the trial by imputation of inaccurate memory, and the consistent statement was made when the event was recent and the witness' memory fresh.

**Rule 614 Calling and interrogation of witness by court.** (a) Calling by court.

The court may, on its own motion or at the suggestion of a party, call witnesses, and all parties are entitled to cross-examine witnesses thus called.

(b) Interrogation by court. The court may interrogate witnesses, whether called by itself or by a party.

(c) Objections. Objections to the calling of witnesses by the court or to interrogation by it may be made at the time or at the next available opportunity when the jury is not present.

**Rule 615 Exclusion of witnesses.** At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses, and it may make the order of its own motion. This rule does not authorize exclusion of (1) a party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of his cause.

## ARTICLE VII. OPINIONS AND EXPERT TESTIMONY

**Rule 701 Opinion testimony by lay witnesses.** If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are (1) rationally based on the perception of the witness, and (2) helpful to a clear understanding of his testimony or the determination of a fact in issue.

**Rule 702 Testimony by experts.** If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise.

**Rule 702.1 Cross-examination of experts.** (a) General. A witness testifying as an expert may be cross-examined to the same extent as any other witness and, in addition, may be cross-examined as to (1) his qualifications, (2) the subject to which his expert testimony relates, and (3) the matter upon which his opinion is based and the reasons for his opinion.

(b) Texts and treatises. If a witness testifying as an expert testifies in the form of an opinion, he may be cross-examined in regard to the content or tenor of any scientific, technical, or professional text, treatise, journal, or similar publication only if:

- (1) The witness referred to, considered, or relied upon such publication in arriving at or forming his opinion, or
- (2) Such publication qualifies for admission into evidence under rule 803(b)(18).

**Rule 703 Bases of opinion testimony by experts.** The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to him at or before the hearing. If of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence. The court may, however, disallow testimony in the form of an opinion or inference if the underlying facts or data indicate lack of trustworthiness.

**Rule 704 Opinion on ultimate issue.** Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.

**Rule 705 Disclosure of facts or data underlying expert opinion.** The expert may testify in terms of opinion or inference and give his reasons therefor without disclosing the underlying facts or data if the underlying facts or data have been disclosed in discovery proceedings. The expert may in any event be required to disclose the underlying facts or data on cross-examination.

**Rule 706 Court-appointed experts.** In the exercise of its discretion, the court may authorize disclosure to the jury of the fact that a particular expert witness was appointed by the court.

## ARTICLE VIII. HEARSAY

**Rule 801 Definitions.** The following definitions apply under this article:

- (1) "Statement" is (A) an oral or written assertion, or (B) a nonverbal conduct of a person, if it is intended by him as an assertion.
- (2) "Declarant" is a person who makes a statement.
- (3) "Hearsay" is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

**Rule 802 Hearsay rule.** Hearsay is not admissible except as provided by these rules, or by other rules prescribed by the Hawaii supreme court, or by statute.

**Rule 802.1 Hearsay exception; prior statements by witnesses.** The following statements previously made by witnesses who testify at the trial or hearing are not excluded by the hearsay rule:

- (1) Inconsistent statement. The declarant is subject to cross-examination concerning the subject matter of his statement, the statement is inconsistent with his testimony, the statement is offered in compliance with rule 613(b), and the statement was:
  - (A) Given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition; or
  - (B) Reduced to writing and signed or otherwise adopted or approved by the declarant; or
  - (C) Recorded in substantially verbatim fashion by stenographic, mechanical, electrical, or other means contemporaneously with the making of the statement;
- (2) Consistent statement. The declarant is subject to cross-examination concerning the subject matter of his statement, the statement is consistent with his testimony, and the statement is offered in compliance with rule 613(c);
- (3) Prior identification. The declarant is subject to cross-examination concerning the subject matter of his statement, and the statement is one of identification of a person made after perceiving him; or
- (4) Past recollection recorded. A memorandum or record concerning a matter about which the witness once had knowledge but now has insufficient recollection to enable him to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in his

memory and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

**Rule 803 Hearsay exceptions; availability of declarant immaterial.** The following are not excluded by the hearsay rule, even though the declarant is available as a witness:

(a) Admissions.

- (1) Admission by party-opponent. A statement that is offered against a party and is (A) his own statement, in either his individual or a representative capacity, or (B) a statement of which he has manifested his adoption or belief in its truth;
- (2) Vicarious admissions. A statement that is offered against a party and was uttered by (A) a person authorized by the party to make such a statement, (B) his agent or servant concerning a matter within the scope of his agency or employment, made during the existence of the relationship, or (C) a co-conspirator of the party during the course and in furtherance of the conspiracy;
- (3) Admission by deceased in wrongful death action. A statement by the deceased, offered against the plaintiff in an action for the wrongful death of that deceased;
- (4) Admission by predecessor in interest. When a right, title, or interest in any property or claim asserted by a party to a civil action requires a determination that a right, title, or interest exists or existed in the declarant, evidence of a statement made by the declarant during the time the party now claims the declarant was the holder of the right, title, or interest is as admissible against the party as it would be if offered against the declarant in an action involving that right, title, or interest.
- (5) Admission by predecessor in litigation. When the liability, obligation, or duty of a party to a civil action is based in whole or in part upon the liability, obligation, or duty of the declarant, or when the claim or right asserted by a party to a civil action is barred or diminished by a breach of duty by the declarant, evidence of a statement made by the declarant is as admissible against the party as it would be if offered against the declarant in an action involving that liability, obligation, duty, or breach of duty.

(b) Other exceptions.

- (1) Present sense impression. A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition or immediately thereafter.
- (2) Excited utterance. A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.
- (3) Then existing mental, emotional, or physical condition. A statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revoca-

- tion, identification, or terms of declarant's will.
- (4) Statements for purposes of medical diagnosis or treatment. Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.
- (5) Reserved.
- (6) Records of regularly conducted activity. A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made in the course of a regularly conducted activity, at or near the time of the acts, events, conditions, opinions, or diagnoses, as shown by the testimony of the custodian or other qualified witness, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (7) Absence of entry in records kept in accordance with the provisions of paragraph (6). Evidence that a matter is not included in the memoranda, reports, records, or data compilations, in any form, kept in accordance with the provisions of paragraph (6), to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (8) Public records and reports. Records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, however, in criminal cases matters observed by police officers and other law enforcement personnel, or (C) in civil proceedings and against the government in criminal cases, factual findings resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.
- (9) Records of vital statistics. Records or data compilations, in any form, of births, fetal deaths, deaths, or marriages, if the report thereof was made to a public office pursuant to requirements of law.
- (10) Absence of public record or entry. To prove the absence of a record, report, statement, or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement, or data compilation, in any form, was regularly made and preserved by a public office or agency, evidence in the form of a certification in accordance with rule 902, or testimony, that diligent search failed to disclose the record, report, statement, or data compilation, or entry.
- (11) Records of religious organizations. Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood or marriage, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization.
- (12) Marriage, baptismal, and similar certificates. Statements of fact contained

- in a certificate that the maker performed a marriage or other ceremony or administered a sacrament, made by a clergyman, public official, or other person authorized by the rules or practices of a religious organization or by law to perform the act certified, and purporting to have been issued at the time of the act or within a reasonable time thereafter.
- (13) Family records. Statements of fact concerning personal or family history contained in family Bibles, genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts, or tombstones, or the like.
  - (14) Records of documents affecting an interest in property. The record of a document purporting to establish or affect an interest in property, as proof of the content of the original recorded document and its execution and delivery by each person by whom it purports to have been executed, if the record is a record of a public office and an applicable statute authorizes the recording of documents of that kind in that office.
  - (15) Statements in documents affecting an interest in property. A statement contained in a document purporting to establish or affect an interest in property if the matter stated was relevant to the purpose of the document, unless the circumstances indicate lack of trustworthiness.
  - (16) Statements in ancient documents. Statements in a document in existence twenty years or more the authenticity of which is established.
  - (17) Market reports, commercial publications. Market quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations.
  - (18) Learned treatises. To the extent called to the attention of an expert witness upon cross-examination or relied upon by him in direct examination, statements contained in published treatises, periodicals, or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness or by other expert testimony or by judicial notice. If admitted, the statements may be read into evidence but may not be received as exhibits.
  - (19) Reputation concerning personal or family history. Reputation among members of his family by blood, adoption, or marriage, or among his associates, or in the community, concerning a person's birth, adoption, marriage, divorce, death, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of his personal or family history.
  - (20) Reputation concerning boundaries or general history. Reputation in a community, arising before the controversy, as to boundaries of or customs affecting lands in the community, and reputation as to events of general history important to the community or state or nation in which located.
  - (21) Reputation as to character. In proving character or a trait of character under rules 404 and 405, reputation of a person's character among his associates or in the community.
  - (22) Judgment of previous conviction. Evidence of a final judgment, entered after a trial or upon a plea of guilty (but not upon a plea of nolo contendere), adjudging a person guilty of a crime punishable by death or imprisonment

in excess of one year, to prove any fact essential to sustain the judgment, but not including, when offered by the government in a criminal prosecution for purposes other than impeachment, judgments against persons other than the accused. The pendency of an appeal may be shown but does not affect admissibility.

- (23) Judgment as to personal, family or general history, or boundaries. Judgments as proof of matters of personal, family or general history, or boundaries, essential to the judgment, if the same would be provable by evidence of reputation.
- (24) Other exceptions. A statement not specifically covered by any of the exceptions in this paragraph (b) but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and (B) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant.

**Rule 804 Hearsay exceptions; declarant unavailable.** (a) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant:

- (1) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement; or
- (2) Persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so; or
- (3) Testifies to a lack of memory of the subject matter of his statement; or
- (4) Is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
- (5) Is absent from the hearing and the proponent of his statement has been unable to procure his attendance by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

- (1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, at the instance of or against a party with an opportunity to develop the testimony by direct, cross, or redirect examination, with motive and interest similar to those of the party against whom now offered.
- (2) Statement under belief of impending death. A statement made by a declarant while believing that his death was imminent, concerning the cause

or circumstances of what he believed to be his impending death.

- (3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.
- (4) Statement of personal or family history. (A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or (B) a statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.
- (5) Statement of recent perception. A statement, not in response to the instigation of a person engaged in investigating, litigating, or settling a claim, which narrates, describes, or explains an event or condition recently perceived by the declarant, made in good faith, not in contemplation of pending or anticipated litigation in which he was interested, and while his recollection was clear.
- (6) Other exceptions. A statement not specifically covered by any of the foregoing exceptions but having equivalent circumstantial guarantees of trustworthiness, if the court determines that (A) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts, and (B) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence. However, a statement may not be admitted under this exception unless the proponent of it makes known to the adverse party sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it, his intention to offer the statement and the particulars of it, including the name and address of the declarant.

**Rule 805 Hearsay within hearsay.** Hearsay included within hearsay is not excluded under the hearsay rule if each part of the combined statements conforms with an exception to the hearsay rule provided in these rules.

**Rule 806 Attacking and supporting credibility of declarant.** When a hearsay statement has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness. Evidence of a statement or conduct by the declarant at any time, inconsistent with his hearsay statement, is not subject to any requirement that he may have been afforded an opportunity to deny or explain. If the party against whom a hearsay statement has been admitted calls the

declarant as a witness, the party is entitled to examine him on the statement as if under cross-examination.

## ARTICLE IX. AUTHENTICATION AND IDENTIFICATION

**Rule 901 Requirement of authentication or identification.** (a) General provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

(b) Illustrations. By way of illustration only, and not by way of limitation, the following are examples of authentication or identification conforming with the requirements of this rule:

- (1) Testimony of witness with knowledge. Testimony that a matter is what it is claimed to be.
- (2) Nonexpert opinion on handwriting. Nonexpert opinion as to the genuineness of handwriting, based upon familiarity not acquired for purposes of the litigation.
- (3) Comparison by trier or expert witness. Comparison by the trier of fact or by expert witnesses with specimens which have been authenticated.
- (4) Distinctive characteristics and the like. Appearance, contents, substance, internal patterns, or other distinctive characteristics, taken in conjunction with circumstances.
- (5) Voice identification. Identification of a voice, whether heard firsthand or through mechanical or electronic transmission or recording, by opinion based upon hearing the voice at any time under circumstances connecting it with the alleged speaker.
- (6) Telephone conversations. Telephone conversations, by evidence that a call was made to the number assigned at the time by the telephone company to a particular person or business, if (A) in the case of a person, circumstances, including self-identification, show the person answering to be the one called, or (B) in the case of a business, the call was made to a place of business and the conversation related to business reasonably transacted over the telephone.
- (7) Public records or reports. Evidence that a writing authorized by law to be recorded or filed and in fact recorded or filed in a public office, or a purported public record, report, statement, or data compilation, in any form, is from the public office where items of this nature are kept.
- (8) Ancient documents or data compilation. Evidence that a document or data compilation, in any form, (A) is in such condition as to create no suspicion concerning its authenticity, (B) was in a place where it, if authentic, would likely be, and (C) has been in existence twenty years or more at the time it is offered.
- (9) Process or system. Evidence describing a process or system used to produce a result and showing that the process or system produces an accurate result.
- (10) Methods provided by statute or rule. Any method of authentication or identification provided by statute or by other rules prescribed by the supreme court.

**Rule 902 Self-authentication.** Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

- (1) Domestic public documents under seal. A document bearing a seal purporting to be that of the United States, or of any state, district, commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, or the Trust Territory of the Pacific Islands, or of a political subdivision, department, officer, or agency thereof, and a signature purporting to be an attestation or execution.
- (2) Domestic public documents not under seal. A document purporting to bear the signature in his official capacity of an officer or employee of any entity included in paragraph (1) hereof, having no seal, if a public officer having a seal and having official duties in the district or political subdivision of the officer or employee certifies under seal that the signer has the official capacity and that the signature is genuine.
- (3) Foreign public documents. A document purporting to be executed or attested in his official capacity by a person authorized by the laws of a foreign country to make the execution or attestation, and accompanied by a final certification as to the genuineness of the signature and official position (A) of the executing or attesting person, or (B) of any foreign official whose certificate of genuineness of signature and official position relates to the execution or attestation or is in a chain of certificates of genuineness of signature and official position relating to the execution or attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of official documents, the court may, for good cause shown, order that they be treated as presumptively authentic without final certification or permit them to be evidenced by an attested summary with or without final certification.
- (4) Certified copies of public records. A copy of an official record or report or entry therein, or of a document authorized by law to be recorded or filed and actually recorded or filed in a public office, including data compilations in any form, certified as correct by the custodian or other person authorized to make the certification, by certificate complying with paragraph (1), (2), or (3) of this rule or complying with any statute or rule prescribed by the supreme court.
- (5) Official publications. Books, pamphlets, or other publications purporting to be issued by public authority.
- (6) Newspapers and periodicals. Printed materials purporting to be newspapers or periodicals.
- (7) Trade inscriptions and the like. Inscriptions, signs, tags, or labels purporting to have been affixed in the course of business and indicating ownership, control, or origin.
- (8) Acknowledged documents. Documents accompanied by a certificate of acknowledgment executed in the manner provided by law by a notary public or other officer authorized by law to take acknowledgments.

(9) Commercial paper and related documents. Commercial paper, signatures thereon, and documents relating thereto to the extent provided by general commercial law.

(10) Presumptions under statutes. Any signature, document, or other matter declared by statute to be presumptively or *prima facie* genuine or authentic.

**Rule 903 Subscribing witness' testimony unnecessary.** The testimony of a subscribing witness is not necessary to authenticate a writing.

## ARTICLE X. CONTENTS OF WRITINGS, RECORDINGS, AND PHOTOGRAPHS

**Rule 1001 Definitions.** For purposes of this article the following definitions are applicable:

- (1) "Writings and recordings" consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.
- (2) "Photographs" include still photographs, X-ray films, video tapes, and motion pictures.
- (3) An "original" of a writing or recording is the writing or recording itself or any counterpart intended to have the same effect by a person executing or issuing it. An "original" of a photograph includes the negative or any print therefrom. If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect the data accurately, is an "original".
- (4) A "duplicate" is a counterpart produced by the same impression as the original, or from the same matrix, or by means of photography, including enlargements and miniatures, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduce the original.
- (5) A "public record" means any writing, memorandum, entry, print, representation, report, book or paper, map or plan, or combination thereof, that is in the custody of any department or agency of government.

**Rule 1002 Requirement of original.** To prove the content of a writing, recording, or photograph, the original writing, recording, or photograph is required, except as otherwise provided in these rules or by statute.

**Rule 1003 Admissibility of duplicates.** A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original.

**Rule 1004 Admissibility of other evidence of contents.** The original or a duplicate is not required, and other evidence of the contents of a writing, recording, or photograph is admissible if:

- (1) Originals lost or destroyed. All originals are lost or have been destroyed, unless the proponent lost or destroyed them in bad faith; or
- (2) Original not obtainable. No original can be obtained by available judicial process or procedure; or

- (3) Original in possession of opponent. At a time when an original was under the control of the party against whom offered, he was put on notice, by the pleadings or otherwise, that the content would be a subject of proof at the hearing, and he does not produce the original at the hearing; or
- (4) Collateral matters. The writing, recording, or photograph is not closely related to a controlling issue.

**Rule 1005 Public records.** The contents of a public record, if otherwise admissible, may be proved by copy, certified as correct in accordance with rule 902 or testified to be correct by a witness who has compared it with the original. If a copy which complies with the foregoing cannot be obtained by the exercise of reasonable diligence, then other evidence of the contents may be given.

**Rule 1006 Summaries.** The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in court may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at reasonable time and place. The court may order that they be produced in court.

**Rule 1007 Testimony or written admission of party.** Contents of writings, recordings, or photographs may be proved by the testimony or deposition of the party against whom offered or by his written admission, without accounting for the nonproduction of the original.

**Rule 1008 Functions of court and jury.** When the admissibility of other evidence of contents of writings, recordings, or photographs under these rules depends upon the fulfillment of a condition of fact, the question whether the condition has been fulfilled is ordinarily for the court to determine in accordance with the provisions of rule 104. However, when an issue is raised (1) whether the asserted writing ever existed, or (2) whether another writing, recording, or photograph produced at the trial is the original, or (3) whether other evidence of contents correctly reflects the contents, the issue is for the trier of fact to determine as in the case of other issues of fact.

## ARTICLE XI. MISCELLANEOUS RULES

**Rule 1101 Applicability of rules.** (a) Courts. These rules apply to all courts of the State of Hawaii except as otherwise provided by statute.

(b) Proceedings. These rules apply generally to civil and criminal proceedings.  
(c) Rule of privilege. The rule with respect to privileges applies at all stages of all actions, cases, and proceedings.

(d) Rules inapplicable. The rules (other than with respect to privileges) do not apply in the following:

- (1) Preliminary questions of fact. The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under rule 104.
- (2) Grand jury. Proceedings before grand juries.
- (3) Miscellaneous proceedings. Proceedings for extradition or rendition; preliminary hearings in criminal cases; sentencing, or granting or revoking probation; issuance of warrants for arrest, criminal summonses, and search warrants; and proceedings with respect to release on bail or otherwise.

(4) Small claims. Proceedings before the small claims division of the district courts.

**Rule 1102 Jury instructions; comment on evidence prohibited.** The court shall instruct the jury regarding the law applicable to the facts of the case, but shall not comment upon the evidence. It shall also inform the jury that they are the exclusive judges of all questions of fact and the credibility of witnesses.

**Sec. -2 Effective date; applicability to future cases and pending cases.** This chapter shall take effect on January 1, 1981.

The Hawaii Rules of Evidence in section -1 shall apply to actions, cases, and proceedings brought on or after January 1, 1981; provided that the rules shall also apply to further procedure in actions, cases, and proceedings then pending, except to the extent that application of the rules would not be feasible, or would work injustice, in which event former evidentiary rules or principles shall apply.

**Sec. -3 Inconsistent laws.** If any other provision of law, including any rule promulgated by the supreme court, is inconsistent with this chapter, this chapter shall govern unless this chapter or such inconsistent provision of law specifically provides otherwise."

SECTION 2. Sections 621-14 to 621-20, Hawaii Revised Statutes, are repealed.

SECTION 3. Section 621-20.5, Hawaii Revised Statutes, is repealed.

SECTION 4. Sections 621-21 to 621-25, Hawaii Revised Statutes, are repealed.

SECTION 5. Chapter 622, part I, sections 622-1 to 622-5, Hawaii Revised Statutes, is repealed.

SECTION 6. Chapter 622, part II, sections 622-11 to 622-23, Hawaii Revised Statutes, is repealed.

SECTION 7. Chapter 622, part III, sections 622-31 to 622-33, Hawaii Revised Statutes, is repealed.

SECTION 8. Sections 622-41 and 622-42, Hawaii Revised Statutes, are repealed.

SECTION 9. Sections 622-54 and 622-55, Hawaii Revised Statutes are repealed.

SECTION 10. Chapter 623, sections 623-1 to 623-3, Hawaii Revised Statutes, is repealed.

SECTION 11. Section 635-15, Hawaii Revised Statutes, is repealed.

SECTION 12. Section 635-17, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 707-742, Hawaii Revised Statutes, is repealed.

SECTION 14. Section 806-64, Hawaii Revised Statutes, is repealed.

SECTION 15. Section 806-66, Hawaii Revised Statutes, is repealed.

SECTION 16. The revisor of statutes is directed to print, together with the Hawaii Rules of Evidence enacted by this Act, the commentary to these rules, which

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is appended or referred to in the conference committee report on this Act, in the appropriate 1980 supplement to the Hawaii Revised Statutes; provided that if the commentary cannot be included in such supplement due to substantive defects, reported to the legislature pursuant to paragraph (4), of this section, or because of unavailability of the entire commentary, the revisor shall print the Hawaii Rules of Evidence without the commentary; provided further that if the commentary is not published in the 1980 supplement, it shall be published in the 1981 supplement.

In printing the commentary, or in connection with such printing, the revisor shall:

- (1) Print the appropriate segments or portions of the commentary under the appropriate or corresponding rule of the Hawaii Rules of Evidence;
- (2) Update the commentary by inserting, where necessary or where these citations are incomplete, the most current or the final citations to the Hawaii Reports, the Pacific Reporter (Second Series), and other regional or case law reporters which may have been cited in the commentary, and by substituting any references to the Criminal Law Reporter or United States Law Week with appropriate, current citations to the United States Reports;
- (3) Make any corrections or changes which may be necessary and which the revisor is authorized to make under section 23G-15, Hawaii Revised Statutes; and
- (4) Report to the 1981 Regular Session of the legislature any substantive or other problems and defects in or relating to the commentary which must or should be corrected or remedied by the legislature itself, such report to include but not be limited to specific recommendations, including specific recommended language in the form of a bill or resolution, to correct or remedy such problems or defects; provided that in preparing the report, the revisor may consult with Professor Addison Bowman of the University of Hawaii School of Law who assisted the legislature in drafting the commentary and with other appropriate persons as necessary.

**SECTION 17. Severability.** If any provision of this Act, or the Hawaii Rules of Evidence enacted by 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 or the Hawaii Rules of Evidence which can be given effect without the invalid provision or application, and to this end the provisions of this Act and the Hawaii Rules of Evidence are severable.

**SECTION 18.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 19. Effective date.** This Act shall take effect on January 1, 1981.

(Approved May 29, 1980.)

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

## ACT 165

S.B. NO. 1831-80

A Bill for an Act Relating to Crimes.

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

SECTION 1. Section 706-621, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 706-621 Grounds favoring withholding sentence of imprisonment.**

The following grounds, while not controlling the discretion of the court, may be accorded weight in favor of withholding sentence of imprisonment:

- (1) The defendant's criminal conduct neither caused nor threatened serious harm;
- (2) The defendant acted under a strong provocation;
- (3) There were substantial grounds tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense;
- (4) The victim of the defendant's criminal conduct induced or facilitated its commission;
- (5) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the present crime;
- (6) The defendant's criminal conduct was the result of circumstances unlikely to recur;
- (7) The character and attitudes of the defendant indicate that he is unlikely to commit another crime;
- (8) The defendant is particularly likely to respond affirmatively to a program of restitution or a probationary program or both;
- (9) The imprisonment of the defendant would entail excessive hardship to himself or his dependents."

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

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

(Approved May 29, 1980.)

## ACT 166

S.B. NO. 1832-80

A Bill for an Act Relating to Career Criminals.

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

SECTION 1. Section 845-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 845-3 Persons subject to career criminal prosecution efforts.** (a) An individual shall be the subject of career criminal prosecution efforts if he falls into

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

## ACT 167

categories 1, 2, or 3 in subsection (b) and may be the subject of career criminal prosecution efforts if he falls into any other category of subsection (b).

(b) Subject to the restrictions in subsection (a), career criminal prosecution applies to an individual who:

- (1) Has had two or more felony convictions within the last five years.
- (2) Has had one or more felony and two or more misdemeanor convictions and/or arrests within the last three years. Misdemeanors will be limited to prostitution, theft II and place to keep firearm.
- (3) Is convicted and/or arrested for the offense of "felon in possession of a firearm" within the last five years.
- (4) Is on parole.
- (5) Is on probation.
- (6) Is on bond awaiting an appeal.
- (7) Is on bond awaiting trial.
- (8) Is known or suspected to be an associate of organized crime.
- (9) Is known or suspected of recurring or ongoing criminal activity.
- (10) Has no adult record but who has an extensive juvenile record.
- (11) Is a juvenile with an extensive record who has been waived to the circuit court for trial."

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

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

(Approved May 29, 1980.)

## ACT 167

S.B. NO. 1944-80

A Bill for an Act Relating to the Judiciary.

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

SECTION 1. Chapter 601, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 601- Security personnel, powers.** Any person employed by the judiciary as a state law enforcement officer or state security officer upon specific authorization and direction of the judiciary shall have all of the powers of police officers, including the power of arrest as that of law enforcement officers employed by the department of the attorney general under section 28-11.5 provided that such power shall remain in force and effect only while that person is in the actual performance of such person's duties, which duties shall include off-duty employment when such employment is for other state departments or agencies."

SECTION 2. New material is underscored.\*

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

(Approved May 29, 1980.)

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

## ACT 168

S.B. NO. 1988-80

A Bill for an Act Relating to the Use of Sick Leave Credits with Workers' Compensation Benefits.

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

SECTION 1. Section 79-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 79-9 Sick leave and workers' compensation benefits.** A public officer or employee who is receiving workers' compensation wage loss replacement benefits may use his accumulated sick leave credits to supplement the workers' compensation wage loss replacement benefits to a sum equal to his regular salary."

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

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

(Approved May 29, 1980.)

## ACT 169

S.B. NO. 2071-80

A Bill for an Act Relating to the Small Claims Court.

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

SECTION 1. Section 633-27, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 633-27 District courts; powers.** (a) All district courts, except as otherwise provided, shall exercise jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction, shall be known and referred to as the small claims division of the district court; provided that the jurisdiction of the court when sitting as a small claims division of the district court shall be confined to:

- (1) Cases for the recovery of money only where the amount claimed does not exceed [\$600] \$1,000 exclusive of interest and costs, except as provided by section 633-30; and
- (2) Cases involving disagreement between landlord and tenant about the security deposit in a residential landlord-tenant relationship.

This chapter shall not abridge or affect the jurisdiction of the district courts under paragraph (1) to determine cases under the ordinary procedures of the court, it being optional with the parties to such cases to elect the procedure of the small claims division of the district court or the ordinary procedures, as provided by rule of court. In cases arising under paragraph (2) the jurisdiction of the small claims division of the district court shall be exclusive.

(b) Actions shall be commenced in small claims division of the district court or the judicial circuit in which the defendant or a majority of the defendants reside or the claim for relief arose, unless service cannot be made on all of the defendants in that

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

## ACT 170

circuit, in which case action may be commenced in any circuit in which all of the defendants can be served.

(c) The small claims division of the district court may grant monetary relief and equitable relief except that:

(1) Monetary relief shall not include punitive damages; and

(2) Equitable relief shall be granted only as between parties to a landlord-tenant disagreement pursuant to chapter 521, and shall be limited to orders to repair, replace, refund, reform, and rescind.

(d) Class actions are prohibited in the small claims division of the district court."

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

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

(Approved May 29, 1980.)

ACT 170

S.B. NO. 2120-80

A Bill for an Act Relating to Minors.

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

SECTION 1. Section 577-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 577-22 Dancing partners, patrons, age limit.** It shall be unlawful for any unmarried minor to frequent, be, or remain upon, in, or around the premises of any dance hall where persons receive any remuneration or compensation, either directly or indirectly, for acting as dancing partners to the patrons of the dance hall. The acceptance or receipt of any of the proceeds of the sale of any article to any patron of the dance hall by any such person under eighteen, or by anyone acting on such person's behalf, constitutes receiving or remuneration or compensation within the meaning of this section. Any minor violating this section is subject to adjudication under section 571-11(1)."

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

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

(Approved May 29, 1980.)

ACT 171

S.B. NO. 2581-80

A Bill for an Act Relating to Leased or Rented Personal Property.

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

SECTION 1. Section 633-27, Hawaii Revised Statutes, is amended to read as follows:

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

**"Sec. 633-27 District courts; powers.** (a) All district courts, except as otherwise provided, shall exercise jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction, shall be known and referred to as the small claims division of the district court; provided that the jurisdiction of the court when sitting as a small claims division of the district court shall be confined to:

- (1) Cases for the recovery of money only where the amount claimed does not exceed \$1,000 exclusive of interest and costs, except as provided by section 633-30;
- (2) Cases involving disagreement between landlord and tenant about the security deposit in a residential landlord-tenant relationship; and
- (3) Cases for the return of leased or rented personal property worth \$500 or less where the amount claimed owed for such lease or rental does not exceed \$600.

This chapter shall not abridge or affect the jurisdiction of the district courts under paragraphs (1) and (3) to determine cases under the ordinary procedures of the court, it being optional with the parties to such cases to elect the procedure of the small claims division of the district court or the ordinary procedures, as provided by rule of court. In cases arising under paragraph (2) the jurisdiction of the small claims division of the district court shall be exclusive.

(b) Actions shall be commenced in small claims division of the district court or the judicial circuit in which the defendant or a majority of the defendants reside or the claim for relief arose, unless service cannot be made on all of the defendants in that circuit, in which case action may be commenced in any circuit in which all of the defendants can be served.

(c) The small claims division of the district court may grant monetary relief and equitable relief except that:

- (1) Monetary relief shall not include punitive damages; and
- (2) Equitable relief shall be granted only as between parties to a landlord-tenant disagreement pursuant to chapter 521, and shall be limited to orders to repair, replace, refund, reform, and rescind.

(d) Class actions are prohibited in the small claims division of the district court."

SECTION 2. Chapter 633, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 633- Order to show cause.** Upon the filing of a copy of a lease or rental contract with a complaint stating leased or rented personal property has been in the defendant's possession at least fourteen days past the return date specified in the contract, the court may issue an order directing the defendant to appear and show cause for the possession at such time as the court shall direct, but not later than five days from the date of the order to show cause. The court shall order the defendant to either return the leased or rented personal property to the plaintiff or to produce it for the hearing. If at the hearing, the defendant has failed to comply with the order to show cause, the court may hold the defendant in contempt. Upon a finding of contempt, the court may direct the sheriff to produce the leased or rented personal property at a subsequent hearing. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or

by certified mail with return receipt showing delivery within the circuit."

**SECTION 3.** Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 604- Jurisdiction of district courts; leased or rented personal property.** Jurisdiction is conferred upon the district courts to try all cases resulting from the retention of leased or rented personal property, the value of which does not exceed \$5,000. In order to commence an action pursuant to this section, the leased or rented personal property shall have been retained by the defendant at least fourteen days past the return date specified in the lease or rental contract."

**SECTION 4.** Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 604- Order to show cause.** Upon the filing of a copy of a lease or rental contract with a complaint stating leased or rented personal property has been in the defendant's possession at least fourteen days past the return date specified in the contract, the court may issue an order directing the defendant to appear and show cause for the possession at such time as the court shall direct, but not later than five days from the date of the order to show cause. The court shall order the defendant to either return the leased or rented personal property to the plaintiff or to produce it for the hearing. If at the hearing, the defendant has failed to comply with the order to show cause, the court may hold the defendant in contempt. Upon a finding of contempt, the court may direct the sheriff to produce the leased or rented personal property at a subsequent hearing. Service of the order to show cause shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit."

**SECTION 5.** Chapter 603, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 603- Order to show cause.** Whenever a complaint has been filed in circuit court alleging leased or rented personal property the value of which is \$5,000 or more, has been retained by the defendant fourteen days past the return date specified in the lease or rental contract, the plaintiff may petition the court for an order to show cause.

Upon the filing of the petition with a copy of the lease or rental contract, the court may issue an order directing the defendant to appear and show cause for the possession at such time as the court shall direct but not later than five days from the date of the order to show cause. The court shall order the defendant to either return the leased or rented personal property to the plaintiff or to produce it for the hearing. If at the hearing, the defendant has failed to comply with the order to show cause, the court may hold the defendant in contempt. Upon a finding of contempt, the court may direct the sheriff to produce the leased or rented personal property at a subsequent hearing. Service of the order to show cause shall be as provided by law or rule of court for cases in the circuit courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit."

**SECTION 6.** Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 708- Failure to return leased or rented personal property; penalty.**

A person commits the offense of failure to return leased or rented personal property other than a rental motor vehicle, when he knowingly or intentionally does not return the leased or rented personal property to the person, or his agent, from whom the personal property was leased or rented within fourteen days after the return date stated in the lease or rental contract, unless the person leasing or renting the personal property gives notice that he will not be able to return the leased or rented personal property by the date stated and with the permission of the owner of the property or his agent extends the date by which the personal property will be returned.

Failure to return leased or rented personal property is a petty misdemeanor."

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

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

(Approved May 29, 1980.)

**ACT 172**

S.B. NO. 2784-80

A Bill for an Act Relating to Motor and Other Vehicles.

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

**SECTION 1.** Section 290-11, Hawaii Revised Statutes, shall be amended as follows:

**"Sec. 290-11 Vehicles left unattended on private and public property.** (a) Notwithstanding any other provision of this chapter, any vehicle left unattended on private or public property without authorization of the owner or occupant of the property, may be towed away at the expense of the owner of the vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall be of such size and be placed in a location reasonably calculated to call the sign to the attention of potential parkers.

(b) Towing companies engaged by the owner, occupant, or person in charge of the property shall charge no more than \$25 a tow, \$37.50 for a tow using a dolly and \$2 for each 24-hour period of storage or fraction thereof. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles. The towing company shall determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the motor vehicle licensing division, and may use section 286-172(a)(3)† for this purpose. The legal owner and the registered owner shall be notified in writing by registered or certified mail of the location of the vehicle within a reasonable period not to exceed 15 days of the tow. Where the owners have not been so notified then the owner may recover his

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

†The section reference is to a provision which would have been enacted by H.B. 2680-80, H.D. 1, S.D. 2, vetoed by the governor.

## ACT 173

car from the towing company without paying tow or storage fees. A mail receipt signed by the registered owner is *prima facie* evidence of notification. A person who has been charged in excess of the charges permitted under this section may sue for damages sustained, and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of said damages and reasonable attorney's fees together with the cost of suit.

(c) Each county by ordinance may enact additional restrictions to this section or may enact criminal sanctions in this area as required."

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

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

(Approved May 29, 1980.)

## ACT 173

S.B. NO. 3145-80

A Bill for an Act Relating to Trade Regulation.

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

SECTION 1. **Purpose.** The purpose of this Act is to amend section 480-23, Hawaii Revised Statutes, respecting the granting of immunity from prosecution and to conform it to recently enacted sections 621C-1 through 621C-5.

SECTION 2. Section 480-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 480-23 Immunity from prosecution.** (a) If, in any investigation brought by the attorney general pursuant to section 480-18, a person refuses, on the basis of his privilege against self-incrimination, to attend, to testify or produce a record, document, or other object in an official proceeding conducted under this chapter, and that person is informed of an order issued under section 480-23.1, that person may not refuse to comply with the order on the basis of his privilege against self-incrimination.

(b) No individual shall be criminally prosecuted or subjected to any criminal penalty under this chapter for or on account of any transaction, matter, evidence, or thing concerning which he may so testify or produce in any investigation brought by the attorney general pursuant to section 480-18, or any county attorney, prosecuting attorney, or corporation counsel of any county or city and county, when the individual has done so pursuant to an order issued under section 480-23.1, provided no individual so testifying shall be exempt from prosecution or punishment for perjury, for giving a false statement, or for an offense involving a failure to comply with the order."

SECTION 3. Chapter 480, Hawaii Revised Statutes, is amended by the addition of a new section to read as follows:

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

**"Sec. 480-23.1 Procedures.** (a) If a person has been or may be subpoenaed to testify or to produce a record, document, or other object in an official proceeding under this chapter, the investigating officer shall, when the investigation reaches a stage when the posture of discovered evidence renders the witness a substantially probable suspect of criminal misconduct, notify such person of his constitutional rights.

(b) A judge of a circuit court or of a district court may, upon application by the attorney general, or any county attorney, prosecuting attorney, or corporation counsel of any county or city and county, issue an order requiring the person to testify or to produce a record, document, or other object, notwithstanding his refusal to do so on the basis of his privilege against self-incrimination. The application shall specify whether the immunity being sought is use immunity as set forth in section 480-23.2 or transactional immunity as set forth in section 480-23.3.

(c) The order may be issued prior to the assertion of the privilege against self-incrimination but shall not be effective until the witness asserts his privilege against self-incrimination and the presiding officer communicates the order to him. The order shall specify the type of immunity being granted and contain appropriate explanation of the scope of protection from prosecution being afforded thereby."

SECTION 4. Chapter 480, Hawaii Revised Statutes, is amended by the addition of a new section to read as follows:

**"Sec. 480-23.2 Use immunity.** The testimony or production that is compelled under the order, and any information directly or indirectly derived from the testimony or production, may not be used against the person in any manner in a criminal case, except in a prosecution for perjury, for giving a false statement, or for an offense involving a failure to comply with the order; provided that such person may be prosecuted or punished for any crime so long as testimony or production that is compelled under the order, and any information directly or indirectly derived from such testimony or production, is not used against such person in such prosecution."

SECTION 5. Chapter 480, Hawaii Revised Statutes, is amended by the addition of a new section to read as follows:

**"Sec. 480-23.3 Transactional immunity.** If a person is ordered to testify or produce a record, document, or other object under this chapter and the order specified that the person is granted transactional immunity pursuant to this section, such person shall not be prosecuted or punished in any criminal action or proceeding for or on account of any act, transaction, matter, or thing concerning which he is so ordered to testify or produce a record, document, or other object, except that he may be prosecuted for perjury, for giving a false statement, or for an offense involving a failure to comply with the order."

SECTION 6. Chapter 480, Hawaii Revised Statutes, is amended by the addition of a new section to read as follows:

**"Sec. 480-23.4 Penalty.** Any witness granted immunity under section 480-23(b) who fails or refuses to testify or produce information may be punished by the court for contempt, provided that the witness may also be charged with and convicted of perjury, for giving a false statement, or for an offense involving a failure to comply

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with the order notwithstanding the fact that he has been punished by the court for contempt."

SECTION 7. Section 710-1072.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 710-1072.5 Obstruction of justice.** (1) A person commits the offense of obstruction of justice if he intentionally engages in the following conduct: When called as a witness and having been granted immunity pursuant to chapters 621C and 480 before or after having been qualified as a witness, shall refuse to testify or be qualified as a witness when duly directed to testify or be qualified as a witness.

(2) Obstruction of justice is a class "C" felony."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved May 29, 1980.)

## ACT 174

H.B. NO. 422

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 712-1224, Hawaii Penal Code, is amended to read as follows:

**"Sec. 712-1224 Possession of gambling records in the first degree.** (1) A person commits the offense of possession of gambling records in the first degree if he knowingly possesses, produces, or distributes any writing, paper, instrument, or article:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting, or representing more than five bets totaling more than \$500; or

(b) Of a kind commonly used in the operation, promotion, or playing of a lottery or mutual scheme or enterprise, and constituting, reflecting, or representing more than one hundred plays or chances therein or one play or chance wherein the winning amount exceeds five thousand dollars.

(2) Possession of gambling records in the first degree is a class C felony."

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

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

(Approved May 29, 1980.)

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

## ACT 175

H.B. NO. 1762-80

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 pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set out opposite their respective case numbers:

Case No. 74-161	950.00
Case No. 74-161 (Joseph McKellar - Attorney)	50.00
Case No. 76-92	150.00
Case No. 76-107	2,274.75
Case No. 76-150	300.00
Case No. 76-160	1,000.00
Case No. 76-177	400.00
Case No. 76-179	1,000.00
Case No. 76-179 (Dr. Barbara Slogett - Medical Services)	83.20
Case No. 76-181	1,112.35
Case No. 76-181 (Victor Agmata Jr. - Attorney)	25.00
Case No. 76-228	516.64
Case No. 76-228 (Victor Agmata Jr. - Attorney)	25.00
Case No. 77-14	1,318.68
Case No. 77-17	1,000.00
Case No. 77-18	1,173.15
Case No. 77-19	25.00
Case No. 77-34	2,000.00
Case No. 77-35	75.00
Case No. 77-42	266.64
Case No. 77-45	1,880.96
Case No. 77-45 (St. Francis Hospital - Medical Services)	43.04
Case No. 77-45 (Victor Agmata Jr. - Attorney)	75.00
Case No. 77-47	1,230.14
Case No. 77-47 (Queen's Medical Center - Medical Services)	1,242.15
Case No. 77-50	52.08
Case No. 77-50 (Queen's Medical Center - Medical Services)	78.55
Case No. 77-50 (Occupational Medicine and Surgery, Inc. - Medical Services)	45.50
Case No. 77-50 (Medical Specialty Clinic - Medical Services)	52.42
Case No. 77-52	800.00
Case No. 77-70	285.28
Case No. 77-76	2,072.96
Case No. 77-82	379.50
Case No. 77-83	9,850.00

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Case No. 77-83 (Thomas T. M. Ho - Attorney)	150.00
Case No. 77-111	345.80
Case No. 77-125	4,734.13
Case No. 77-125 (Reinhard Mohr - Attorney)	200.00
Case No. 77-140	208.38
Case No. 77-143	249.82
Case No. 77-149	3,218.02
Case No. 77-154	650.00
Case No. 77-154 (Queen's Medical Center - Medical Services)	1,651.70
Case No. 77-154 (Dr. George Chung - Medical Services)	782.08
Case No. 77-154 (The Emergency Group - Medical Services)	114.40
Case No. 77-154 (Hawaii Pathologists Laboratory - Medical Services)	4.16
Case No. 77-164	342.36
Case No. 77-166	1,400.00
Case No. 77-166 (Pam Russell - Medical Services)	1,170.00
Case No. 77-166 (Charles Witherwax - Attorney)	150.00
Case No. 77-168	161.47
Case No. 77-179	869.80
Case No. 77-181	50.00
Case No. 77-181 (Wahiawa General Hospital - Medical Services)	20.00
Case No. 77-183	2,857.85
Case No. 77-189	373.77
Case No. 77-189 (Roland Thom - Attorney)	35.00
Case No. 77-196	1,018.69
Case No. 77-199	2,592.80
Case No. 77-200	1,524.51
Case No. 77-203	1,736.01
Case No. 77-203 (Straub Clinic & Hospital, Inc. - Medical Services)	2,993.18
Case No. 77-208	3,624.28
Case No. 77-209	410.36
Case No. 77-210	187.26
Case No. 77-211	100.00
Case No. 77-226	25.00
Case No. 77-227	300.00
Case No. 77-229	300.00
Case No. 77-230	85.41
Case No. 77-234	1,950.00
Case No. 77-234 (Patrick Murphy - Attorney)	50.00
Case No. 77-239	211.30
Case No. 77-239 (John Hyun - Attorney)	25.00
Case No. 77-240	885.75
Case No. 77-251	250.00
Case No. 77-252	1,000.00

Case No. 77-254	516.30
Case No. 77-255	1,474.95
Case No. 77-260	1,500.00
Case No. 77-265	216.23
Case No. 77-265 (Lowell Chun Hoon - Attorney)	25.00
Case No. 77-266	225.00
Case No. 77-266 (Lowell Chun Hoon - Attorney)	25.00
Case No. 77-271	750.00
Case No. 77-284	50.00
Case No. 77-291	500.00
Case No. 77-291 (Hawaii Emergency Physicians Associated Inc.)	135.20
Case No. 77-292	1,360.00
Case No. 77-293	500.00
Case No. 78-2	1,703.10
Case No. 78-8	2,673.90
Case No. 78-9	1,271.07
Case No. 78-12	941.62
Case No. 78-12 (Roland Thom - Attorney)	25.00
Case No. 78-19	200.00
Case No. 78-21	789.61
Case No. 78-21 (Castle Memorial Hospital - Medical Services)	111.50
Case No. 78-22	1,000.00
Case No. 78-24	3,537.05
Case No. 78-25	475.00
Case No. 78-25 (Thomas Bowers III - Attorney)	25.00
Case No. 78-27	200.00
Case No. 78-28	129.27
Case No. 78-29	867.80
Case No. 78-31	174.38
Case No. 78-42	300.00
Case No. 78-45 (Straub Clinic & Hospital Inc. - Medical Services)	1,819.60
Case No. 78-46	100.00
Case No. 78-47	323.00
Case No. 78-49	166.50
Case No. 78-50	25.00
Case No. 78-52	1,865.60
Case No. 78-54	468.33
Case No. 78-56	250.00
Case No. 78-59	25.00
Case No. 78-60	25.00
Case No. 78-62	207.92
Case No. 78-62 (G N Wilcox Memorial Hospital - Medical Services)	61.60
Case No. 78-67	400.00

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Case No. 78-70	700.27
Case No. 78-75	300.00
Case No. 78-77	1,000.00
Case No. 78-78	50.00
Case No. 78-79	250.00
Case No. 78-83	50.00
Case No. 78-84	1,161.41
Case No. 78-86	803.45
Case No. 78-86 (G N Wilcox Memorial Hospital - Medical Services)	55.00
Case No. 78-87 (Dr. Harris S. Wood - Medical Services)	6,654.73
Case No. 78-90	2,000.00
Case No. 78-91	2,620.00
Case No. 78-93	127.75
Case No. 78-93 (Victor Agmata Jr. - Attorney)	25.00
Case No. 78-94	300.90
Case No. 78-94 (Victor Agmata Jr. - Attorney)	25.00
Case No. 78-96	3,232.06
Case No. 78-101	425.00
Case No. 78-103	225.87
Case No. 78-105	50.00
Case No. 78-107	100.00
Case No. 78-108	9,700.00
Case No. 78-108 (Henry Beerman - Attorney)	300.00
Case No. 78-111	500.00
Case No. 78-112	132.00
Case No. 78-126	300.00
Case No. 78-134	406.24
Case No. 78-135	200.00
Case No. 78-135 (Satoru Waki, Executive Vice President, Pacific Tokyu Express Inc. - Medical Reimbursement)	3,472.78
Case No. 78-140	323.64
Case No. 78-141	150.00
Case No. 78-142	300.19
Case No. 78-144	905.60
Case No. 78-149	80.00
Case No. 78-149 (Queen's Medical Center - Medical Services)	110.00
Case No. 78-150	100.00
Case No. 78-156	2,253.21
Case No. 78-156 (William Davis - Attorney)	150.00
Case No. 78-157	834.72
Case No. 78-158	5,717.20
Case No. 78-160	500.00
Case No. 78-161	500.00

Case No. 78-162	25.00
Case No. 78-165	2,440.62
Case No. 78-166	1,077.75
Case No. 78-167	500.00
Case No. 78-169	1,375.10
Case No. 78-172	231.95
Case No. 78-173	500.00
Case No. 78-175	255.50
Case No. 78-176	4,964.20
Case No. 78-176 (Dennis Daugherty - Attorney)	50.00
Case No. 78-177	4,975.00
Case No. 78-177 (Dennis Daugherty - Attorney)	25.00
Case No. 78-178	1,644.50
Case No. 78-179	181.92
Case No. 78-179 (Dr. Gerald Dericks - Medical Services)	370.32
Case No. 78-180	350.00
Case No. 78-184	18.30
Case No. 78-185	63.18
Case No. 78-191	855.76
Case No. 78-193	626.21
Case No. 78-194	100.00
Case No. 78-195	931.88
Case No. 78-196	25.00
Case No. 78-196 (Queen's Medical Service - Medical Services)	127.10
Case No. 78-197	284.24
Case No. 78-201	116.34
Case No. 78-203	1,000.00
Case No. 78-205	3,168.27
Case No. 78-212	2,000.00
Case No. 78-217	789.55
Case No. 78-218	572.20
Case No. 78-224	500.00
Case No. 78-233	25.00
Case No. 78-235	25.00
Case No. 78-236	346.00
Case No. 78-237	1,000.00
Case No. 78-240	300.00
Case No. 78-241	1,233.24
Case No. 78-241 (Kuakini Medical Center - Medical Services)	1,169.55
Case No. 78-241 (Dr. Glenn Kokame - Medical Services)	1,195.00
Case No. 78-241 (Kuakini Radiology Group Inc. - Medical Services)	25.00

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Case No. 78-241 (Dr. George Kimata - Medical Services)	25.00
Case No. 78-242	200.00
Case No. 78-243	200.00
Case No. 78-243 (Straub Clinic & Hospital Inc. - Medical Services)	617.39
Case No. 78-244	886.35
Case No. 78-247	100.00
Case No. 78-250	100.00
Case No. 78-254	25.00
Case No. 78-255	25.00
Case No. 78-261	68.30
Case No. 78-262	76.58
Case No. 78-267	1,618.36
Case No. 78-269	100.00
Case No. 78-271	25.00
Case No. 78-276	1,459.72
Case No. 78-281	1,000.00
Case No. 78-293	120.80
Case No. 78-294	30.94
Case No. 78-297	1,611.33
Case No. 78-300	198.26
Case No. 78-303	100.00
Case No. 78-305	50.00
Case No. 78-306	100.00
Case No. 78-310	383.51
Case No. 78-311	1,500.00
Case No. 78-323	300.00
Case No. 78-324	500.00
Case No. 78-332	1,000.00
Case No. 78-333	581.84
Case No. 78-335	473.76
Case No. 78-337	500.00
Case No. 78-341	25.00
Case No. 78-342	34.00
Case No. 78-345	1,000.00
Case No. 78-350	250.00
Case No. 78-353	350.00
Case No. 78-354	50.00
Case No. 78-355	633.71
Case No. 79-2	150.00
Case No. 79-2 (Kona Hospital - Medical Services)	197.00
Case No. 79-2 (Kona Coast Medical Group - Medical Services)	173.68
Case No. 79-4	250.00
Case No. 79-5	50.00
Case No. 79-25	100.00

Case No. 79-27	25.00
Case No. 79-43	243.60
Case No. 79-45	1,081.45
Case No. 79-52	474.32
Case No. 79-53	25.00
Case No. 79-58	25.00
Case No. 79-60	25.00
Case No. 79-61	750.00
Case No. 79-68	52.10
Case No. 79-91	550.99
Case No. 79-91 (Mark Honda - Attorney)	25.00
Case No. 79-95	200.00
Case No. 79-96	200.00
Case No. 79-103	25.00
Case No. 79-105	364.98
Case No. 79-106	1,074.29
Case No. 79-107	100.00
Case No. 79-108	1,000.00
Case No. 79-122	250.00
Case No. 79-124	3,174.14
Case No. 79-124 (Robert Nip - Attorney)	150.00
Case No. 79-140	25.00
Case No. 79-141	7,602.16
Case No. 79-157	92.00
Case No. 79-157 (Maui Memorial Hospital - Medical Services)	446.00
Case No. 79-157 (Maui Medical Group Inc. - Medical Services)	133.02
Case No. 79-157 (Maui Radiology Limited - Medical Services)	66.50
Case No. 79-169	50.00
Case No. 79-171	1,449.27
Case No. 79-172	1,153.00
Case No. 79-177	452.40
Case No. 79-179	75.00
Case No. 79-186	122.70
Case No. 79-186 (Kaiser Foundation Hospital - Medical Services)	175.05
Case No. 79-204	25.00
Case No. 79-207	341.36
Case No. 79-210	25.00
Case No. 79-222	150.00
Case No. 79-223	50.00
Case No. 79-224	200.00
Case No. 79-226	310.00
Case No. 79-226 (Maui Memorial Hospital - Medical Services)	31.20

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Case No. 79-229	25.00
Case No. 79-235	125.00
Case No. 79-237	25.00
Case No. 79-245	173.28
Case No. 79-253	25.00
Case No. 79-260	925.00
Case No. 79-260 (Steven Songstad - Attorney)	75.00
Case No. 79-272	725.00
Case No. 79-272 (Dr. Alfred Arendorf - Medical Services)	405.60
Case No. 79-272 (Steven Songstad - Attorney)	25.00

SECTION 2. The additional sum of \$96,416.22 shall be appropriated out of the general revenues of the State for 40 victim awards totaling \$46,556.53 in 1979, and 50 victim awards totaling \$49,859.69 in 1980 as authorized by the Criminal Injuries Compensation Commission.

SECTION 3. The sums appropriated in Sections 1 and 2 of this Act shall be deposited in the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission.

SECTION 4. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1981, shall lapse into the general fund of the State.

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

(Approved May 29, 1980.)

ACT 176

H.B. NO. 1829-80

A Bill for an Act Relating to the Bank Examiner.

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

SECTION 1. Section 401-7, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 401-7 Special examinations; extra services; payment of cost.** Whenever the bank examiner determines that it is necessary or expedient to make an extra examination or to devote any extraordinary attention to the affairs or the condition of any bank, trust company, building and loan association, fiduciary company, industrial loan and investment company, or licensee under chapter 409, the bank examiner may make any and all extra or necessary examinations and devote such necessary extra attention, and such services shall be paid for by the bank, company, association, or licensee being examined or serviced at the actual per diem cost plus expenses of each person who may be engaged in the special service at the direction of the bank examiner.”

SECTION 2. Section 401-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 401-15 Additional examinations, cost of.** Whenever the bank examiner has reason to believe that any person, firm, association, corporation, copartnership, society, or company is so conducting its or such a business as to make the same subject to this chapter, or subject to any law requiring inspection of its or the person's records or affairs or supervision or regulation of its or the person's business by the bank examiner, then the bank examiner, deputy, or any examiner appointed by the bank examiner may make an examination in accordance with this chapter, of the books, records, and accounts of any such person, firm, association, corporation, copartnership, society, or company.

The bank examiner, deputy, or any examiner appointed by the bank examiner when making the examinations may examine any such person or the members or employees of the firm, association, copartnership, or society or the officers or employees of the corporation or the agents of the person, firm, association, corporation, copartnership, society, or company on oath, and for such purpose may administer oaths, and may order and cause to be produced by any of the persons, members, officers, employees, or by agents so examined, all books of accounts, papers, documents, and securities under the person's or their possession or control.

If the bank examiner finds that the person, firm, association, corporation, copartnership, society, or company is conducting its or such a business as to make the same subject to the inspection of the bank examiner, the actual per diem cost and expenses of each person who may be engaged in such examination shall be paid by the person, firm, association, corporation, copartnership, society, or company examined."

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

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

(Approved May 29, 1980.)

**ACT 177**

H.B. NO. 1945-80

A Bill for an Act Relating to Solar Energy Devices.

*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- Sale of solar energy devices; disclosure requirements; penalty.** (a) No person shall advertise, offer to sell, or sell a solar energy device unless the person clearly discloses separately the following information concerning the sale price of the solar energy device to the consumer:

(1) The cost of the solar energy device and accessories related to the operation of the solar energy device and for their installation; and

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

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(2) The cost of items unrelated to the operation of the solar energy device, including but not limited to, "free gifts", offers to pay electric bills, rebates, and other incentives designed to promote the sale of the solar device.

(b) As used in this section, "solar energy device" means any new identifiable facility, equipment, apparatus, or the like which makes use of solar energy for heating, cooling, or reducing the use of other types of energy dependent upon fossil fuel for its generation.

(c) Failure to disclose the information required under this section shall constitute an unfair method of competition and an unfair or deceptive act or practice in the conduct of any trade or commerce under section 480-2."

SECTION 2. Section 235-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Each individual and corporate resident taxpayer who files an individual or corporate net income tax return for a taxable year, may claim a tax credit under this section against the Hawaii state individual or corporate net income tax. The tax credit may be claimed for a solar energy device in an amount not to exceed ten per cent of the total cost of the device; provided that after the effective date of this Act, the tax credit shall apply only to the actual cost of the solar energy device, its accessories and installation and shall not include the cost of consumer incentive premiums unrelated to the operation of the solar energy device offered with the sale of the solar energy device. The credit shall be claimed against net income tax liability for the year in which the solar energy device was purchased and placed in use; provided the tax credit shall be applicable only with respect to solar devices which are erected and placed in service after December 31, 1974 but before December 31, 1981. Tax credits which exceed the taxpayer's income tax liability may be used as a credit against his income tax liability in subsequent years until exhausted."

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

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

(Approved May 29, 1980.)

## ACT 178

H.B. NO. 1975-80

A Bill for an Act Relating to the Hawaii Meat Inspection Act.

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

SECTION 1. Section 159-21, Hawaii Revised Statutes, is amended to read:

**"Sec. 159-21 Ante-mortem inspection.** (a) For the purpose of preventing the use in intrastate commerce of meat or meat products which are adulterated, the board shall cause to be made, by a veterinarian or inspector appointed for that purpose, an examination and inspection of all animals before they shall be allowed to enter into

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

any slaughtering, packing, meat-canning, rendering, or similar establishment in the State in which slaughtering and preparation of meat or meat products of the animals are conducted solely for intrastate commerce; and all animals found on the inspection to show symptoms of disease shall be set apart from all other animals and slaughtered or otherwise disposed of as provided in the rules and regulations, and when slaughtered, the carcasses of the animals shall be subject to a careful examination and inspection, all as prescribed by the board.

(b) For the purpose of preventing the inhumane slaughtering of animals, the board shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which the animals are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this chapter. The board may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment, if the board finds that any animal has been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with subsection (c), until the establishment furnishes assurances satisfactory to the board that all slaughtering and handling in connection with slaughter of animals is in accordance with a method specified in subsection (c).

(c) Either of the following two methods of slaughtering of animals and handling in connection with slaughter are found to be humane:

- (1) By rendering the animal insensible to pain by a single blow or gunshot or an electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut; or
- (2) By slaughtering or handling in connection with slaughtering in accordance with the ritual requirements of the Jewish faith or any other religious faith that prescribes a method of slaughter whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

[d]† For the purposes of this section "animals" means cattle, sheep, swine, goats, horses, mules, or other equines."

**SECTION 2.** Section 159-25, Hawaii Revised Statutes, is amended to read:

**"Sec. 159-25 Slaughter, transportation, and selling.** No person shall, with respect to cattle, sheep, swine, goats, horses, mules, or other equines, or carcasses, parts of carcasses, meat or meat products of animals:

- (1) Slaughter any animal or prepare any meat or meat products which are capable of use as human food, at any establishment preparing such meat or meat products solely for intrastate commerce, except in compliance with the requirements of this chapter.
- (2) Slaughter or handle in connection with slaughter any such animal in any manner not in accordance with section 159-21(c).
- (3) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:
  - (A) Any meat or meat products which

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† Bracketed "d" substituted for "c" to correct manifest clerical error.

## ACT 179

- (i) Are capable of use as human food, and
- (ii) Are adulterated or misbranded at the time of the sale, transportation, offer for sale or transportation, or receipt for transportation.
- (B) Any meat or meat products required to be inspected under this chapter unless they have been so inspected and passed.
- (4) Do, with respect to any such meat or meat products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after transportation, which is intended to cause or has the effect of causing meat or meat products to be adulterated or misbranded."

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

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

(Approved May 29, 1980.)

## ACT 179

H.B. NO. 1977-80

A Bill for an Act Relating to Environmental Quality.

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

SECTION 1. Section 342-31, Hawaii Revised Statutes, is amended by amending the definitions of "effluent" and "effluent sources" to read:

- "(3) "Effluent" means any substance discharged into state waters or publicly owned treatment works or sewerage systems, including, but not limited to, sewage, waste, garbage, feculent matter, offal, filth, refuse, any animal, mineral, or vegetable matter or substance, and any liquid, gaseous, or solid substances.
- (4) "Effluent sources" include, but are not limited to, sewage outfalls, refuse systems and plants, water systems and plants, industrial plants, and contributors to publicly owned treatment works or sewerage systems."

SECTION 2. Section 342-32, Hawaii Revised Statutes, is amended to read:

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

- (1) Establish by rule or regulation water quality standards, effluent standards, treatment and pretreatment standards, and standards of performance for specific areas and types of discharges in the control of water pollution, thereby allowing for varying local conditions;
- (2) Appoint a master or masters to conduct investigations and hearings;
- (3) Consult with and advise any person engaged or intending to be engaged in any business or undertaking whose waste, sewage, or drainage is polluting

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

- or may tend to pollute state waters;
- (4) Conduct and supervise research programs for the purpose of determining the causes, effects, and hazards of water pollution, the purity and potability of water and the means to monitor the quality of water, or to effect the proper disposal of sewage, drainage, and waste;
  - (5) Conduct and supervise state educational and training programs on water pollution prevention, control, and abatement, including the preparation and distribution of information relating to water pollution;
  - (6) Consult and advise persons intending to alter or to extend any system of drainage, sewage, or water supply;
  - (7) Require complete and detailed plans or reports, on existing works, systems, or plants, and of any proposed addition to, modification of or alteration of any such works, system or plant which contain the information requested by the director in the form prescribed by him; which plans or reports shall be made by a competent person acceptable to the director and at the expense of such applicant or owner;
  - (8) With the approval of the governor, cooperate with, and receive money from the federal government, or any political subdivision of the State or from private sources for the study and control of water pollution;
  - (9) Receive or initiate complaints of water pollution, hold hearings in connection with water pollution, and institute legal proceedings in the name of the State for the prevention, control, or abatement of water pollution;
  - (10) Require the owner or operator of any effluent source or any discharger of effluent to (A) establish and maintain records; (B) make reports; (C) install, use and maintain monitoring equipment or methods; (D) sample effluent and state waters; and (E) provide such other information as the department may require;
  - (11) Require any permittee or holder of a variance or person subject to pretreatment requirements to permit the director or his authorized representative upon the presentation of his credentials:
    - (A) To enter upon permittee's or variance holder's premises or premises of a person subject to pretreatment requirements in which an effluent source is located or in which any records are required to be kept under the terms and conditions of the permit or variance or pretreatment requirements; and
    - (B) To inspect any monitoring equipment or method required in the permit or variance or by pretreatment requirements; and
    - (C) To sample any discharge of pollutants or effluent;
  - (12) Publish an annual report on the quality of the state waters, which annual reports shall include, but not be limited to:
    - (A) A description of sampling programs and quality control methods procedures;
    - (B) Statistical analysis and interpretation of the data on an annual basis by specific points (monitoring stations);
    - (C) Discussion of the results of these analyses to the extent that the implications can be understood by the general public;

- (D) Recommendations for the modification of the water quality monitoring program to enhance its effectiveness for maintaining high standards of water quality in the State; and
- (E) A note of any significant changes in the quality of state waters."

SECTION 3. Section 342-33, Hawaii Revised Statutes, is amended to read:

**"Sec. 342-33 Prohibition.** (a) No person, including any public body, shall discharge any pollutant into state waters, or cause or allow any pollutant to enter state waters except as in compliance with the provisions of this chapter, rules adopted pursuant to this chapter, or a permit issued by the director.

(b) No person, including any public body, shall knowingly establish, extend, or alter any system of drainage, sewage, or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of currents depended upon for dilution without first securing approval in writing from the director.

(c) No person shall discharge any pollutant or effluent into a publicly owned treatment works or sewerage system in violation of:

- (1) A pretreatment standard, or
- (2) A pretreatment condition in a permit."

SECTION 4. Section 342-7, Hawaii Revised Statutes, is amended by amending subsection (h) to read:

"(h) Notwithstanding any provision in this section, no variance shall be granted or renewed pursuant to this part with respect to any discharge of pollutants or wastes which is in violation of the requirements of the Federal Water Pollution Control Act and the amendments thereto."

SECTION 5. Section 342-7, Hawaii Revised Statutes, is amended by amending subsection (i) to read:

"(i) Public participation.

- (1) Public notices of every completed application for a variance shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed emission, discharge or other proposed activity. Procedures for the circulation of public notices shall include at least the following:
  - (i) Notice shall be circulated within the geographical areas of the proposed emission, discharge, or other proposed activity; such circulation shall include publishing in local newspapers and periodicals, or, if appropriate, in a daily newspaper of general circulation;
  - (ii) Notice shall be mailed to any person or group upon request; and
  - (iii) The director shall add the name of any person or group upon request to a mailing list to receive copies of notices for all variance applications within the State or within a certain geographical area.
- (2) The director shall provide a period of not less than thirty days following the date of the public notice during which time interested persons may submit their written reviews with respect to the variance application and the tentative determinations of the department, if any. The period for comment may be extended at the discretion of the director.

- (3) The contents of public notice of applications for variances shall include at least the following:
- (i) Name, address, phone number of agency issuing the public notice;
  - (ii) Name and address of each applicant;
  - (iii) Brief description of each applicant's activities of operations which result in the emission, discharge, or other activity described in the variance application (e.g., rock crushing plant, municipal waste treatment plant, raw sugar factory, pineapple cannery);
  - (iv) A short description of the location of each emission or discharge indicating whether such emission or discharge is new or existing;
  - (v) A brief description of the procedures for the formulation of final determinations, including the thirty-day comment period required by paragraph (2) of this subsection and any other means by which interested persons may influence or comment upon those determinations; and
  - (vi) Address and phone number of state agency premises at which interested persons may obtain further information and inspect a copy of the variance applications and supporting and related documents.
- (4) The director may hold a public hearing if, after reviewing the comments submitted under paragraph (2) of this subsection, he determines that a public hearing is warranted. Any hearing brought pursuant to this subsection shall be held in the geographical area of the proposed emission, discharge or other proposed activity, or other appropriate area, at the discretion of the director.
- (5) The director shall hold a public hearing when revising the state implementation plan required by the Federal Clean Air Act and the amendments thereto, and the regulations promulgated thereunder."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.\*

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

(Approved May 29, 1980.)

ACT 180

H.B. NO. 2183-80

A Bill for an Act Relating to Forest and Water Reserve Zones.

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

SECTION 1. Section 183-41, Hawaii Revised Statutes, is amended by amending subsection (e) to read:

"(e) Enforcement. The department shall prescribe such administrative procedures and provide such personnel as it may deem necessary for the enforcement of this

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

## ACT 181

section, and any zoning regulation enacted in accordance therewith. Such regulations may be enforced by court order at the suit of the department or of the owner or owners of real estate directly affected by the regulation. Any person violating this section or any regulation adopted in accordance with this section shall be fined no more than \$500. After written notification from the department, wilful violation of this section may incur an additional fine of up to \$500 per day for each day in which such violation persists."

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

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

(Approved May 29, 1980.)

## ACT 181

H.B. NO. 2191-80

A Bill for an Act Relating to Ownership and Possession of Firearms.

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

SECTION 1. Section 134-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 134-11 Exemptions.** Sections 134-6 to 134-9 shall not apply:

- (1) To members of police departments, sheriffs, members of military and naval forces of the State and of the United States, mail carriers, and law enforcement officers;
- (2) To regularly enrolled members of any organization duly authorized to purchase or receive the weapons from the United States or from the State, provided the members are at, or going to or from their places of assembly, or target practice;
- (3) To persons employed by the State or subdivisions thereof or the United States whose duties require them to be armed, while the persons are in the performance of their respective duties, or while going to and from their respective places of duty;
- (4) To aliens employed by the State or subdivisions thereof or the United States whose duties require them to be armed, while the persons are in the performance of their respective duties, or while going to and from their respective places of duty;
- (5) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii while on official assignment in that state to carry firearms without registration. The governor of the State or his duly authorized representative may enter into compacts with other states to carry out this section.

Nor shall sections 134-2 and 134-3 apply to such firearms or ammunition as are a part of the official equipment of any federal agency."

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

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

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

(Approved May 29, 1980.)

**ACT 182**

H.B. NO. 2263-80

A Bill for an Act Relating to Limited Partnerships.

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

SECTION 1. Section 425-22, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 425-22 Formation.** Two or more persons, each of whom may be an individual or a corporation and any of whom may be acting in a fiduciary capacity, desirous of forming a limited partnership, shall sign, acknowledge, and file a certificate, as follows:

- (1) The certificate shall state:
  - (A) The name of the partnership;
  - (B) The character of the business;
  - (C) The location of the principal place of business;
  - (D) The name and place of residence of each member; general and limited partners being respectively designated;
  - (E) The term for which the partnership is to exist;
  - (F) The amount of cash and a description of and the agreed value of the other property contributed by each limited partner;
  - (G) The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they are to be made;
  - (H) The time, if agreed upon, when the contribution of each limited partner is to be returned;
  - (I) The share of the profits or the other compensation by way of income which each limited partner is to receive by reason of his contribution;
  - (J) The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution;
  - (K) The right, if given, of the partners to admit additional limited partners;
  - (L) The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income and the nature of the priority;
  - (M) The right, if given, of the remaining general partners or partners to continue the business on the death or retirement of a general partner, or on the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage his person or his property; and

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

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- (N) The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.
- (2) The certificate shall be acknowledged by each of the persons before some officer authorized to take acknowledgements of deeds, and shall be filed in the office of the director of regulatory agencies.

A limited partnership is formed if there has been substantial compliance in good faith with the foregoing requirements.

The director shall preserve the certificate and keep a record of the same, which shall be duly indexed. The certificate, record, and index shall, during all business hours, be open to the inspection of the public, free of charge. A fee of \$1.50 shall be charged for each name signed to any certificate."

SECTION 2. Section 425-29, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 425-29 Rights, powers, and liabilities of a general partner.** A general partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a partnership without limited partners, except that without the written consent or ratification of the specific act by all the limited partners, a general partner or all of the general partners have no authority to:

- (1) Do any act in contravention of the certificates;
- (2) Do any act which would make it impossible to carry on the ordinary business of the partnership;
- (3) Confess a judgment against the partnership;
- (4) Possess partnership property, or assign their rights in specific partnership property, for other than a partnership purpose;
- (5) Admit a person as a general partner;
- (6) Admit a person as a limited partner, unless the right to do so is given in the certificate;
- (7) Continue the business with partnership property on the death or retirement of a general partner, or on the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage his person or his property, unless the right to do so is given in the certificate."

SECTION 3. Section 425-40, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 425-40 Effect of retirement, death, or adjudication of incompetency of a general partner.** The retirement or death of a general partner, or the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage his person or his property dissolves the partnership, unless the business is continued by the remaining general partners under a right to do so stated in the certificate, or with the consent of all members."

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

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

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

(Approved May 29, 1980.)

## ACT 183

H.B. NO. 2795-80

A Bill for an Act Relating to Nursing Home Administrators.

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

SECTION 1. Section 457B-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 457B-4 Appointment, qualifications, term.** The governor shall appoint the members of the board in accordance with section 26-34. The board shall consist of seven members who shall serve for a term of four years. No member shall be appointed to more than two full consecutive terms. Two members shall be administrators duly licensed and registered under this chapter and shall be actively engaged in the practice of nursing home administration throughout the duration of their respective terms on the board."

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

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

(Approved May 29, 1980.)

## ACT 184

H.B. NO. 2822-80

A Bill for an Act Establishing a University of Hawaii Systemwide Student Activities Revolving Fund.

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

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

**"Sec. 304- University of Hawaii student activities revolving fund.** There is established the "University of Hawaii student activities revolving fund" into which shall be deposited all funds assessed as compulsory student activity fees and collected by the University of Hawaii on behalf of chartered student organizations and student activity programs of the several campuses of the University of Hawaii system. All revenues received by chartered student organizations and student activity programs from student activities and programs, except those revenues to which other special funds have prior claim, shall also be deposited into the revolving fund.

Separate accounts shall be maintained for each chartered student organization and student activity program. Funds from the accounts may be withdrawn and expended by each respective chartered student organization or student activity program for any purpose which it deems necessary and proper to carry out and achieve its educational responsibilities, programs, and related activities; provided that approval

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

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for such expenditure is first obtained from the board of regents or its designated representative. All moneys received for the University of Hawaii student activities revolving fund shall be deposited in a depository maintained by the university in accordance with policies which shall be adopted by the board of regents."

SECTION 2. New statutory material is underscored.\*

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

(Approved May 29, 1980.)

## ACT 185

H.B. NO. 2892-80

A Bill for an Act Relating to the Hawaii Bank Act of 1931.

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

SECTION 1. Section 403-53, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 403-53 Branch banks.** No bank or any officer or director, agent, or employee thereof, shall open or maintain any branch in the State or receive deposits or pay checks other than at its principal place of business or its established branches or such subsidiary collection offices as the director of regulatory agencies may approve, except as hereinafter authorized; provided that this section shall not apply to branch banks existent on July 1, 1931, and authorized to do business in the State; and provided further that nothing in this section shall authorize any bank to change the location of any branch bank except as authorized by the procedure hereinafter outlined for opening of branch banks.

Except as provided in section 403-56, no bank shall be permitted to open or maintain in the district of Honolulu, in addition to the main office of the bank more than four branch banks (whether designated as branch banks or collection offices) within each of the zones described.

Zone I: extending from the western side of Nuuanu Avenue to the western limits of the district of Honolulu;

Zone II: extending from the eastern limits of Zone I to a line beginning at the sea and running along Kapahulu Avenue to the intersection of Kapahulu Avenue and Waialae Road, and thence following easterly on Waialae Road to St. Louis Drive, and thence along St. Louis Drive and Dole Street extension to the boundary between Manoa Valley and Palolo Valley, and thence along the boundary to the Koolau range;

Zone III: extending from the eastern limits of Zone II to the eastern limits of the district of Honolulu.

The branch banking limitations of this section shall not apply to electronic funds transfer devices.

A bank or a service corporation of a bank holding company which provides electronic funds transfer terminals and services to its customers, at premises separate from its main office or duly authorized branch or facility, shall make such equipment

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

or services available for use by customers of any other bank authorized to do business in this State upon the request of that other bank to share its use and the agreement of that other bank to share pro rata all costs incurred in connection with the installation and operation of such electronic funds transfer equipment and terminals. Such terminals shall identify with equal prominence all of the banking institutions which use the terminals.

The bank examiner shall adopt rules pursuant to chapter 91 governing the placement of electronic funds transfer devices."

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

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

(Approved May 29, 1980.)

**ACT 186**

S.B. NO. 1516

A Bill for an Act Relating to Time Sharing.

*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  
TIME SHARING PLANS**

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

- (1) "Acquisition agent" means any person, other than a developer or sales agent, who, for compensation, solicits or encourages others to attend a time share sales presentation or to contact a time share sales agent or developer.
- (2) "Commission" means the real estate commission established under section 467-3.
- (3) "Developer" means any person, partnership, or corporation which creates a time sharing plan or is in the business of selling time share units.
- (4) "Director" means the director of regulatory agencies.
- (5) "Plan manager" means a person who undertakes the duties, responsibilities, and obligations of managing a time share plan.
- (6) "Project" means property that is subject to project instruments, including but not limited to condominiums and cooperative housing corporations.
- (7) "Project instrument" means one or more documents, including any amendments to the documents, by whatever name denominated, containing restrictions or covenants regulating the use or occupancy of a project.
- (8) "Sales agent" means a person who sells or offers to sell for compensation an interest in a time share plan for a developer.

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

- (9) "Time share instrument" means one or more documents, by whatever name denominated, creating or regulating any time share plan.
- (10) "Time share plan" means any plan or program in which the use, occupancy, or possession of one or more time share units circulates among various persons for less than a sixty day period in any year, for any occupant. The term time share plan shall include both time share ownership plans and time share use plans, as follows:
  - (A) "Time share ownership plan" means any arrangement whether by tenancy in common, sale, deed or by other means, whereby the purchaser receives an ownership interest and the right to use the property for a specific or discernible period by temporal division.
  - (B) "Time share use plan" means any arrangement, excluding normal hotel operations, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, in a time share unit for a specific or discernible period by temporal division, but does not receive an ownership interest.
- (11) "Time share unit" means the actual and promised accommodations, and related facilities, which are the subject of a time share plan.
- (12) "Unit owner" means the holder of the fee of a unit not used as a time share unit; except that if the fee is encumbered by a lease of at least five years duration, then the person entitled to possession shall be deemed to be the unit owner.
- (13) "Transient vacation rentals" means rentals in a multi-unit building to visitors over the course of one or more years, with the duration of occupancy less than thirty days for the transient occupant.

**Sec. -2 Status of time share plan property.** The temporal division of an interest in real property shall not, in and of itself, affect its status as real property.

**Sec. -3 Taxation.** (a) The plan manager, if any, shall be primarily liable for the payment of real property taxes due on the time share units under his authority. The liability of the individual owners of the units, or temporal division thereof, for real property taxes, shall be primary to all parties except the plan manager.

(b) The acquisition agent and sales agent shall maintain records pertaining to the general excise tax of any independent contractors employed by them, their addresses and commissions paid during each calendar year. The plan manager shall maintain records of the general excise tax due and owing with respect to any time share units under his management. The records for any year shall be retained for at least two years and be available for inspection by the director or the director of taxation.

**Sec. -4 County authority.** The several counties shall, by amendment of their zoning ordinances, limit the location of time share units, time share plans and other transient vacation rentals, within such areas as are deemed appropriate.

**Sec. -5 Geographic limitations.** Except as provided in this section, time share units, time share plans and transient vacation rentals are prohibited.

- (1) Existing time share units, time share plans and transient vacation rentals are not impaired by the provisions of this section.
- (2) Time share units, time share plans and transient vacation rentals are al-

lowed:

- (A) In hotels, or
- (B) Where designated for hotel use, resort use or transient vacation rentals, pursuant to county authority under section 46-4, Hawaii Revised Statutes, or where the county, by its legislative process, designates hotel, transient vacation rental or resort use.

**Sec. -6 Time sharing in projects.** (a) If the project in which the time share unit or time share plan is to be created contains an existing time share unit or time share plan, then time share units and plans shall be regulated according to the terms of the project instruments.

(b) If the project in which the time share unit or time share plan is to be created is not a hotel and does not contain time share units or a time share plan, then such use may be created only if such use is explicitly and prominently authorized by the project instruments, or the project instruments are amended by unanimous vote of the unit owners to explicitly and prominently authorize time sharing.

**Sec. -7 Maintenance charges.** If time share units, or transient vacation rentals are located in the same project as private residential units, charges for the maintenance of common elements assessed against time share and transient vacation rental units may exceed the charges assessed against other units by as much as fifty per cent; provided that such charges do not exceed those assessed against units in the project accommodating transient vacationers with stays of thirty days or less, and such charges are in proportion to extra maintenance expenses actually attributable to the time share and transient vacation rental units.

**Sec. -8 Mutual right to cancel.** Within five calendar days after the execution of the contract to purchase an interest in a time share plan, or within five calendar days after the purchaser's receipt of a disclosure statement required by this chapter, whichever occurs later, either party may cancel the contract without penalty.

**Sec. -9 Disclosure statement.** (a) Any offering of a time sharing plan to the public shall disclose:

- (1) The name and address of the developer and of the time share units;
- (2) The name and address of the plan manager, if any, and a description of his responsibilities and authority;
- (3) A description of the time share units, including the developer's schedule for completion of all buildings, units and amenities and dates of availability;
- (4) If the time share plan is located in a horizontal property regime, a description of the project and any pertinent provisions of the project instruments;
- (5) Any restraints on the transfer of the buyer's interest in the time share units or plan;
- (6) Whether the time share plan is a time share ownership plan or a time share use plan, along with a description of the rights and responsibilities under said plan;
- (7) A statement that there is a five calendar day period of mutual rescission;
- (8) Notice of any liens, title defects or encumbrances on or affecting the title to the units or plan;
- (9) Notice of any pending or anticipated suits that are material to the time share units or plan, of which the developer has, or should have, knowledge;
- (10) The total financial obligation of the purchaser, which shall include the

initial price and any additional charges to which the purchaser may be subject;

- (11) An estimate of the dues, maintenance fees, real property taxes, and similar periodic expenses, and the method or formula by which they are derived and apportioned; and
- (12) Other disclosures required by the director, as provided by rules adopted pursuant to chapter 91.

(b) The requirements of this section shall not apply to the following transactions:

- (1) Any transaction pursuant to order of any court;
- (2) Any disposition by a government or governmental agency;
- (3) Normal hotel operations; or
- (4) Any gratuitous transfer.

(c) A developer or sales agent shall promptly amend or supplement the disclosure statement to report any material change in the information required by this section.

**Sec. -10 Filing required; developer, sales agent, acquisition agent, and plan manager.** (a) A developer shall not offer or dispose of a time share unit or plan unless the disclosure statement required by section -9 is filed with the director, pursuant to the time specified in this Act, or the development is exempt from filing.

(b) An acquisition agent (including the developer if it is also the acquisition agent) shall file with the director the time sharing plan or plans for which it is providing prospective purchasers, its principal office address, the telephone number and responsible managing employee. The acquisition agent shall furnish evidence that a blanket bond of \$10,000 has been placed with a surety company or a cash bond with the director to cover any violations by any of its employees of any solicitation ordinances, or other regulations governing the use of the premise or premises in which the time sharing plan or plans are promoted.

(c) A sales agent (including the developer, if it is also the sales agent) shall file with the director the time sharing plan or plans that it is selling, its principal office address, telephone number, and responsible managing employee and any special escrow accounts set up for the deposit and collection of purchasers' funds. The sales agent shall furnish evidence that a blanket bond of \$10,000 has been placed with a surety company or file a cash bond with the director to cover any defalcations of the sales agent and any of its employees.

(d) A plan manager (including the developer if it is also the plan manager), shall file with the director the time sharing plan or plans that it is managing, its principal office address, telephone number, and responsible managing employee. The plan manager shall furnish evidence that a blanket bond of \$10,000 has been placed with a surety company or file a cash bond with the director to cover any default of the plan manager and any of its employees of their duties and responsibilities.

(e) If the acquisition agent, sales agent, or plan manager are under the control of, a subsidiary of, or an affiliate of the developer, the blanket bonds can be consolidated and set in the amount of \$20,000; provided that there is a disclosure of the affiliation.

(f) Any filing required in this section shall be renewed on December 31 of each

odd-numbered year; provided that this shall not relieve the person required to file from the obligation to notify the director promptly of any material change in any information submitted to the director nor shall it relieve the developer of its obligation promptly to file amendments or supplements to the disclosure statement and to supply the same to purchasers of time share units.

**Sec. -11 Prohibited practices.** It is a violation of this chapter for any sales agent or acquisition agent of time share units or plans to:

- (1) Solicit prospective purchasers on any public street, beach, or other public property or facility;
- (2) Use any promotional device without fully disclosing that the device is being used for the purpose of soliciting sales of time share plans or units;
- (3) Misrepresent or deceptively represent any material fact concerning the time share plan or time share unit;
- (4) Fail to honor and comply with all provisions of the contract with the purchaser; or
- (5) Include, in any contract, provisions purporting to waive any right or benefit provided for purchasers pursuant to this chapter.

**Sec. -12 Penalties; effect on contract.** Any person who violates this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$1,000 for each offense. In addition, any contract in violation of this chapter shall be voidable at the option of the purchaser and entitle such purchaser to a refund of all consideration paid. This remedy is in addition to any other remedy and not exclusive.

**Sec. -13 Authority of director.** The director and the several counties may adopt rules and forms, pursuant to chapter 91, to effectuate the purpose of this chapter and to implement its provisions. The director shall submit an annual report to the legislature.

**Sec. -14 Preexisting time share units and plans.** Time share units and time share plans for existing units which were created in a project prior to the effective date of this Act shall, within six months after the effective date, comply with this chapter, except as to section -5."

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

**SECTION 3.** This Act shall take effect thirty days after approval, except that the disclosure and filing required by section -9 and section -10, respectively, shall take effect one hundred twenty days after the approval.

(Approved May 30, 1980.)

A Bill for an Act Relating to Food, Drugs, and Cosmetics.

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

**SECTION 1.** Chapter 328, Hawaii Revised Statutes, is amended by adding a

new part to be appropriately designated and to read as follows:

**"PART . DRUG PRODUCT SELECTION**

**Sec. 328- Definitions.** As used in this part:

- (1) "Bioequivalents" means chemical equivalents which, when administered to the same individuals in the same dosage regimen, will result in comparable bioavailability, as defined by the Federal Food and Drug Administration.
- (2) "Board" means the drug product selection board.
- (3) "Dispenser" means a person authorized to dispense drugs in the State.
- (4) "Equivalent drug product" means a drug product with the same established name, active ingredient strength, quantity, and dosage form as the drug product identified in the prescription, and listed as therapeutically equivalent in the current state drug formulary.
- (5) "Established name" has the meaning given in section 502(e) (3) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 352(e) (3)).
- (6) "Prescriber" means a person licensed by the State to prescribe drug products.

**Sec. 328- Drug product selection.** (a) A dispenser filling a prescription for a drug product prescribed by its trade or brand name shall:

- (1) Offer to the consumer substitutable and lower cost equivalent drug products from the formulary, adopted pursuant to section 328- ;
- (2) Inform the consumer of the retail price difference between the brand name drug product and the substitutable drug product; and
- (3) Inform the consumer on his or her right to refuse substitution.

The dispenser shall substitute if the consumer consents, and shall not substitute if the consumer refuses.

(b) The dispenser shall not substitute an equivalent drug product if the prescriber, and only the prescriber, handwrites "do not substitute" on the written prescription. The dispenser shall not substitute an equivalent drug product if a prescription is ordered orally, unless the oral prescription is a refill of a prior written prescription for which selection of an equivalent drug product was permitted. The designation of "do not substitute" and the physician's signature shall not be preprinted or stamped on the prescription.

(c) The dispenser shall not substitute an equivalent drug product unless its price to the purchaser is less than the price of the prescribed drug product.

(d) Enforcement. Any wilful violation of this part shall be a misdemeanor. The county prosecutors and the attorney general may bring action upon complaint by an aggrieved person or upon their motion in the name of the State against any person to enjoin any violation of this part.

**Sec. 328- Prescription label.** Every dispenser shall indicate on the label affixed to the immediate container in which the drug product is sold or dispensed the name and strength of the drug product and its manufacturer unless the prescriber specifically states otherwise. The dispenser shall record on the prescription form the brand name or the name of the manufacturer of the drug product dispensed.

**Sec. 328- Prescription record.** Each dispenser shall maintain a record of any substitution of a generically equivalent drug product for a prescribed brand name drug product as provided in this part.

**Sec. 328- Establishment of drug product selection board.** (a) There is established a drug product selection board composed of one representative from the department of health, one representative from either the University of Hawaii school of medicine or the University of Hawaii school of public health, two physicians, and two pharmacists; to be appointed by the governor with the advice and consent of the senate, pursuant to section 26-34. The board shall designate the chairman from its duly appointed membership. A seventh member shall be the director of health or his designated representative.

(b) The drug product selection board shall be placed, for administrative purposes only, within the department of health.

(c) The members of the drug product selection board shall serve without compensation, but shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.

**Sec. 328- Drug formulary.** (a) The board shall adopt rules, pursuant to chapter 91, for the establishment and maintenance of a state drug formulary of equivalent drug products, and to effectuate the purpose of this part. The formulary shall list all drug products that the Commissioner of Food and Drugs, United States Food and Drug Administration, has approved as safe and effective, and has determined to be therapeutically equivalent. The formulary shall also list all drug products that (1) were not subject to premarketing approval for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act; (2) are manufactured by firms meeting the requirements of that Act; (3) are subject to pharmacopoeial standards adequate to assure product quality; and (4) have been determined by the Commissioner of Food and Drugs to meet any other requirements necessary to assure therapeutic equivalence. The formulary may list additional drug products that are determined by the board to meet requirements adequate to assure product quality and therapeutic equivalence. The formulary may delete approved drugs upon a finding that product quality or therapeutic equivalency or bioequivalency, as appropriate, is not adequately assured.

(b) The board shall provide for revision of the formulary as necessary but not less than annually. The formulary shall be adopted by the board no later than January 1, 1981.

(c) The department of health shall provide for distribution of the formulary and revisions to all dispensers and prescribers licensed in this State and to other appropriate individuals.

(d) The department of health shall provide for public education regarding the provisions of this part and shall monitor the effects of this part.

**Sec. 328- Posting requirements.** Every pharmacy shall prominently display, in clear and unobstructed public view, a sign in block letters which shall read: "HAWAII LAW REQUIRES THAT LESS EXPENSIVE GENERICALLY EQUIVALENT DRUG PRODUCTS BE OFFERED TO THE CONSUMER. CONSULT YOUR PHYSICIAN AND PHARMACIST CONCERNING THE AVAILABILITY OF THE LEAST EXPENSIVE DRUG PRODUCT FOR YOUR USE." The letters must be at least one inch in height.

**Sec. 328- Dispenser liability.** A dispenser who selects an equivalent drug product pursuant to this part assumes no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its established name.

**Sec. 328- Exceptions.** Out-of-state prescriptions filled pursuant to section 330-7 shall be exempt from this part."

SECTION 2. Section 328-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 328-6 Prohibited acts.** The following acts and the causing thereof within the State by any person are prohibited:

- (1) The manufacture, sale, delivery, holding, or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded;
- (2) The adulteration or misbranding of any food, drug, device, or cosmetic;
- (3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of section 328-11, 328-12, or 328-17;
- (5) The dissemination of any false advertisement;
- (6) The refusal to permit entry or inspection, or to permit the taking of a sample, as authorized by sections 328-22, 328-23 to 328-27, or to permit access to or copying of any record as authorized by section 328-23;
- (7) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State from whom he received in good faith the food, drug, device, or cosmetic;
- (8) The removal or disposal of a detained or embargoed article in violation of sections 328-25 to 328-27;
- (9) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device, or cosmetic, if the act is done while the article is held for sale and results in the article being adulterated or misbranded;
- (10) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under this part or the Federal Act;
- (11) The using, on the labeling of any drug or in any advertisement relating to the drug, of any representation or suggestion that an application with respect to the drug is effective under section 328-17, or that the drug complies with the provisions of such section;
- (12) The using by any person to his own advantage, or revealing other than to the department of health or to the courts when relevant in any judicial proceeding under this part, any information acquired under authority of section 328-11, 328-12, 328-17, or 328-23, concerning any method or process

- which as a trade secret is entitled to protection;
- (13) In the case of a prescription drug distributed or offered for sale in this State, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable law to administer the drug who makes written request for information as to the drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved under the Federal Act. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this part;
- (14)(A) Placing or causing to be placed upon any drug or device or container thereof, with intent to defraud, the trade name or other identifying mark, or imprint of another or any likeness of any of the foregoing; or
- (B) Selling, dispensing, disposing of, or causing to be sold, dispensed, or disposed of, or concealing or keeping in possession, control, or custody, with intent to sell, dispense, or dispose of, any drug, device, or any container thereof, with knowledge that the trade name or other identifying mark or imprint of another or any likeness of any of the foregoing has been placed thereon in a manner prohibited by [clause] subparagraph (A) hereof; or
- (C) Making, selling, disposing of, or causing to be made, sold, or disposed of, or keeping in possession, control, or custody, or concealing, with intent to defraud, any punch, die, plate, or other thing designed to print, imprint, or reproduce that trade name or other identifying mark or imprint of another or any likeness of any of the foregoing upon any drug, device, or container thereof;
- (15) [Dispensing] Except as provided in part dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without express permission in each case of the person ordering or prescribing;
- (16) The distribution in commerce of a consumer commodity as defined in this part, if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this part and of regulations promulgated under authority of this part; provided that this prohibition shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled;
- (17) The selling or dispensing in restaurants, soda fountains, drive-ins, lunch wagons, or similar public eating establishments of imitation milk and imitation milk products in place of fresh milk and fresh milk products respectively; of liquid or dry products which simulate cream but do not comply with content requirements for cream in place of cream; of non-dairy frozen desserts which do not comply with content requirements for dairy frozen desserts in place of dairy frozen desserts; and of any other imitation food or

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one made in semblance of a genuine food in place of such genuine food, unless the consumer is notified by either proper labeling or conspicuous posted signs or conspicuous notices on menu cards and advertisements informing of such substitution, to include but not limited to the substitution of imitation milk in milk shake and malted milk drinks;

[[]](18) [] Wilfully and falsely representing or using any devices, substances, methods, or treatment as effective in the diagnosis, cure, mitigation, treatment, or alleviation of cancer. The provisions of this paragraph shall not apply to any person who depends exclusively upon prayer for healing in accordance with teachings of a bona fide religious sect, denomination, or organization, nor to a practitioner thereof."

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

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

(Approved May 30, 1980.)

## ACT 188

H.B. NO. 1782-80

A Bill for an Act Relating to Interest and Usury.

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

SECTION 1. It is hereby explicitly stated by the terms of this Act that the provisions of Title V, Part A-Mortgage Usury Laws, Mortgages, Section 501(a)(1) and of Part B-Business and Agricultural Loans, of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply with respect to loans, mortgages, credit sales and advances made in this State, and that this State does not want the provisions of Title V, Part A-Mortgage Usury Laws, Mortgages, Section 501(a)(1) and of Part B-Business and Agricultural Loans, of the Depository Institutions Deregulation and Monetary Control Act of 1980 to apply with respect to loans, mortgages, credit sales and advances made in this State.

SECTION 2. Section 478-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 478-8 Exemptions from usury.** (a) 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.

(b) Small business investment companies shall be exempt from this chapter. The maximum rate of interest charged by such small business investment companies on any loan shall be the maximum rate of interest permitted, without reference to state law, by the federal Small Business Administration pursuant to the Small Business Investment Act of 1958, as amended.

As used in this subsection "small business investment company" means a company approved by the federal Small Business Administration to operate under the

provisions of the federal Small Business Investment Act of 1958 (72 U.S. Statutes at Large 689 et seq.; 15 U.S.C. 661 et seq.), as amended, and issued a license as provided thereunder.

(c) This chapter shall not apply to any mortgage loan wholly or partially secured by a guarantee or insurance or a commitment to insure issued under the provisions of the National Housing Act, Chapter 13 of Title 12 of the United States Code, the Veterans Benefit Act, subchapters I and II of Chapter 37 of Title 38 of the United States Code, and subchapter III of Chapter 8A of Title 42 of the United States Code.

(d) This chapter shall not apply to any mortgage loan wholly or partially secured by an alternative mortgage instrument as approved by the bank examiner in section 402-18.

(e) The provisions of this chapter expressly limiting the rate or amount of interest, discount, charges, or other consideration which may be directly or indirectly taken, received, or reserved shall not apply to any:

- (1) Indebtedness which is secured by a first mortgage lien on real property, or by a first lien on stock in a residential cooperative housing corporation, and is agreed to or incurred after the effective date of this subsection; or
- (2) Agreement of sale made after the effective date of this subsection under which a vendor agrees to sell real property to a vendee but retains legal title to the real property and in which the rate of interest is clearly stated.

(f) The provisions of this chapter shall not apply to a loan made by an employee welfare benefit trust plan or an employee pension benefit plan approved by the Internal Revenue Service pursuant to the Employee Retirement Income Security Act of 1974 and by the United States Department of Labor or a loan made by the Employees' Retirement System of the State of Hawaii.

(g) The provisions of this chapter shall not apply to farm or livestock credit corporations which are authorized by federal law to borrow directly from Federal Intermediate Credit Banks for their lending activities.

(h) Subsections (f) and (g) shall expire at the close of June 30, 1985 except that they shall continue to apply to any loan for the duration of such loan if it is made prior to the close of June 30, 1985 or if it is made during the two year period beginning July 1, 1985 and ending June 30, 1987 pursuant to a commitment issued prior to the close of June 30, 1985."

SECTION 3. Chapter 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 478- Interest; credit cards.** Notwithstanding any other provision to the contrary, the maximum rate of interest chargeable on indebtedness incurred under a credit card agreement shall not exceed 18 per cent per year. For purposes of this section, credit card means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, on credit. This section shall remain in effect until June 30, 1985."

SECTION 4. Sections 478-9 and 478-10, Hawaii Revised Statutes, are repealed.

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SECTION 5. Chapter 506, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 506- Mortgages on real property, damage or destruction of collateral.** Notwithstanding any provisions to the contrary in any agreement between a mortgagor and a mortgagee, if residential real property which is the subject of a mortgage securing a loan is damaged or destroyed by fire, earthquake, tidal wave or any natural disaster, the rate of interest on the loan shall not be increased by reason of the damage or destruction and the proceeds of any insurance insuring against such damage or destruction shall be applied, at the option of the mortgagor, to reduce the indebtedness due under the loan or to repair, restore or rebuild the residential real property."

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. The Revisor of statutes shall publish section 1 in the Hawaii Revised Statutes and the Session Laws of Hawaii.\*

SECTION 8. This Act shall take effect upon its approval, but shall not affect any rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this Act. This Act shall not increase the maximum legal rate of interest, discount, charges, or other consideration permissible under Hawaii or federal law on any indebtedness agreed to or agreement of sale made before the effective date of this Act. This Act shall not increase the rate of interest, discount, charges, or other consideration agreed to in any commitment entered into before the effective date of this Act.

(Approved May 30, 1980.)

## ACT 189

H.B. NO. 1784-80

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Chapter 521, part III, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 521- Tenants subject to rental agreement; notice of conversions.** When a period of tenancy is pursuant to any rental agreement and where a landlord contemplates conversion to horizontal property regime under chapter 514A, the landlord:

- (1) Shall provide notice to the tenant at least ninety days in advance of the termination of the rental agreement, and

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

- (2) Shall comply with the provisions relating to such conversions provided in section 514A-105."

SECTION 2. Chapter 514A, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

### "PART VI. SALES TO OWNER-OCCUPANTS

**Sec. 514A-101 Definitions.** As used in this part:

"Owner-occupant" means any individual in whose name sole or joint legal title is held in a residential unit which, simultaneous to such ownership, serves as the individual's dwelling place for a period of not less than three hundred and sixty-five consecutive days; provided that the individual shall retain complete possessory control of the premises of the residential unit during the period. An individual shall not be deemed to have complete possessory control of the premises if the individual rents, leases, or assigns the premises for any period of time to any other person in whose name legal title is not held.

"Residential unit" means "apartment" as defined in section 514A-3, but excludes:

- (1) Any apartment intended for commercial use; and
- (2) Any apartment designed and constructed for hotel or resort use which is located on any parcel of real property designated and governed by a county for hotel or resort use pursuant to:
  - (A) Section 46-4; or
  - (B) Any other authority granted by law to a county.

**Sec. 514A-102 Announcement, publication.** Beginning fifteen calendar days prior to the date any developer notifies the commission of the developer's intention to sell a project which is subject to this chapter, the developer shall cause to be published in the classified section of at least one newspaper published daily in the State and having a general circulation in the county in which the project is to be located, not less than twice in each of two successive weeks, an announcement containing at least the following information:

- (1) The location of the project;
- (2) A fair and reasonable estimate of:
  - (A) The total number of apartments to be included in the project;
  - (B) The number of apartments designated as residential units;
  - (C) The number of floors in the project;
  - (D) The number of bedrooms and square feet of each residential unit; and
  - (E) The price and amount of monthly maintenance fees for each residential unit;
- (3) The statement that the apartments shall be offered for sale upon the issuance of the first public report by the commission, and the approximate date of the issuance;
- (4) A statement of the intended use, such as, but not limited to, commercial, timesharing, or vacation rental, of any apartment in the project other than a residential unit designated for use by an owner-occupant;
- (5) The statement that fifty per cent of the residential units shall initially be offered for a ten-day period to only prospective owner-occupants, and a designation of such residential units;

- (6) The name and address of a real estate broker, which shall be designated by the developer, who any interested individual may contact to be placed on a reservation list, and to obtain further information on the project; and
- (7) A statement that a public report has not been issued for the project, and that the commission has not yet determined whether the developer has adequately disclosed all material facts as required by law.

Proof of publication of the announcement, and a copy thereof, shall be filed with the commission as a condition of issuance of any public report.

**Sec. 514A-103 Designation of residential units.** The developer of any project containing residential units shall designate at least fifty per cent of such units for sale to prospective owner-occupants pursuant to section 514A-105. Such units shall constitute a proportionate representation of all the residential units in the project with regard to factors of square footage, number of bedrooms, floor level, and whether or not such unit has a lanai.

**Sec. 514A-104 Reservation list, requirements.** From the date of the first publication of an announcement of the intended sale of a project made pursuant to section 514A-102, until ten calendar days have elapsed following the date of issuance of the first public report on such project, the developer's designated broker shall compile a reservation list consisting of the names of all individuals stating a desire to purchase a residential unit contained in the announced project in the order in which they have submitted to the agent the following:

- (1) A duly executed affidavit of intent to become an owner-occupant of the residential unit upon the completion of the project. Any individual who makes any false statement in the affidavit is subject to chapter 710, part V; provided that no individual shall be deemed to have made a false statement of intent if circumstances, such as serious illness of the individual or of a member of the individual's family, job or military transfer, unforeseeable change in marital status, or the birth of a child, subsequent to execution of the affidavit, cause the individual to be unable to occupy the residential unit; and
- (2) An earnest money deposit in a reasonable amount designated by the developer; provided that if no sales contract is offered to the individual, the entire deposit shall be returned and the developer shall not be required to pay any interest on such deposit.

**Sec. 514A-105 Sale of residential units.** From the issuance of the first public report until ten calendar days thereafter, the developer shall offer all the residential units designated pursuant to section 514A-103 for sale to only the individuals whose names are on the reservation list in the order in which their names appear on such list; provided that in the case of a project which includes one or more existing structures being converted to condominium status, each residential unit contained in the project shall first be offered for sale to any individual occupying such unit immediately prior to the conversion and who otherwise complies with section 514A-104.

Each contract for the purchase of a designated residential unit by an owner-occupant shall be conditioned upon the buyer obtaining adequate financing, or a commitment for adequate financing, within thirty calendar days following the end of the ten calendar day period during which the developer is limited to selling to owner-occupants, and if such financing or commitment is not obtained, the contract shall be

canceled. If during the ten calendar day period following the issuance of the first public report, any individual with whom a contract for the sale of one of the designated residential units was entered desires to cancel the contract on account of hardship circumstances such as those set forth in section 514A-104(1), or indicates an intent not to become an owner-occupant of such unit, the developer shall cancel the sales contract and shall offer the unit to persons whose names are on the reservation list, beginning with the first name listed; provided that if there are no additional names on the list, at the end of the ten calendar day period the developer may honor the original sales contract, or cancel the contract and sell to any other person without any further restriction imposed by this part.

Upon the cancellation of any contract, the developer shall return all moneys paid pursuant to the contract but may deduct from the moneys returned any reasonable amount representing expenses incurred by the developer to process the sales contract; provided that the cancellation shall be approved by any lender financing the project; and provided further that the deposit of each individual on the reservation list who has not been offered a residential unit shall be refunded in full. Any individual on the reservation list may at any time be offered any residential unit in the project not subject to the designation required by section 514A-103.

**Sec. 514A-106 Financial institutions, obligations.** Any person subject to chapter 403, 407, 408, 410, or 454, or who is subject to any other law for the purpose of lending money upon the security of real property shall:

- (1) Within thirty days after receipt of an application for credit from any individual for the purpose of purchasing a residential unit designated for owner-occupants under this part, notify the applicant of the action on the application; and
- (2) Prior to making any commitment to extend credit to any individual for the purpose of purchasing a residential unit designated for owner-occupants under this part, take all reasonable steps necessary to determine that the individual, in fact, intends to become an owner-occupant of such residential unit.

**Sec. 514A-107 Enforcement, real estate commission.** Whenever the commission believes from satisfactory evidence that any person has violated any provision of this part, it shall conduct an investigation on such matter and bring an action in the name of the commission in any court of competent jurisdiction against the person to enjoin such person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof. The commission shall adopt rules, pursuant to chapter 91, within six months from the effective date of this part, to carry out its responsibilities under this part.

**Sec. 514A-108 Inapplicability of part.** This part shall not apply to any project developed pursuant to section 46-15 or 46-15.1, or chapter 53, 206, 206E, 356, 359, or 359G."

SECTION 3. Section 514A-49, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) Any person who, in any respect, violates or fails to comply with any of the

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provisions set forth in sections 514A-2, 514A-31 to 514A-39, 514A-41, [514A-42]†, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A-68, 514A-69, 514A-85, or 514A-102 to 514A-106, or who in any other respect violates or fails, omits, or neglects to obey, observe, or comply with any rule, order, decision, demand, or requirement of the real estate commission under sections 514A-2, 514A-31 to 514A-39, 514A-41, 514A-42, 514A-44 to 514A-49, 514A-62 to 514A-66, 514A-68, 514A-69, 514A-85, or 514A-102 to 514A-106, is guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding one year, or both.”

SECTION 4. Section 521-71, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) When the tenancy is month to month, the landlord or the tenant may terminate the rental agreement upon his notifying the other at least twenty-eight days in advance of the anticipated termination. Before a landlord terminates a month-to-month tenancy where he contemplates voluntary demolition of the dwelling units, or conversion to horizontal property regime under chapter 514A, he shall provide notice to the tenant at least ninety days in advance of the anticipated demolition or anticipated termination, and shall comply with the provisions relating to conversions provided in section 514A-105. If notice is revoked or amended and reissued, the ninety-day period shall begin from the date it was reissued or amended.”

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

SECTION 6. This Act shall take effect upon its approval, terminate on December 31, 1985, and shall apply to projects for which a notice of intent has not been filed with the real estate commission prior to the effective date.

(Approved May 30, 1980.)

## ACT 190

H.B. NO. 2629-80

A Bill for an Act Relating to Housing.

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

SECTION 1. Section 46-15.1, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

**“Sec. 46-15.1 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] low and moderate income housing; provided that no county shall be empowered to cause the State to

†“514A-42” substituted for “514-42” to correct manifest clerical error.

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

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 and moderate income, other persons of low and moderate 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 and moderate 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 condition 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) Designate, after holding a public hearing on the matter and with the approval of the respective council, any lands owned by it for the purposes of this section;
  - (5) Provide interim construction loans to partnerships of which it is a partner and to developers whose projects qualify for federally assisted project mortgage insurance, or other similar programs of federal assistance for persons of low and moderate income; and

## ACT 191

(6) Adopt such rules pursuant to chapter 91 as are necessary to carry out the purposes of this section."

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

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

(Approved May 30, 1980.)

## ACT 191

H.B. NO. 2889-80

A Bill for an Act Relating to Authorizing Compensation of Witnesses by the Director of the Office of Consumer Protection.

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

SECTION 1. The purpose of this Act is to authorize the director of the office of consumer protection to compensate witnesses in enforcement proceedings pursuant to the provisions of chapter 487, Hawaii Revised Statutes.

[SECTION 2.]<sup>†</sup>

**"Sec. 487-5 General functions, powers, and duties of the office.** The director of the office of consumer protection is designated the consumer counsel for the State and shall represent and protect the State, the respective counties, and the general public as consumers. The office of consumer protection shall have the following functions, powers, and duties:

- (1) Coordinate the consumer protection activities of all departments, divisions, and branches of state government, and of branches of the county government concerned with consumer protection;
- (2) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of the consumer public;
- (3) Conduct investigations, research, studies, and analysis of matters and take appropriate action affecting the interests of consumers;
- (4) Study the operation of laws affecting consumers and recommend to the governor and the legislature, new laws and amendments of laws in the consumer's interest;
- (5) Adopt rules pursuant to chapter 91 interpreting section 480-2; provided that in adopting rules, due consideration shall be given to the rules, regulations, and decisions of the Federal Trade Commission and the federal courts in interpreting section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)), as from time to time amended;
- (6) Investigate reported or suspected violations of laws enacted, and rules and regulations promulgated for the purpose of consumer protection and shall

<sup>†</sup>"Section 2" has been supplied by revisor. It is apparent that some material is missing at this point. In H.B. 2889, H.D. 1, the following reference to §487-5 appeared: "SECTION 2. Section 487-5(12), Hawaii Revised Statutes, is amended to read as follows:".

- enforce such laws, rules, and regulations by bringing civil actions or proceedings;
- (7) Organize and hold conferences on problems affecting consumers; and undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion, and sale of consumer goods and services;
  - (8) Provide a central clearing house of information by collecting and compiling all consumer complaints and inquiries;
  - (9) Organize, promote, and conduct consumer education programs within the State;
  - (10) Appear before governmental commissions, departments and agencies to represent and be heard on behalf of consumers' interest;
  - (11) Contract with other county, state, or federal governmental agencies, with nonprofit social services societies, or with private nonprofit trade, professional, or business organizations for the performance of any of the functions of the office not involving the enforcement of rules and regulations for the purpose of consumer protection under this section, or the extension of any power or authority under section 487-11, within the budget limitations for any period not exceeding a budget year, provided[, however,] that the purposes and policies of this chapter are in no way diluted, abridged, misdirected, or destroyed;
  - (12) Perform such other acts as may be incidental to the exercise of the functions, powers, and duties set forth in this section[.], including but not limited to, compensation of witnesses in such amounts and for such purposes as shall be prescribed by rules."

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

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

(Approved May 30, 1980.)

## ACT 192

H.B. NO. 1060

A Bill for an Act Relating to Tuition Waivers.

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

SECTION 1. The purpose of this Act is to encourage residents to join and be members of the Hawaii national guard and of reserve components of the army, navy, air force, marine corps, and coast guard of the United States of America by providing tuition waivers at campuses of the University of Hawaii.

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- National guard and military reservists; tuition waiver.** (a) The board of regents shall waive all tuition fees for any qualified enlisted person, warrant or company grade officer (O-1 through O-3) in the Hawaii national guard or

## ACT 193

in the reserve components of the army, navy, air force, marine corps, and coast guard of the United States of America who is a resident of the State as defined by the board of regents under section 304-4 and who is an undergraduate student working towards a degree on any campus of the University of Hawaii; provided that the exemption for tuition shall be applicable only for the academic year excluding summer session and courses offered by the college of continuing education and public service which are not directly supported by an appropriation from the state general fund; and provided that the person maintains a satisfactory performance with that person's guard or reserve unit and pursues a course of study at the University of Hawaii campus which satisfies that school's academic requirements.

(b) The Hawaii national guard and the reserve components of the army, navy, air force, marine corps, and coast guard of the United State of America shall establish certification procedures showing maintenance of a satisfactory military performance by a person applying for a tuition waiver herein. To qualify for a tuition waiver, an applicant shall obtain certification by the appropriate national guard or reserve force and present such certification to the University of Hawaii at the time of enrollment.

(c) Tuition waivers granted under this section shall be in addition to any tuition waivers authorized under this chapter.

(d) In the event of enactment of federal legislation providing for similar tuition benefits, any person receiving veterans or federal education benefits shall not be eligible for tuition waiver under this section.

(e) The board of regents may adopt, amend and repeal rules necessary or desirable to the implementation of this section, subject to the provisions of chapter 91, Hawaii Revised Statutes.

(f) This section is repealed effective June 30, 1984."

SECTION 3. No later than January 16, 1984, the Adjutant General shall submit a report to the Legislature on the impact which this Act has had on recruitment of residents as members of the Hawaii National Guard.

SECTION 4. New statutory material is underscored.\*

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

(Approved May 31, 1980.)

ACT 193

H.B. NO. 1801-80

A Bill for an Act Relating to Police.

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

SECTION 1. Section 52-37, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 52-37 Specific duties.** The chief of police or any duly authorized subordinate shall:

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

- (1) Preserve the public peace;
- (2) Arrest and take before the nearest qualified district judge for examination all persons who attempt to commit, or who have committed a public offense, and shall prosecute the same under the direction of the county attorney;
- (3) Prevent and suppress affrays, breaches of peace, riots, and insurrections;
- (4) Attend all circuit courts held within the county and obey all lawful orders and directions of all courts held within the county;
- (5) In an emergency requiring the same, command the aid of as many inhabitants of the county as may be necessary in the execution of police duties;
- (6) Take charge of and keep the county jail, and the prisoners therein;
- (7) Indorse upon all processes and notices the year, month, day, hour, and minute of reception, and issue therefor to the person delivering the same on payment of fees, a certificate showing the name of the parties, title of paper, and time when received;
- (8) Serve all processes and notices;
- (9) Certify, under hand, upon every process or notice, the manner and time of service, or if there is a failure to effect service, the reason for the failure, and return the same without delay;
- (10) Enforce any restraining order to cease and desist from any further spouse abuse or trespass made by any Hawaii family court."

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

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

(Approved May 31, 1980.)

ACT 194

H.B. NO. 1806-80

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

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

SECTION 1. Section 431-412, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) Where any form of life or disability insurance is issued at any time upon the life or body of a minor, unless the policy shall otherwise provide, or unless all of the premiums on the policy are paid by the minor, then until the minor has reached the age of eighteen years, either or both parents of the minor, or in the event of the death of one parent or the divorce of the parents and the custody of the minor being awarded to one parent, then the surviving parent, or the custodial parent of the minor shall be authorized to surrender, make loans upon, or assign such insurance and to give a valid discharge for any benefit accruing or for money payable under the contract, and to exercise any of the rights or privileges reserved to the insured in and by any such

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

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policy of insurance without the order or intervention of any court, or the appointment of a legal guardian, and no insurer shall have any responsibility for or be required to see to the application of the proceeds paid in accordance herewith."

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

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

(Approved May 31, 1980.)

## ACT 195

H.B. NO. 1821-80

A Bill for an Act Relating to Bail Bonds.

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

SECTION 1. Section 804-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 804-12 Bond for minor.** When the person admitted to bail is a minor, the bond shall notwithstanding be valid."

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

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

(Approved May 31, 1980.)

## ACT 196

H.B. NO. 1871-80

A Bill for an Act Relating to Industrial Loan Companies.

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

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) No industrial loan company shall directly or indirectly charge, contract for, collect, or receive any interest, discount, fees, charges, or other consideration on any loan made by it except as provided by this section; or as permitted by any exemption provided under chapter 478."

SECTION 2. Section 408-15, Hawaii Revised Statutes, is amended by amending† subsection (1) to read as follows:

"(1) Open-end loan. An industrial loan company shall also have power to make open-end loans subject to the following requirements:

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

†So in original, but word "amending" probably should read "adding".

- (A) A licensee may not contract for and receive interest on an open-end loan in excess of that set forth in subsection (j) of this section.
- (B) A licensee shall not compound interest by adding any unpaid interest authorized by this subsection to the unpaid principal balance of the borrower's open-end loan account; provided that the unpaid principal balance may include the charges (other than interest) authorized by subsection (h) of this section.
- (C) Interest authorized by this subsection shall be deemed not to exceed the maximum interest permitted by this section if such interest is computed for each billing cycle at a monthly rate not to exceed that permitted in subsection (j) of this section by any of the following methods:
  - (i) By converting the monthly rate to a daily rate and multiplying such daily rate by each daily unpaid principal balance of the open-end loan account in the billing cycle, and then adding the products of all such multiplications (in which case the daily rate is determined by multiplying the authorized monthly rate by 12 and dividing by 365); or
  - (ii) By multiplying the monthly rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle (in which case the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle); or
  - (iii) By converting the monthly rate to a daily rate and multiplying such daily rate by the average daily unpaid principal balance of the open-end loan account in the billing cycle, and then multiplying the product so obtained by the number of days in the billing cycle (in which case the daily rate is determined by multiplying the authorized monthly rate by 12 and dividing by 365, and the average daily unpaid principal balance is the sum of the amounts unpaid for all days during the cycle divided by the number of days in the cycle); or
  - (iv) By converting the monthly rate to a daily rate by the method set forth in subparagraph (i) and multiplying such daily rate times the sum of all the daily unpaid principal balances of the open-end loan account during the billing cycle.
- (D) For all of the above methods of computation, the unpaid principal balance of any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts (other than interest) charged to the borrower and deducting all payments and other credits made or received that day.
- (E) The borrower may pay all or any part of the unpaid balance in the borrower's open-end loan account, or the borrower may pay the unpaid balance in periodic installments, subject to minimum payment requirements, date of maturity and other conditions as determined by the licensee and set forth in the open-end loan agreement.
- (F) A licensee may contract for and receive the fees, costs, and expenses permitted under subsection (h) of this section.
- (G) If credit life or disability insurance is provided, the additional charge for

## ACT 197

credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance as such rate may be approved by the insurance commissioner pursuant to chapter 435, to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in this subsection for the calculation of loan interest. A licensee shall not be responsible for advancing premiums for credit life or disability insurance on a borrower who is delinquent in the making of the required minimum payments on the loan if one or more of such payments is past due for a period of ninety days or more; provided that the licensee shall advance to the insurer the amounts required to keep such insurance, if provided, in force during such ninety-day period, which amounts may be debited to the borrower's open-end loan account.

- (H) A licensee, until the open-end loan account is terminated, may retain any security interest in real or personal property given to secure the open-end loan account. Upon such termination the licensee shall, within ten business days following receipt of written demand by the borrower, release the mortgage, security interest, pledge, or other security for the open-end loan. For the purposes of this paragraph, termination of the open-end loan account means the cancellation, rescission, or other cessation of the open-end loan account by mutual agreement where the borrower has paid all amounts owed on the open-end loan account and the borrower has complied with all of the terms of the open-end loan agreement. Nothing in this paragraph shall preclude any licensee from exercising any other rights the licensee has to or in the security for open-end loans in the event of the borrower's default. Notwithstanding any other provision in this chapter, no open-end loan may be secured by a lien on the borrower's principal residence. The lender shall require certification, by the borrower, that the real property used as security for the open-end loan is not the borrower's principal residence, and the lender may rely thereon.
- (I) If the open-end loan agreement is a retail installment contract, the licensee shall comply with the requirements of chapter 476."

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

SECTION 4. This Act shall take effect upon its approval, but shall not affect any rights which accrued prior to the effective date.

(Approved May 31, 1980.)

ACT 197

H.B. NO. 1925-80

A Bill for an Act Relating to Industrial Loan Companies.

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

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

SECTION 1. Section 408-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 408-15 Interest rates; late charges; other charges; refunds.** (a) No industrial loan company shall directly or indirectly charge, contract for, collect, or receive any interest, discount, fees, charges, or other consideration on any loan made by it except as provided by this section.

(b) Advance interest or discount. An industrial loan company may charge, contract for, receive, or collect in advance interest or discount at any rate which does not exceed the following maximum rate for the particular period and type of contract hereinafter set forth, computed in the manner set forth in section 408-3, at the inception of the contract, to wit:

- (1) Where interest is paid or deducted in advance for a period of not more than eighteen months upon any contract (whether the principal amount of the contract is payable in one payment at the end of the maturity period thereof or in installments), it shall not exceed twelve per cent a year computed in the manner set forth in section 408-3 at the inception of the contract.
- (2) Where interest is payable or deducted in advance upon a contract payable in a period of more than eighteen months, it shall not exceed an amount computed in the manner set forth in section 408-3, as follows: twelve per cent a year for the first eighteen months, plus nine per cent a year for the next twelve months (or portion thereof), plus six per cent a year for the next twelve months (or portion thereof), plus three per cent a year for the next six months (or portion thereof), of such period, as the case may be.

Interest shall not be deductible in advance for more than four years.

(For example: upon a contract, the principal amount of which is \$120, payable in twenty-four months, in monthly installments of \$5, the maximum amount of interest which may be deducted in advance under this section is computed as follows:

12 per cent a year of \$120 for first 18 months . . . . .	\$21.60
9 per cent a year of \$120 for next 6 months . . . . .	<u>5.40</u>
Total interest deductible in advance from	

principal amount of the contract . . . . . \$27.00)

- (3) For loans made or committed to after the effective date of this paragraph and prior to July 1, 1985, the maximum rates of interest specified in paragraphs (1) and (2) of this subsection shall be as follows: A maximum rate of interest specified as twelve per cent a year shall be fourteen per cent a year, a maximum rate of interest specified as nine per cent a year shall be ten and one-half per cent a year, a maximum rate of interest specified as six per cent a year shall be seven per cent a year, and a maximum rate of interest specified as three per cent a year shall be four per cent a year. This paragraph shall not apply to loans made or committed to before the effective date of this paragraph.
- (4) Installments, acceleration of. In addition to collecting or deducting interest in advance, as aforesaid, the company may require and receive repayment of the principal amount of the contract in uniform weekly, monthly, or other periodic installments with the privilege to the company (subject to the

interest refund provisions of this section where applicable) to declare the entire unpaid balance due and payable in the event of default in the payment of any installment.

(5) Late charges on delinquent installments. In addition to requiring and collecting interest in the manner and at the rates hereinbefore provided for, the company may also require and receive the payment of late charges not to exceed twelve per cent a year on any contractual installment or portion thereof which remains unpaid on the due date of the installment where there has been no extension or deferment by mutual agreement, or where the amount extended or deferred is not paid on the due date agreed upon. The company shall give the borrower written notice of the assessment of late charges prior to the due date for the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract.

(6) After maturity interest charges. Upon maturity of the contract, the rate of interest on the unpaid principal balance of the loan shall be eighteen per cent a year or the original contract rate of interest, whichever is less.

(c) Fraction of a month. In computing interest for any of the purposes of this section, or interest refunds under subsection (f), for any period, any fraction of a month shall be considered as a whole month.

(d) Where not an installment contract. Nothing in this chapter shall be deemed to prohibit an industrial loan company from lending money upon a contract to repay the principal amount at the end of the maturity period, instead of in installments, under which contract interest is either deductible in advance, or is payable in weekly, monthly, or other periodic installments, or at the end of such period, provided the interest payable or paid is not in excess of the maximum prescribed by this section for loans repayable in installments of principal.

(e) Application, licensees only. No person, firm, or corporation (not holding a license issued under this chapter) shall charge, contract for, collect, or receive interest, discounts, fees, charges, or other consideration on any loan in the amount or in the manner provided in this section unless permitted so to do by other state law.

(f) Refunds; prepayment. On a contract which has been discounted or on which interest has been collected in advance, and which is then paid or refinanced or on which judgment is then obtained before maturity, the industrial loan company involved shall refund to the borrower on account of unearned discount or interest an amount computed, on that portion of the principal amount which has not yet matured, at the same rate of discount or interest as was charged at the time the contract was made, for the term of the contract remaining after the date of the payment or after the date of the judgment; provided, that no refund less than 25 cents need be made; and provided further, that checks issued to refund interest which are not presented for payment within three years from the date of issue may be declared canceled and the sum thereof retained as earnings of the licensee. Each company shall permit any borrower from it to pay partially or wholly any contract or installment on a contract before the due date, if the contract has been in effect for a period of at least three months. The company shall not be required to refund any portion of the unearned discount or interest which results in a minimum discount or interest retained on the contract of less than \$15.

(g) Deferred payments, interest, etc. Any payment on account of the principal amount of a contract, which is due on a particular date, may be extended or deferred to a later date by mutual agreement, and, upon the amount of the principal payment so extended or deferred, interest, not exceeding that permitted upon an original loan by this section, for the actual period of the extension or deferment, may be charged and may be collected in advance at the commencement of the period of extension or deferment, provided that the term and conditions of the extension or deferment, including the principal amount so extended or deferred, and the period of, and the charge for, the extension or deferment, shall be set forth in writing and signed in duplicate by the borrower and the company, one copy of the same to be kept on file with the contract and the other copy to be given to the borrower.

(h) Other charges. In addition to the interest, discount, or other charges permitted by this section, an industrial loan company shall also have power to collect in advance or otherwise from the borrower any of the following charges:

- (1) The actual taxes and fees charged by a governmental agency for recording, filing, or entering of record, any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments, of or on any real or personal property which constitutes all or a portion of the security on a contract;
- (2) Appraisal fees, and abstractors' fees, or title insurance actually paid to third parties, no portion of which fees inures to the benefit of the company;
- (3) Premiums actually paid for insuring real and personal property pledged as security on a contract, and insurance premiums on the life of the borrower, provided the insurance is obtained from insurance companies authorized to do and doing business in the State under the laws thereof and provided the borrower, if the property is adequately insured for the amount of the loan, shall not be required to substitute other insurance therefor upon the property or to take out additional insurance thereon; and
- (4) Attorney's fees, if provided for in the contract, and costs of court, incurred in the collection of any contract in default.
- (5) A charge not exceeding \$10 upon the transfer of any equity under a chattel mortgage or a conditional sale contract, or upon any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or upon any of such conveyances of any real or personal property which constitutes all or a portion of the security on a contract.
- (6) Loan fees or "points" on all loans primarily secured by an interest in real property where the interest rate is computed in accordance with subsection (j) of this section; provided, that the total finance charge payable by the borrower in connection with any such loan shall include the amount of any such loan fees or "points" and shall not exceed an annual percentage rate (as defined in the Federal Truth In Lending Act and the regulations of the Federal Reserve Board promulgated thereunder) equal to the maximum rate of interest permissible under subsection (j).
- (7) Any reasonable attorneys' fees incurred for the preparation of any contract, or any promissory note or any obligation evidencing an indebtedness, or

any bill of sale, assignment, mortgage, chattel mortgage, or other conveyance, or any partial or complete release, discharge, or satisfaction of judgment, mortgage, lien, or other encumbrance, or any of such conveyances or instruments of or on any real or personal property which constitutes all or a portion of security on a contract, or any other documents relating to a contract.

- (8) Actual charges for credit reports and other credit screening expenses incurred for loans of \$5,000 or more, provided that such charges shall not exceed \$15 per applicant and such charges are paid to third parties and no portion of such charges inures to the benefit of the company.

(i) Minimum discount or interest on conditional sale. When the discount or interest on a conditional sale contract of \$100 or more is less than \$15, a charge for discount or interest of \$15 shall be allowed.

- (j) As an alternative to the interest authorized by subsection (b);

(1) An industrial loan company may contract for and receive interest at a rate not exceeding eighteen per cent per year on the unpaid principal balance of a loan, for a loan period of no longer than fifteen years; provided that retail installment contracts as defined in section 476-1, unsecured loans for less than \$5,000, and loans for less than \$7,500 secured only by personal property shall not be contracted under this subsection for a loan period of longer than six years. For loans contracted under this subsection with a term exceeding six years, the note shall provide for repayment of the loan in equal monthly installments over the term of the loan with a final payment not exceeding twice the monthly payment. Upon the maturity date of the contract, the rate of interest on the unpaid principal balance of the loan may be twelve per cent a year or the original contract rate of interest, whichever is greater.

(2) For loans made or committed to after the effective date of this paragraph and prior to July 1, 1985, the maximum rate of interest permitted by this subsection shall be twenty-four per cent a year. This paragraph shall not apply to loans made or committed to prior to the effective date of this paragraph.

(3) In addition to collecting interest at the rate established in paragraph (1) or (2) of this subsection, an industrial loan company may collect late charges on delinquent installments. Except as otherwise provided in chapter 476, relating to Retail Installment Sales, late charges shall not exceed five per cent of each delinquent contractual installment or portion thereof which remains unpaid on the due date agreed upon in the contract or \$50, whichever is less. The late charges shall not be collected more than once for the same delinquent installment. Delinquency occurs when the installment or payment is not paid on the due date agreed upon in the contract. The company shall give the borrower written notice of the assessment of late charges prior to the due date of the next contractual payment. No late charges shall be assessed after acceleration of the maturity of the contract."

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

underscored.\*

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

(Approved May 31, 1980.)

**ACT 198**

H.B. NO. 2265-80

A Bill for an Act Relating to Striking Names of Disqualified Voters from the Register.

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

**SECTION 1.** Section 11-23, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 11-23 Changing register; striking names of disqualified voters.** Whenever the clerk receives from the department of health or any informing agency, information of the death, loss of voting rights of a person sentenced for a felony as provided in section 831-2, adjudication as an incapacitated person under the provisions of chapter 560, a mentally retarded person under the provisions of chapter 333, or a mentally ill person under the provisions of chapter 334, loss of citizenship, or any other disqualification to vote, of any person registered to vote in his county, or who he has reason to believe may be registered to vote therein, he shall thereupon make such investigation as he may deem necessary to prove or disprove the information, giving the person concerned, if available, notice and an opportunity to be heard. If after the investigation he finds that the person is dead, or incapacitated to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting, or has lost his voting rights pursuant to section 831-2, or has lost his citizenship, or is disqualified for any other reason to vote, he shall remove the name of the person from the register.

The clerk shall make and keep an index of all information furnished to him under any requirements of law concerning any of the matters in this section. Whenever any person applies to register as a voter, the clerk shall, before registering the person, consult the index for the purpose of ascertaining whether or not the person is in any manner disqualified to vote. Any person whose name is removed from the register of voters under this section may appeal in the manner provided by sections 11-26 and 11-51, and such proceedings shall be had upon the appeal as in other appeals under these sections."

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

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

(Approved May 31, 1980.)

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

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

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

SECTION 1. Section 281-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 281-3 Illegal manufacture, importation, or sale of liquor.** It shall be unlawful for any person, not having a valid license, to manufacture, sell, or offer or expose or keep for sale, any liquor, except as otherwise provided in this chapter; provided, the head of any family may produce for family use and not for sale an amount of wine not exceeding two hundred gallons per annum.

It shall also be unlawful for any person, not having a valid wholesale license or a valid manufacturer's (including rectifier's) license, to import any liquor from without the State, except as otherwise provided in this chapter. Liquor imported into this State shall come to rest at the warehouse of the wholesaler importing the liquor and shall be unloaded into such warehouse before further sale by such wholesaler.

It shall also be unlawful for any person to label, designate, or sell any liquor using the word "Hawaii", "Hawaiian", or "Aloha State" unless such liquor is wholly manufactured in the State.

It shall also be unlawful for any person to label, designate, or sell any rum as "Hawaii Rum" or "Hawaiian Rum" unless it shall have been aged for at least two years from the date of distillation.

A license shall constitute authority for the licensee to sell only the liquor thereby authorized to be sold by him."

SECTION 2. Section 281-31, Hawaii Revised Statutes, is amended to read as follows:

**"281-31 Licenses, classes.** Licenses may be granted by the liquor commission as follows: Class 1. Manufacturers' licenses. A license for the manufacture of liquor shall authorize the licensee to manufacture the liquor therein specified and to sell the same at wholesale in original packages to any person who holds a license to resell the same, and to sell draught beer or wine manufactured from grapes or other fruits grown in the State in any quantity to any person for private use and consumption. Under this license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

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

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

Class 3. Wholesale dealers' licenses. A license for the sale of liquors at wholesale shall authorize the licensee to import and sell only to licensees or to others who are by law authorized to resell but are not by law required to hold a license, the liquors

therein specified in quantities not less than five gallons at one time if sold from or in bulk containers or not less than one gallon if bottled goods. The license shall authorize the licensee to sell draught beer in quantities not less than five gallons at one time to any person for private use and consumption. Under the license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds:

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

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

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

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

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

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

Class 6. Club licenses. A club license shall be general only (but excluding alcohol) and shall authorize the licensee to sell liquors to members of the club and to guests thereof enjoying the privileges of membership, for consumption only on the premises kept and operated by the club, and shall also authorize any bona fide club member to keep in his private locker on the premises a reasonable quantity of liquor, if owned by himself, for his own personal use and not to be sold, and which may be consumed only on the premises.

Class 7. Vessel licenses. A general license may be granted to the owner of any vessel performing a regular water transportation passenger service between any two or more ports in the State for the sale of liquor (other than alcohol) on board the vessel while in the waters of the State; provided such sales are made only while the vessel is en route, and only for consumption by passengers on board. If the vessel has a home

## ACT 199

port in the State the license shall be issuable in the county wherein the home port is situated, otherwise in the city and county of Honolulu. If on any vessel for which no license has been obtained under this chapter any liquor is sold or served within three miles of the shore of any island of the State the same shall constitute a violation of this chapter.

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

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

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

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

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

Class 11. Cabaret license. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, and professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week.

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

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

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

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

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

(Approved May 31, 1980.)

ACT 200

H.B. NO. 2443-80

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† 410-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A credit union may loan to members for provident or productive purposes and upon such security approved by the board of directors, acceptable to the credit committee and not prohibited by this chapter. A credit union shall not grant unsecured loans with maturities exceeding five years, nor shall it grant secured loans, except as expressly herein otherwise provided, with maturities exceeding ten years; provided, that these limitations shall not apply to loans made under the National Higher Education Act and guaranteed in whole or in part by the United States government or any of its agencies, or any agency of the State. No loan shall bear an interest rate to exceed eighteen per cent per year on the unpaid balance; provided that interest rates on loans made or committed to before the effective date of this Act shall not be affected.

No credit union shall charge the borrower anything of value in connection or in association with a loan other than repayment of the unpaid principal balance and interest; provided, that the credit union may require the borrower to pay fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction, fees, or premiums in connection with real estate loans, including fees or premiums for title examination, title insurance, or similar purposes, fees for preparation of deeds, settlement statements or other documents, escrows for future payments of taxes and insurance, fees for notarizing deeds and other instruments, appraisal fees, or credit reports. Each application for a loan shall be made upon a form, which the credit committee prescribes and the board of directors approves, which shall state the purpose for which the loan is desired and the security, if any, offered. Every loan shall be evidenced by a written instrument. Loans to any one member shall not exceed \$200 or ten per cent of the shares, deposits, and surplus, whichever shall be the larger.”

SECTION 2. Chapter 410, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 410- Authority of bank examiner.** The bank examiner, without regard to chapter 91, may establish an interest rate ceiling exceeding the eighteen per cent per year rate for periods not to exceed eighteen months, if the bank examiner determines that prevailing interest rate levels threaten the safety and soundness of credit unions.”

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

†So in original, but word “Chapter” probably should read “Section”.

## ACT 201

underscored.\*

SECTION [4].† This Act shall take effect upon its approval.

(Approved June 5, 1980.)

## ACT 201

H.B. NO. 2646-80

A Bill for an Act Relating to Law Enforcement.

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

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

**"Sec. - Officer of United States Customs Service or Immigration and Naturalization Service; arrest powers.** An officer of the United States Customs Service and the Immigration and Naturalization Service may, without a warrant, arrest a person if:

- (1) The officer is on duty;
- (2) One or more of the following situations exists:
  - (A) The person commits an assault or other crime involving physical harm, defined and punishable under chapter 707, against the officer or against any other person in the presence of the officer;
  - (B) The person commits an offense against public order, defined and punishable under chapter 711, in the presence of the officer;
  - (C) The officer has probable cause to believe that a crime as defined in subparagraph (A) or (B) has been committed and has probable cause to believe that the person to be arrested has committed the crime;
  - (D) The officer has probable cause to believe that a felony has been committed and probable cause to believe that the person to be arrested has committed the felony; or
  - (E) The officer has received information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source that a law enforcement officer holds a warrant for the person's arrest; and
- (3) The Regional Commissioner of Customs or the Regional Commissioner of Immigration and Naturalization, as the case may be, for the district of Hawaii certifies to the State that the officer has received proper training within the agency to enable that officer to enforce or administer this section."

SECTION 2. New statutory material is underscored.\*

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

(Approved June 5, 1980.)

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

†Bracketed "4" substituted for "3" to correct manifest clerical error.

## ACT 202

S.B. NO. 870

A Bill for an Act Relating to Inter-Island Transportation System.

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

SECTION 1. Section 271G-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 271G-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; provided that changes to a fuel surcharge approved by the commission may be made after thirty 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, concurrently 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.

The commission may upon complaint of any interested person or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, enter upon a hearing concerning the lawfulness of the rate, fare, or charge, or the rule, regulation, or practice, and pending the hearing and the decision thereon the commission, by delivering to the carrier or carriers affected thereby a statement in writing of its reasons therefor, may suspend the operation of the schedule and defer the use of the rate, fare, or charge, or the rule, regulation, or practice. From the date of ordering a hearing to investigate the

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lawfulness of the rate, fare, or charge, the commission shall have up to six months to complete its investigation. If the commission fails to issue a final order within the six month period then the changes proposed by the carrier shall go into effect. At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulation, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice, is just and reasonable.

(e) When a rate increase application is filed, the commission may in its discretion and after public notice, and upon showing by a water carrier of probable entitlement and financial need, authorize temporary increases in rates, fares, and charges; provided that the commission shall by order require the carrier to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision by further order require the interested carrier to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges by its decision shall be found not justified. The interest to be paid shall be the rate of return authorized in the last general rate case proceedings."

**SECTION 2.** Section 271G-19, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(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, filed tariff or requirement or order thereunder, shall pay a civil penalty to the State in the sum of not less than \$100, nor more than \$5,000 for each offense, and, in the case of a continuing violation, not to exceed \$5,000 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."

**SECTION 3.** Section 271G-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 271G-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 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) 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."

SECTION 4. Section 271G-23, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 271G-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; provided that in all evidentiary hearings conducted pursuant to chapter 91 in which a carrier has the burden of justifying the reasonableness of its rates, fares, charges, or classifications, the burden of proof of the carrier in proving the reasonableness of expenditures, contracts, leases, or other transactions between the carrier and corporate affiliates of the carrier shall be satisfied only if the reliable, probative and substantial evidence is clear and convincing. 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

## **ACT 203**

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."

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

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

(Approved June 6, 1980.)

## **ACT 203**

**S.B. NO. 1003**

A Bill for an Act Relating to County Zoning.

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

**SECTION 1.** Section 46-4 of the Hawaii Revised Statutes is amended by amending subsection (a) to read as follows:

"(a) This section and any ordinances or rules and regulations adopted in accordance with it, shall apply only to those lands not contained within the forest reserve boundaries as established on January 31, 1957, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long range, comprehensive general plan prepared or being prepared to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawaii, Maui, and Kauai means the establishment of districts of such number, shape, and area, and the adoption of regulations for each district as shall be deemed best suited to carry out the purposes of this section. In establishing or regulating the districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land so as to allow and encourage the most beneficial use of the land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

- (1) The areas within which agriculture, forestry, industry, trade, and business may be conducted.
- (2) The areas in which residential uses may be regulated or prohibited.
- (3) The areas bordering natural watercourses, channels and streams, in which trades or industries, filling or dumping, erection of structures, and the location of buildings may be prohibited or restricted.
- (4) The areas in which particular uses may be subjected to special restrictions.
- (5) The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- (6) The location, height, bulk, number of stories, and size of buildings and other structures.
- (7) The location of roads, schools, and recreation areas.
- (8) Building setback lines and future street lines.

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

- (9) The density and distribution of population.
- (10) The percentage of lot which may be occupied, size of yards, courts, and other open spaces.
- (11) Minimum and maximum lot sizes.
- (12) Other such regulations as may be deemed by the boards or city council as necessary and proper to permit and encourage orderly development of land resources within their jurisdictions.

The council of any county shall prescribe such rules and regulations and administrative procedures and provide such personnel as it may deem necessary for the enforcement of this section and any ordinance enacted in accordance therewith. The ordinances may be enforced by appropriate fines and penalties, or by court order at the suit of the county or the owner or owners of real estate directly affected by the ordinances.

Nothing in this section shall invalidate any zoning ordinances or regulation adopted by any county or other agency of government pursuant to the statutes in effect prior to July 1, 1957.

The powers granted herein shall be liberally construed in favor of the county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accord with a long range, comprehensive, general plan, and to insure the greatest benefit for the State as a whole. This section shall not be construed to limit or repeal any powers now possessed by any county to achieve the ends through zoning and building regulations, except insofar as forest and water reserve zones are concerned.

Neither this section nor any ordinance enacted under this section shall prohibit the continuance of the lawful use of any building or premises for any trade, industry, residential, agricultural, or other purpose for which the building or premises is used at the time this section or the ordinance takes effect, provided, that a zoning ordinance may provide for elimination of nonconforming uses as the uses are discontinued[.] or for the amortization or phasing out of nonconforming uses or signs over a reasonable period of time in commercial, industrial, resort, and apartment zoned areas only. In no event shall such amortization or phasing out of nonconforming uses apply to any existing building or premises used for residential (single family or duplex) or agricultural uses. Nothing in this section shall affect or impair the powers and duties of the director of transportation as set forth in chapter 262."

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

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

(Approved June 6, 1980.)

**ACT 204**

S.B. NO. 2155-80

A Bill for an Act Relating to Intake Service Centers.

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

SECTION 1. Section 353-1.3, Hawaii Revised Statutes, is amended to read:

**"Sec. 353-1.3 Creation of intake service center board.** There shall be within the department of social services and housing, for administrative purposes, an intake service center board, hereinafter called the board. The board shall consist of sixteen members who shall be appointed by the governor for a term ending on the day that the governor completes his term of office, but who shall continue to serve on the board until their successors are appointed. Three members each shall be selected from the judiciary and from the private sector. Two members each shall be selected from the department of social services and housing, the department of health, from among the police departments of the counties, from among the prosecuting attorneys of the counties, and the remaining members shall be the public defender and the chairman of the Hawaii paroling authority. A vacancy occurring in the membership shall be filled for the unexpired term thereof. The board shall select its chairman from one of its appointed members. The members shall receive no compensation for their services on the board, but shall be reimbursed for actual expenses incurred in the performance of their duties.

The board shall set the policies, directions, priorities, and procedures for the operation of intake service centers and conduct at periodic intervals a review of the performance of intake service centers."

SECTION 2. Section 353-1.4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 353-1.4 Creation of intake service center.** There shall be within the department of social services and housing, for administrative purposes, an intake service center for each of the counties. Each center shall be directed and managed by a director. The director of the Oahu intake service center shall be appointed by the governor without regard to chapters 76 and 77, but shall meet the qualifications for the position determined by the department of personnel services. The director of the Oahu intake service center shall appoint the directors of the other intake service centers pursuant to chapters 76 and 77. The director of the Oahu intake service center shall be the over-all state executive director of all the intake service centers and shall manage, control, and direct all of the intake service centers and provide periodic reports not less than annually on their operations to the governor and the intake service center board. Any center may be integrated with and operated concurrently with a community correctional center.

The intake service center shall:

- (1) Provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons;
- (2) Provide non-custodial and program services for persons awaiting judicial disposition who have not been conditionally released;
- (3) Provide such other personal and correctional services as needed;
- (4) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;
- (5) Refer persons admitted to the center in selected cases, to community pro-

grams pending judicial disposition or where judicial proceedings are discontinued or suspended;

- (6) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs.

The intake service center may be staffed by full-time or part-time professional and clerical staff appointed pursuant to chapters 76 and 77, or utilize contractual professional services."

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

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

(Approved June 6, 1980.)

## ACT 205

H.B. NO. 1606

A Bill for an Act Relating to the Public Employees Health Fund.

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

**SECTION 1.** Section 87-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 87-4 State and county contributions to the fund.** The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [\$11] \$14.14 for each of their respective employee-beneficiaries and [\$34.50] \$45.08 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan, provided[,] that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall [be \$34.50] not exceed the monthly contribution of a family plan for both of them.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of [\$3.74] \$4.18 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the

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

## ACT 206

payment of group life insurance benefits for each employee.

The several counties through their respective departments of finance shall annually reimburse the State no later than December 30 of each fiscal year for their respective pro rata share of the cost of administering the fund for the fiscal year for the benefit of their employee-beneficiaries and dependent-beneficiaries. Each county's pro rata share shall be determined by allocating the amount appropriated for administering the fund for the fiscal year, after excluding therefrom state and county contributions for hospital, medical and surgical benefits, dental benefits, and group life insurance benefits, in the same proportion as the aggregate annual amount of state and county contributions for such benefits as of October 31 of the preceding fiscal year. The amount of any excess or deficiency required to administer the fund shall be subtracted from or added to, as the case may be, the amount due from each county for the succeeding fiscal year.

Contributions made by the State or the several counties shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance the sum of \$2,085,800 for fiscal year 1980-81 or so much thereof as may be necessary for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1981 shall lapse into the general fund.

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

SECTION 4. This Act shall take effect on July 1, 1980.

(Approved June 6, 1980.)

## ACT 206

H.B. NO. 1684

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. Section 346-37, Hawaii Revised Statutes, is amended to read:

**"Sec. 346-37 Recovery of payments.** (a) If a recipient under this chapter dies leaving an estate and does not have a surviving spouse, child, father, mother, grandfather, grandmother, grandchild, stepfather, stepmother, or any designated heir, the department may file a claim against the estate for the amount of social services payments, money payments, or burial payments granted, and the claim shall be allowed. The department may file a claim against the estate of a deceased recipient of medical assistance for the amount of medical assistance granted, only if the recipient was age sixty-five or over when such medical assistance was received and there is no dependent surviving spouse, or dependent child under twenty-one years of age, or is blind, or disabled.

(b) If any portion of any public assistance, including medical assistance, food

stamps, or burial payment, was obtained by any fraudulent device, including but not limited to those mentioned in section 346-34, or if any public assistance, including medical assistance, food stamps, or burial payment, was furnished or provided after receipt of income or resources which were not reported to the department as required by this chapter or by the department, the department may file a claim against the estate of the deceased recipient notwithstanding the provisions in subsection (a).

(c) If the department has provided medical assistance or burial payment to a person who was injured, suffered a disease, or died under circumstances creating a tort or other liability against some third person, the department shall have a right to recover from the third person an amount not to exceed the amount of medical assistance or burial payment furnished or to be furnished by the department. The department shall as to this right be subrogated to any right or claim that a claimant, defined in subsection (k), has against such third person for special damages to the extent of the amount of medical assistance or burial payment furnished or to be furnished by the department.

To enforce such rights, the department may intervene or join in any action or proceeding brought by a claimant against the third person who is liable. If such action or proceeding is not commenced within six months after the first day on which medical assistance or burial payment is furnished by the department in connection with the injury, disease, or death involved, the department may institute and prosecute legal proceedings against the third person who is liable for the injury, disease, or death, in a state court, either alone (in its own name or in the name of a claimant) or in conjunction with the claimant.

(d) Where legal proceedings are instituted by the claimant against a third person, the claimant shall give timely notice of such action to the department.

(e) Where third party liability is found to exist, or where the issue of such third party liability is settled or compromised without a finding of liability, regardless of who institutes legal proceedings or seeks other means of recovering, the department shall have a lien in the amount of medical assistance and burial payment made against the proceeds from special damages awarded in a suit or settlement. The lien shall attach as provided in subsection (f). Where a notice of lien is properly served upon the attorney representing the claimant as provided in subsection (f), that attorney shall satisfy the lien prior to disbursing any of the proceeds of the suit or settlement to his client. Where a notice of lien is properly served upon the third person described in subsection (c), his agent or attorney, or upon his insurance company, as provided in subsection (f), it shall be the responsibility of the third person to satisfy the lien prior to disbursing any of the proceeds to the claimant's attorney. This section is not intended to restrict or diminish the right of the department to settle or compromise its subrogation or lien rights provided herein.

(f) The lien of the department for reimbursement of medical or burial payments, provided in subsection (e), shall not attach unless and until a notice of lien is served upon the claimant's attorney or upon the third person, his agent, attorney, or insurance company. The method of service shall be by registered mail, return receipt requested, or by delivery of the notice of lien personally to the individuals referred to. Service by registered mail is complete upon receipt. The notice of lien shall state the name of the injured, diseased, or deceased person, the amount of the lien, and the date of the accident or incident which caused the injuries, disease, or death which necessi-

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tated the department's medical or burial payments. Where the notice of lien is served upon the claimant's attorney, the notice of lien shall state that the claimant's attorney shall pay the amount of the lien from the proceeds of any judgment, settlement, or compromise based on the incident or accident. Where the notice of lien is served upon the third person described in subsection (c), his agent, attorney, or insurance company, the notice of lien shall state that he shall satisfy the lien prior to disbursing any of the proceeds to the claimant or to the claimant's attorney. A notice of lien may be amended from time to time until extinguished, each amendment taking effect upon proper service.

(g) In the event that there is a dispute between the claimant, his agent, or his attorney, and the department concerning the existence of the lien or the amount of the lien, the claimant, his agent, or his attorney may request in writing a hearing on the dispute. After receipt by the department of such a written request, the department shall conduct an administrative hearing within a reasonable period of time. The provisions of chapter 91 shall apply to such a hearing. Funds sufficient to extinguish the lien rights of the department shall be either retained by the person or entity served with the notice of lien, or shall be paid to the department pending its decision.

(h) Upon the recovery of any claim as provided in this section, the amount so recovered shall be paid into the treasury of the State, and if the amount for which claim was paid in part from federal funds, the proper portion thereof shall be paid by the director of finance into the treasury of the United States, and the director of finance shall report the payment to the department.

(i) Any person failing to satisfy the lien as required by subsections (e) and (f), although able to do so from the proceeds of such suit or settlement, shall be personally liable to the department for any damage proximately caused to the department by such failure.

(j) No action taken by the department in connection with the rights afforded under this section shall operate to deny to the claimant the recovery for that portion of his damage not covered hereunder.

(k) For purposes of this section the term "claimant" shall include an injured or diseased person, his guardian, or the personal representative, estate, dependents, or survivors, of the deceased person."

**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 this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

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

(Approved June 6, 1980.)

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

## ACT 207

H.B. NO. 1873-80

A Bill for an Act Relating to Juveniles.

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

SECTION 1. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to follow section 571-22, Hawaii Revised Statutes, and to be appropriately designated and to read as follows:

**"Sec. 571- Appeal of waiver of jurisdiction.** An order waiving jurisdiction shall not be appealable as a final order, but may only be appealable in conjunction with an appeal of all other issues after a trial on the charge against such minor or adult."

SECTION 2. New statutory material is underscored.\*

SECTION 3. This Act shall take effect upon its approval; provided it shall not affect any appeals or orders pending appeal upon its effective date.

(Approved June 6, 1980.)

## ACT 208

H.B. NO. 1991-80

A Bill for an Act Relating to Massage.

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

SECTION 1. **Findings and purpose.** The practice of massage in the State of Hawaii is declared to affect the public health and safety and is subject to regulation and control in the public interest. It is further declared that as a matter of public interest and concern, the practice of massage as defined in this Act be limited to qualified persons admitted to the practice of massage in the State of Hawaii under this Act. This Act shall be liberally construed to carry out these objectives and purposes in accordance with this declaration of policy.

SECTION 2. Chapter 452, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"CHAPTER 452  
MASSAGE"**

SECTION 3. Section 452-1, Hawaii Revised Statutes, is amended to read as follows:

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

(1) "Board" means the board of massage created under this chapter.

(2) "Massage" or "massaging" and "Hawaiian massage" commonly known as lomilomi, means any method of treatment or therapy of the superficial soft

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

parts of the body, consisting of rubbing, stroking, tapping, pressing, shaking, or kneading with the hands, feet, or elbow, and whether or not aided by any mechanical or electrical apparatus, appliances, or supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, cream, lotions, ointments, or other similar preparations commonly used in this practice.

- (3) "Massage therapist" means any person who engages in and follows the occupation or practice of massage for compensation.
- (4) "Massage establishment" means premises occupied and used for the purpose of practicing massage; provided that when any massage establishment is situated in any building used for residential or sleeping purposes, the massage establishment premises shall be set apart and shall not be used for any other purpose.
- (5) "Out-call massage service" means any business, the primary function of which is to engage in or carry on the practice of massage, not at a fixed location but at a location designated by the customer, client, or service."

SECTION 4. Section 452-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-2 License required.** It is unlawful for any person in the State to engage in and to follow or to attempt to engage in and to follow the occupation or practice of massage for compensation without a current license issued pursuant to this chapter."

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

**"Sec. 452-3 Massage establishments to be registered.** No massage establishment or out-call massage service shall be operated unless the same has been duly licensed as provided for in this chapter."

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

**"Sec. 452-4 Creation of state board.** There is established within the department of regulatory agencies for administrative purposes a state board of massage consisting of five members appointed by the governor as provided in section 26-34. Three members shall have at least three years of practical experience as licensed massage therapists, and two shall be public members."

SECTION 7. Section 452-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-5 Organization of the board.** The board shall have a president, secretary, and treasurer who shall be elected annually from among its members."

SECTION 8. Section 452-6, Hawaii Revised Statutes, is amended to read as follows:

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

(b) The board may grant, or upon proof of violation of this chapter or the rules

adopted by the board governing the practice under this chapter, revoke, suspend, or refuse to renew a license as provided in this chapter.

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

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

SECTION 9. Section 452-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-7 Compensation; expenses.** Members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties."

SECTION 10. Section 452-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-8 Meetings of the board.** The board shall meet at least two times each year, and at such other times and places as the board may direct. A majority of the members of the board shall constitute a quorum for the transaction of business."

SECTION 11. Section 452-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-9 Records of board.** The board shall keep a record of all of its proceedings and activities including all applications, and the action taken thereon. The books and records of the board shall be prima facie evidence of matters therein contained, and shall constitute public records."

SECTION 12. Section 452-10, Hawaii Revised Statutes, is repealed.

SECTION 13. Section 452-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-11 Assistance to board.** The board may call to its aid any person or persons of established reputation and known ability in their profession, for the purpose of conducting examinations, inspection, and investigations of all persons affected by this chapter."

SECTION 14. Section 452-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-12 Application for examination.** Each person who desires to practice the occupation of massage therapist shall file with the board a written application under oath, on a form prescribed and supplied by the board, and shall submit such

credentials as may be required by this chapter or the rules adopted by the board, and shall also pay the board the required fees."

**SECTION 15.** Section 452-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-13 Requisites for admission to examination and licensing of massage therapists, massage establishments, and out-call massage services.** (a) Massage therapist. The secretary of the board shall determine the sufficiency of the preliminary qualifications of applicants for admission to examination and licensing.

- (1) An applicant for examination shall have good moral character, and a medical report which shall include an X-ray examination of the chest made within thirty days prior to the date of application by a duly licensed physician of the State and a statement by a licensed physician that the applicant has been examined and is free of all other communicable and contagious diseases. A non-refundable application fee of \$15 and an examination fee of \$15, which shall be refunded only if the board finds that the applicant is not qualified to take the license examination, shall be paid to the board at the time of the application.
- (2) The board shall satisfy itself as to the good moral character of the applicant, may require the submission of certification as to good moral character by reputable citizens, and, in its discretion, may independently investigate the applicant's moral character.
- (3) The board may waive the examination of an applicant upon the payment of the application fee and the submittal of a medical report as required in paragraph (1) if the applicant is licensed in another state, territory, or the District of Columbia, wherein the license requirements are found by the board to be comparable or more stringent than the requirements in force in this State.

(b) Massage establishments and out-call massage services. An applicant desiring to license a massage establishment or an out-call massage service shall file with the board a written application under oath, on a form prescribed and supplied by the board, and setting forth that he has complied with all of the requirements in such manner and detail as may be required by the rules established by the board. A license fee of \$100 shall be paid to the board together with the application fee of \$15."

**SECTION 16.** Section 452-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-14 Examination.** The examination of applicants for licenses to practice massage shall be conducted under rules prescribed by the board and shall include both practical demonstrations and written or oral tests and shall not be confined to any specific system or method, and such examination shall be consistent with the practical and theoretical requirements of the occupation as provided by this chapter."

**SECTION 17.** Sec. 452-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-15 Licenses.** If an applicant for an examination for massage thera-

pist passes the examination to the satisfaction of the board, or the board has waived the examination under section 452-13(a)(3), and the applicant has paid a license fee of \$25, the board shall issue a license to that effect, signed by the president and secretary. The license shall be evidence that the person to whom it is issued is entitled to follow the practice stipulated therein as prescribed in this chapter. The license shall not be transferable and shall be conspicuously displayed in the place of business or employment."

SECTION 18. Section 452-16, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-16 Renewal of license; fees.** Massage therapist, massage establishment, and out-call massage service licenses shall expire on June 30 of each even-numbered year following the date of issuance unless renewed for the next biennium. A license may be renewed by filing an application therefor, accompanied, in the case of a massage therapist, by a renewal fee of \$25 and a medical report similar to that required on initial application and, in the case of an establishment or out-call massage service, by a renewal fee of \$100. The application shall be made between May 1 and June 30 of each even-numbered year. Failure to apply for renewal as herein provided shall constitute a forfeiture of the license as of the date of expiration. Any license so forfeited may be restored within one year after expiration upon the filing of an application in the same manner and payment, in addition to all delinquent fees, of a penalty of \$25. Thereafter, the license shall not be restored unless the regular examination for applicants is again taken and passed."

SECTION 19. Section 452-17, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-17 Fees.** The fees for application, examination, licensing, and other registrations as provided in this chapter, shall be paid in advance and deposited by the director of regulatory agencies with the director of finance to the credit of the general fund."

SECTION 20. Section 452-19, Hawaii Revised Statutes, is amended to read as follows:

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

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

SECTION 21. Section 452-20, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 452-20 Appeal from actions of the board.** An appeal may be taken to

## ACT 209

the circuit court from any action of the board refusing to grant or suspending or revoking a license. The judgment of the circuit court may be reviewed by the supreme court.”

SECTION 22. Section 452-21, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 452-21 To whom provisions in this chapter shall not apply.** Nothing in this chapter shall prohibit service in case of emergency, or domestic administration, without compensation, nor services by persons holding any valid license, permit, or certificate dealing with the healing arts, nor services by barbers, hairdressers, cosmeticians, and cosmetologists lawfully carrying on their particular profession or business under any existing law of this State.”

SECTION 23. Section 452-22, Hawaii Revised Statutes, is repealed.

SECTION 24. Any person holding a current certificate as a masseur or operator as of the effective date of this Act shall be considered a licensed massage therapist as of that date with experience as a licensed massage therapist for the period the person has held a certificate as a masseur or operator. The certificate shall be effective as a license until its renewal date. Any massage parlor or salon registered under section 452-13, Hawaii Revised Statutes, as of the effective date of this Act shall be considered a licensed massage establishment or out-call massage service as of that date. The registration shall be effective as a license until its renewal date.

SECTION 25. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 26. This Act shall take effect upon its approval.

(Approved June 6, 1980.)

ACT 209

H.B. NO. 2059-80

A Bill for an Act Relating to Grand Jury.

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

SECTION 1. **Purpose.** The purpose of this bill is to implement Article I, Section 11, of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters on November 7, 1978, which pertains to the grand jury counsel and grand jury proceedings.

SECTION 2. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 612- Grand jury counsel; appointment and removal.** The chief justice of the state supreme court shall appoint one or more grand jury counsel for the four judicial circuits of the State, without regard to chapters 76, 77, and 89. Right to removal shall rest with the chief justice.”

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

SECTION 3. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 612- Grand jury counsel; qualifications.** The grand jury counsel shall be licensed to practice law before the supreme court of the State, and shall not be a public employee.”

SECTION 4. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**“Sec. 612- Grand jury counsel; length of term; extension of term; limitation on reappointment.** (a) Grand jury counsel shall serve for a term of one year following appointment.

(b) The term of a grand jury counsel may be extended when the matters for which the counsel was called to service cannot be completed before the end of the counsel's term. The extension shall be authorized by the chief justice where completion of such matters would be substantially extended or hindered by the assignment of another counsel.

(c) In no case shall grand jury counsel be reappointed to serve consecutive terms.

(d) The term of the grand jury counsel whenever practicable shall be such that it will not be co-terminous with the term of the grand jury.”

SECTION 5. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 612- Grand jury counsel; call to duty.** Grand jury counsel shall be subject to call by the appointing authority during the counsel's term of office. Such a call for service shall include an estimate of the number of hours or days, or other reasonable approximation of the time that the grand jury shall desire counsel's services. No later than twenty-four hours after a call to service, the grand jury counsel shall notify the appointing authority whether or not the call for service is accepted.”

SECTION 6. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 612- Grand jury counsel; compensation.** The grand jury counsel shall be compensated on a daily basis at the same rate as per diem judges of the district court.”

SECTION 7. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 612- Grand jury counsel; disqualification.** (a) Grand jury counsel shall disqualify himself in any matter in which circumstances render substantial question upon the counsel's impartiality or which would jeopardize public confidence in the grand jury.

(b) The prosecutor may petition the court for disqualification of the grand jury counsel for cause. Upon a hearing, the court shall issue an appropriate order permitting or denying such petition.”

SECTION 8. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 612- Grand jury counsel; duties.** The grand jury counsel shall serve as independent legal counsel to the grand jury, to be at the disposal of the grand jury during its proceedings in obtaining appropriate advice on matters of law after the grand jury has been sworn and charged by the court under section 612-16(d) and during the court's absence. The grand jury counsel may be present during grand jury proceedings but shall not participate in the questioning of the witnesses or the prosecution. The grand jury counsel's function shall be to receive inquiries on matters of law sought by the grand jury, conduct legal research, and provide appropriate answers."

SECTION 9. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 612- Grand jury proceedings.** (a) Each grand jury proceeding conducted under the authority of the State shall be provided with a grand jury counsel.

(b) The deliberation and the voting of the grand jury shall be private; provided that the grand jury may interrupt its deliberation or voting in order to call in the grand jury counsel for the purpose of making specific inquiries of counsel or may transmit written inquiries to counsel from the privacy of its deliberation or voting, but all such inquiries shall be restricted to matters of law.

(c) All inquiries made by the grand jury of the grand jury counsel and all exchanges between them shall be recorded verbatim and made part of the record of the grand jury proceedings."

SECTION 10. Chapter 612, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 612- Dismissal of indictment.** Any indictment which is based upon a grand jury proceeding in which a violation of section , section , or section has occurred may be subject to dismissal without prejudice by an appropriate state court in the exercise of its discretion. Motion for such dismissal may be made by either party or the court."

SECTION 11. Section 103-3, Hawaii Revised Statutes, is amended to read as follows:

**"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) To the Hawaii crime commission;
- (7) To grand jury counsel;

(8) 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 purpose of this section the term "department of the State" means any department, board, commission, agency, bureau, or officer of the State.

Every attorney employed by any department on a full-time basis, except an attorney employed by the Hawaii crime commission or as a grand jury counsel, shall become a deputy attorney general."

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 13. This Act shall take effect upon its approval.

(Approved June 6, 1980.)

ACT 210

H.B. NO. 2064-80

A Bill for an Act Relating to the Department of Social Services and Housing.

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

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 346- Medical assistance frauds, penalties.** It is unlawful for any person to knowingly and wilfully make or cause to be made to the medical assistance program any false statement or representation of a material fact in any application for any benefit or payment for furnishing services or supplies, or for the purpose of obtaining greater compensation than that to which the person is legally entitled, or for the purpose of obtaining authorization for furnishing services or supplies. Violation of this section shall be a class C felony. The enforcement of remedies provided under this section are not exclusive and shall not preclude the use of any other criminal or civil remedy."

SECTION 2. New statutory material is underscored.\*

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

(Approved June 6, 1980.)

ACT 211

H.B. NO. 2074-80

A Bill for an Act Relating to Signing and Filing of Returns for Taxation Purposes.

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

SECTION 1. Section 231-15, Hawaii Revised Statutes, is amended to read:

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

## ACT 211

**"Sec. 231-15 Returns to be signed.** Every return, statement, or other document required to be made for taxation purposes shall be signed in accordance with forms or regulations prescribed by the department of taxation. Where forms or regulations have not been prescribed, every such return, statement, or other document shall be signed by the person required to make the return, statement, or other document or by some duly authorized person in the person's behalf.

The department of taxation may require that, if any person or persons actually prepare or sign a return for another person, the person or persons so preparing or signing the return shall sign a statement showing such facts and such authority to sign such return as may be prescribed by the department, and the department may by regulation define the classes of persons to whom this provision shall apply.

Any other provision of law to the contrary notwithstanding, no oath shall be required upon any tax return."

SECTION 2. Section 235-62, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-62 Return and payment of withheld taxes.** Every employer required by this chapter to withhold taxes on wages paid in any month shall make return of such wages to the department of taxation on or before the last day of the calendar month following the month for which the taxes have been withheld. The return shall be in such form, including computer printouts and the like, and contain such information as may be prescribed by the director of taxation. The return shall be filed with the collector of the taxation district in which the employer has his principal place of business or with the director at Honolulu if the employer has no place of business in the State. Every return under this section shall be accompanied by a remission of the complete amount of tax withheld, as reported in the return; provided that the director may, if he believes such action necessary where collection of the tax may be in jeopardy, require any person required to make a return under this section to make such return and pay such tax at any time; provided further that the director may grant permission to employers, whose liability to pay over the taxes withheld as heretofore provided shall not exceed \$500 a year, to make returns and payments thereon on a quarterly basis during the calendar year, such returns and payments to be made on or before the last day of the calendar month after the close of each quarter, to wit, on or before April 30, July 31, October 31, and January 31; and provided further that the director may grant permission to employers to make monthly payments based on an estimated quarterly liability, provided that the employer file a reconciliation return at the end of each quarter during the calendar year as heretofore provided. The director, for good cause, may extend the time for making returns and payments, but not beyond the last day of the second month next succeeding the regular due date thereof. With respect to wages paid out of public moneys, the director in his discretion may prescribe special forms for, and different procedures and times for the filing of, such returns by employers paying such wages, or may, upon such conditions and subject to such rules as he may prescribe from time to time, waive the filing of any such returns."

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

underscored.\*

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

(Approved June 6, 1980.)

**ACT 212**

H.B. NO. 2135-80

A Bill for an Act Relating to Copies of Tax Returns.

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

**SECTION 1.** Section 231-16, Hawaii Revised Statutes, is amended to read:

**“Sec. 231-16 Copies of returns.** Except as otherwise provided by law, copies of any tax return filed with the department of taxation shall be furnished to the taxpayer filing the return or to his representative who has written authorization to be provided such copies upon the payment of \$1 per page and \$1 for any certification thereof by the department.”

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

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

(Approved June 6, 1980.)

**ACT 213**

H.B. NO. 2577-80

A Bill for an Act Relating to Taxation.

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

**SECTION 1.** Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) This chapter shall not apply to the following persons:
- (1) Banks taxable under chapter 241;
- (2) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
- (3) Public utilities owned and operated by the State or any county or other political subdivision thereof;
- (4) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
- (5) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of

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

- death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders, or associations, and to their dependents;
- (6) Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965 as well as that of operating a prepaid legal services plan;
  - (7) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual;
  - (8) Hospitals, infirmaries, and sanitaria;
  - (9) Cooperative associations now or hereafter incorporated under and pursuant to chapter 421 or 422 and which fully meet the requirements of section 421-23 or section 422-33 (provided that the exemption shall apply only to the gross income derived from its activities authorized by chapter 421 or 422; and that the exemption shall not relieve any person who receives any proceeds of sale from the association of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable);
  - (10) Building and loan associations taxable under chapter 241;
  - (11) Persons affected with leprosy and kokusas, with respect to business within the county of Kalawao;
  - (12) Corporations, companies, associations, or trust organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided[,] that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
  - (13) Industrial loan companies taxable under chapter 241, provided that the exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
  - (14) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry industry and which are solely supported by state funds;
  - (15) Local development companies incorporated under the laws of the State and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended, provided that the exemption shall apply only with respect to

- gross income derived as interest on loans made to borrowers from loan funds obtained from the Small Business Administration but only if the loans are made at the same rates of interest payable to the Small Business Administration by the local development corporation;
- (16) Nonprofit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations;
- (17) Small business investment companies taxable under chapter 241; provided that the exemption shall apply only to the income derived from activities engaged in as provided by the federal Small Business Investment Act of 1958, Public Law 699, as amended, provided further that the exemption shall not apply to consulting and advisory services engaged in under the first sentence of section 308(b) of Public Law 699."

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

SECTION 3. This Act shall take effect on July 1, 1980.

(Approved June 6, 1980.)

ACT 214

H.B. NO. 2669-80

A Bill for an Act Relating to Education.

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

SECTION 1. Chapter 301, Hawaii Revised Statutes, is amended by adding a new section to read:

**"Sec. 301- Administrative hearing procedures and subpoena power relating to the education of handicapped children.** (a) An impartial hearing may be requested by any parent or guardian of a handicapped child or by the department on any matter relating to the identification, evaluation, program, or placement of a handicapped child. The department shall adopt rules and regulations which shall conform to the requirements of any applicable federal statutes or regulations pertaining to the impartial hearing based on the education of a handicapped child. Such rules and regulations shall require that any party may be present at the proceeding, be accompanied and advised by counsel or individuals with special knowledge or training with respect to the problems of handicapped children, may require witnesses to be under oath, cross-examine witnesses, and obtain a written or electronic verbatim record of the proceedings.

(b) Any party to such hearings or the hearings officer shall have the right to compel the attendance of witnesses upon subpoena issued by the hearings officer. The fees for attendance shall be the same as for the fees of witnesses before circuit court. In case of the failure of any person to comply with a subpoena, a circuit court judge of the judicial circuit in which the witness resides, upon application of the hearings officer, shall compel attendance of the person."

## **ACT 215**

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

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

(Approved June 6, 1980.)

## **ACT 215**

**H.B. NO. 2720-80**

A Bill for an Act Making an Appropriation for Payment of Settlement Between the State of Hawaii and Mark Construction, Inc.

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

**SECTION 1. Findings and purpose.** The purpose of this Act is to provide for the payment of a settlement agreement negotiated by the State of Hawaii and Mark Construction, Inc., involving three separate suits (Civil Nos. 38134, 44113, and 45Q60) filed by Mark Construction, Inc., against the State of Hawaii. These three suits were consolidated and seek damages of more than 12 million dollars. The claims are grounded on contracts awarded to Mark Construction, Inc., by the State Department of Transportation for three separate federal-aid highway construction projects on Oahu.

The Departments of the Attorney General and Transportation have evaluated the claims and consider the settlement to be in the best interest of the State. The evaluation included considerations of the projected cost of defining the claims and the potential exposure to liability.

The State will apply to the Federal Highway Administration for federal reimbursement on the amount paid in settlement.

**SECTION 2.** There is appropriated the sum of \$2,500,000 out of general obligation bond funds of the State of Hawaii, with debt service costs to be paid out of the State highway fund. This appropriation shall be used for settlement of the pending claims involving the following highway construction projects:

1. Waiawa Interchange, FAIP Nos. I-H1-1(14):8 and I-H-1(75):8
2. A portion of Interstate Route H-2 south of Waiahole Ditch to Waiawa Interchange, FAIP No. I-H2-1(5):0
3. Halawa Interchange, FAIP No. I-H1-1(88):13

**SECTION 3.** The director of finance is authorized to issue general obligation bonds of the State for the purposes of this Act; provided that the sum total of the bonds so issued shall not exceed \$2,500,000.

**SECTION 4.** The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

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

(Approved June 6, 1980.)

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

**ACT 216**

S.B. NO. 2156-80

A Bill for an Act Relating to the Uniform Controlled Substances Act.

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

SECTION 1. Section 329-55, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

“(a) The following are subject to forfeiture according to the procedures set forth in section 701-119:

- (1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;
- (2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;
- (3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2);
- (4) All conveyances, including aircraft, vehicles or vessels which are used or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (1) or (2), but:
  - (A) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
  - (B) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent; and
  - (C) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission.
- (5) All books, records, and research products and materials, including formulas, microfilms, tapes, and data which are used, or intended for use, in violation of this chapter.
- (6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.”

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

## **ACT 217**

underscored.\*

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

(Approved June 7, 1980.)

## **ACT 217**

S.B. NO. 2302-80

A Bill for an Act Relating to Workers' Compensation Program Commission.

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

**SECTION 1.** The legislature finds that Hawaii's workers' compensation law is one of the basic laws intended to provide income and medical benefits for persons who suffer work-connected injuries. The legislature finds that Hawaii's law, much like laws in other states, embraces several basic objectives as follows: (1) broad coverage of employees' work-related injuries and diseases, (2) substantial protection against interruption of income, (3) provision of medical coverage and rehabilitation services, (4) emphasis upon job-safety and prevention of accidents, and (5) an efficient, effective, and equitable system for the financing of the program and the delivery of such benefits as mandated by law. The legislature finds that despite the seemingly simple and straightforward objectives of the workers' compensation program, the program has stirred considerable debate and controversy in a number of areas. Areas at issue include the rate-making mechanism and the nature and levels of benefits which are compensable by type of injury. The legislature finds that issues associated with the workers' compensation program are likely to heighten in the months and years ahead, due among other considerations to the increasing costs associated with the operation and administration of the workers' compensation program. The legislature finds that the workers' compensation program in Hawaii is a multi-million dollar program involving thousands of persons. For example, according to data reported in "Work Injury Statistics 1978", a publication of the Hawaii state department of labor and industrial relations, in 1978, 57,138 workers' compensation cases were processed in Hawaii with costs totalling over \$32,000,000.

The legislature further finds that workers' compensation has gained an increasingly prominent place on the agendas of various state legislatures.

The legislature finds and concludes that a comprehensive review of Hawaii's workers' compensation law by a specially designated study group is a prudent action and one which is clearly in the general public interest. The purpose of this Act is to establish a temporary commission to carefully and comprehensively review Hawaii's law and to prepare a report of findings and recommendations in consonance with the basic objectives of workers' compensation laws and with a special emphasis upon ways to reduce or stabilize costs while at the same time maintaining benefits at existing levels, or ideally, providing increased benefits at reduced employer cost.

**SECTION 2.** There is created a workers' compensation program commission, hereafter in this Act referred to as "the commission", placed in the department of labor

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

and industrial relations for administrative purposes, which shall perform a study and report on the state workers' compensation program in line with the concerns noted in the foregoing section. The commission shall consist of nine voting members as follows: the director of labor and industrial relations or the director's designee; the assistant insurance commissioner; the chairman of the workers' compensation appeals board or the chairman's designee; and six members who shall be appointed by the governor not subject to section 26-34, Hawaii Revised Statutes; provided that of the six members appointed by the governor, one member shall represent "big business" (employers in the private sector who meet requirements of Hawaii law to be self-insured), one member shall represent "small business" (employers in the private sector who must provide insurance coverage through a third party arrangement), one member shall represent Hawaii's insurance industry, one member shall represent Hawaii's public employee unions, one member shall represent Hawaii's non-public construction employee unions; and one member shall represent Hawaii's non-public general trades employee unions. Any vacancy in the commission shall not affect its powers and shall be filled in the same manner in which the original position was filled. The commission shall elect a chairperson and vice-chairperson from among its members. A majority of the members of the commission shall constitute a quorum.

SECTION 3. The commission may appoint and fix the compensation of such personnel as it deems necessary. Such personnel shall not be subject to the provisions of chapters 76 and 77, Hawaii Revised Statutes. The commission shall have the power to appoint an advisory committee or committees from time to time to which employees of the State and counties and the non-public sector shall be eligible.

SECTION 4. Members of the commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SECTION 5. The commission may hold hearings and make investigations. For these purposes, the commission shall have such powers as may be provided by law with respect to issuance of subpoenas and compelling the attendance of witnesses to secure information necessary to carry out the purposes of this Act. Subpoenas shall be signed by the chairperson of the commission and may be served by any person designated by the chairperson. Any member of the commission may administer oaths or affirmations to any person called before it. Any person subpoenaed to appear before the commission shall be entitled to receive fees and travel expenses as are allowed witnesses in civil actions in the circuit courts of the State.

SECTION 6. The commission shall have power to examine all government records and may secure directly from any state or county agency, information, suggestions, estimates, and statistics which are necessary in order to carry out the purposes of this Act. Each department shall make its records available and shall furnish information, suggestions, estimates, and statistics directly to the commission, upon written request of the chairperson or vice-chairperson.

SECTION 7. Prior to the convening of the regular session of 1981, the commission shall submit a preliminary report of its findings to the governor and the legislature. Within ten days after the 1982 regular session of the Eleventh State Legislature is convened and organized, the commission shall submit a final report of its findings and recommendations to the governor and the legislature. Ninety days after the submission of its final report, the commission shall cease to exist.

## ACT 218

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

(Approved June 7, 1980.)

## ACT 218

S.B. NO. 2501-80

A Bill for an Act Relating to Absolute Liability of Animal Owners: Penalties for Violations.

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

SECTION 1. The legislature finds that recent court decisions allow a dog his "first bite" before an owner can be held liable for injuries caused by the dog, while at the same time holding an owner liable for injuries caused to a trespasser attacked by a dog, even if such injuries occur on the private property of the dog owner. The legislature finds both holdings unacceptable. In the first case, innocent public utility employees, visitors, and others legally on a property often go without a remedy. In the second case, numerous state residents who keep dogs or other animals for protection against the rising crime rate (which the legislature herein specifically finds to exist) are hampered in using an effective means of crime prevention.

SECTION 2. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 663- Liability of animal owners.** (a) The owner or harborer of an animal, if the animal proximately causes either personal or property damage to any person, shall be liable in damages to the person injured regardless of the animal owner's or harborer's lack of scienter of the vicious or dangerous propensities of the animal.

(b) The owner or harborer of an animal which is known by its species or nature to be dangerous, wild, or vicious, if the animal proximately causes either personal or property damage to any person, shall be absolutely liable for such damage."

SECTION 3. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 663- Exception of animal owners to civil liability.** (a) As used in this section:

- (1) "Premises" includes any building or portion thereof or any real property owned, leased, or occupied by the owner or harborer of an animal.
- (2) "Enter or remain unlawfully" means to be in or upon premises when the person is not licensed, invited, or otherwise privileged to be upon the premises. A person is not licensed or privileged to enter or remain in or upon a premises if a warning or warnings have been posted reasonably adequate to warn other persons that an animal is present on the premises. 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.

(3) The definition of "intentionally" and "knowingly" as contained in sections 702-206(1) and 702-206(2) shall apply.

(b) Notwithstanding sections 663-1 and 663- , any owner or harborer of an animal shall not be liable for any civil damages resulting from actions of the animal occurring in or upon the premises of the owner or harborer where the person suffering either personal or property damage as a proximate result of the actions of the animal is found by the trier of fact intentionally or knowingly to have entered or remained in or upon such premises unlawfully.

(c) Notwithstanding sections 663-1 and 663- , any owner or harborer of an animal shall not be liable for any civil damages resulting from actions of the animal where the trier of fact finds that:

- (1) The animal caused such damage as a proximate result of being teased, tormented, or otherwise abused without the negligence, direction, or involvement of the owner or harborer; or
- (2) The use of the animal to cause damage to person or property was justified under chapter 703."

#### **SECTION 4. New statutory material is underscored.\***

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

(Approved June 7, 1980.)

#### **A Bill for an Act Relating to Industrial Loan Companies.**

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

**SECTION 1.** The purpose of this Act is to prevent imposition of an unfair retroactive penalty under chapter 408, Hawaii Revised Statutes, against a licensee who acts in reliance on existing law that is subsequently changed or nullified.

**SECTION 2.** Chapter 408, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 408- Good faith reliance.** If a contract is made or any other act is done or omitted in good faith reliance on an interpretation of this chapter made by the supreme court of this State or in a rule or regulation duly adopted by the bank examiner or the examiner's authorized deputy pursuant to chapter 91, no penalty imposed by this chapter shall apply, notwithstanding that after such contract is made,

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

## ACT 220

such interpretation, rule, or regulation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

SECTION 3. New statutory material is underscored.\*

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

(Approved June 7, 1980.)

## ACT 220

S.B. NO. 2634-80

A Bill for an Act Relating to Energy Saving Transportation Modes.

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

SECTION 1. Section 26-19, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 26-19 Department of transportation.** The department of transportation shall be headed by a single executive to be known as the director of transportation.

The department shall establish, maintain, and operate transportation facilities of the State, including highways, airports, harbors, and such other transportation facilities and activities as may be authorized by law.

The department shall develop and promote ridesharing programs which shall include but not be limited to, carpool and vanpool programs, and may assist organizations interested in promoting similar programs, and arrange for contracts with private organizations to manage and operate any such programs.

The functions and authority heretofore exercised by the department of public works with respect to highways are transferred to the department of transportation established by this chapter.

On July 1, 1961, the Hawaii aeronautics commission, the board of harbor commissioners and the highway commission shall be abolished and their remaining functions, duties, and powers shall be transferred to the department of transportation.

Upon the abolishment of the Hawaii aeronautics commission, the board of harbor commissioners, and the highway commission, there shall be established within the department of transportation a commission to be known as the commission on transportation which shall sit in an advisory capacity to the director of transportation on matters within the jurisdiction of the department of transportation. The commission on transportation shall consist of nine members, one from each senatorial district and three at large."

SECTION 2. Chapter 264, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 264- Ridesharing programs; definition.** Ridesharing programs include informal arrangements in which three or more persons ride together in a motor vehicle for four or more days a week to or from work or school."

SECTION 3. New statutory material is underscored.\*

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

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

(Approved June 7, 1980.)

## ACT 221

S.B. NO. 2665-80

A Bill for an Act Relating to Mental Health.

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

SECTION 1. **Purpose.** The legislature finds and declares that the current mental health system provides insufficient alternatives to institutionalization and hospitalization for those citizens entering that system, and further finds and declares that the need exists for a full system of alternatives to institutional settings which have as a focus the rehabilitation of clients of the mental health system, and further finds and declares that a full system of alternatives to institutionalization, with coordination provided by the department of health, is necessary to provide a real alternative to institutionalization.

SECTION 2. Chapter 334, Hawaii Revised Statutes, is amended by adding a new part VII to read as follows:

### **"PART VII. COMMUNITY RESIDENTIAL TREATMENT SYSTEM**

**Sec. 334- Establishment.** It is the intent of the legislature to establish a statewide system of residential treatment programs which provide a range of available services which will be alternatives to institutional care and are based on principles of residential, community-based treatment.

It is further the intent of the legislature that community residential mental health programs in the State of Hawaii be developed in accordance with the guidelines and principles set forth in this part. To this end, the department may implement the community residential treatment system described in this part either with available allocations or applying for funds from the legislature. Any private, nonprofit or public organization, or both, within the State is eligible to submit an application for funding under this part.

It is further the intent of the legislature to provide guidelines for such a system to the applicants, while allowing each applicant the flexibility to design a system specific to the nature of the community and the needs of the clients.

It is further the intent of the legislature that the director, in allocating funds available for programs which serve as alternatives to institutionalization, follow the guidelines and principles developed herein.

**Sec. 334- Criteria.** The director shall use the following as criteria in determining the eligibility of each applicant:

(1) Facilities:

(A) Settings, whether residential or day, shall be as close to a normal home environment as possible without sacrificing client safety or care;

- (B) Residential treatment centers shall be relatively small, preferably fifteen beds or less, but in any case with the appearance of noninstitutional setting; and
  - (C) The individual elements of the system, where possible, shall be in separate facilities and not part of one large facility attempting to serve an entire range of clients;
- (2) Staffing patterns:
- (A) Staffing patterns shall reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, sexual, and other social characteristics of the community the facility serves;
  - (B) The programs shall be designed to use appropriate multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of the client; and
  - (C) Programs shall be encouraged to use para-professionals where appropriate;
- (3) Programs:
- (A) The programs shall have a rehabilitation focus which encourages the client to develop the skills to become self-sufficient and capable of increasing levels of independent functioning where appropriate. They shall include prevocational and vocational programs.
  - (B) The programs shall encourage the participation of the clients in the daily operation of the setting in development of treatment and rehabilitation planning and evaluation.
  - (C) Participation in any element of the system shall not preclude the involvement of clients in individual therapy. Individual therapists of clients, where possible, shall be directly involved in the development and implementation of a treatment plan.
- (4) Coordination: The programs shall demonstrate specific linkages with one another, and with the general treatment and social service system, as a whole. These connections should not be limited to the mental health system, but shall include, whenever possible, community resources utilized by the general population. To ensure coordination occurs, each program shall include a case management system in which the case manager serves as a coordinator to assure the cooperative operation of the various elements of the system and to act as an active advocate for the clients in the system. The case manager shall assure that each client receives the appropriate type of service. The case manager shall meet regularly with clients, work closely with program staff, and serve as an advocate. The case manager shall work directly with the client and the system to assure continuity of care between the service elements of the system.

**Sec. 334- Program elements.** The following shall be the program elements of the system. These shall be designed to provide, at every level, alternatives to institutional settings. Applicants in applying for funds for the program elements shall show how each of these elements works with the current programs in the community the facility will serve. Applicants may apply for funds for the following program elements:

- (1) A short-term crisis residential alternative to hospitalization for individuals

experiencing an acute episode or situational crisis. The program shall be available for admissions twenty-four hours a day, seven days a week. The primary focus of this element shall be on reduction of the crisis, stabilization, diagnostic evaluation, and assessment of the person's existing support system, including recommendations for referrals upon discharge. This service in the program shall be designed for persons who would otherwise be referred to an acute inpatient psychiatric unit.

- (2) A long-term residential treatment program for clients who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It also will serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This service shall be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. This program goes beyond maintenance to provide an active rehabilitation focus for these individuals.
- (3) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic community, would be at risk of returning to the hospital. These programs may employ a variety of staffing patterns and are for persons who are expected to move toward a more independent living setting. The clients shall be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents are required to be involved in daytime activities outside of the facility which are relevant to their personal goals and conducive to their achieving more self-sufficiency.
- (4) A semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system elements, but, who, without some support and structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses are shared by three to five persons. The small cooperative housing units shall function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings. This element is for persons who only need minimum support in order to live in the community. These units should be as normative as the general living arrangements in the communities in which they are developed.

**Sec. 334- Least restrictive level of service.** The system shall be developed in such a way that clients may move within the system to the most appropriate, least restrictive level of service. The system shall also allow for direct referral of clients, without requiring that a person pass through the entire system to reach the most appropriate level.

**Sec. 334- Evaluation.** An adequate proportion of funds shall be applied to the development and implementation of an appropriate evaluation mechanism. The

## **ACT 222**

department, in conjunction with the programs, shall specify the criteria to be used in the evaluation of each program and in the evaluation of the entire system.

By June 30, 1982, the department shall conduct or contract for the evaluation. Evaluation reports shall be transmitted to the legislature.

**Sec. 334- License required.** Facilities funded pursuant to this part shall be licensed under existing licensing categories, including provisional licenses. The director shall review the appropriateness of these licensing categories. If the director determines that new licensing categories are necessary, he shall issue a report and recommendation to the legislature."

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

(Approved June 7, 1980.)

## **ACT 222**

S.B. NO. 2744-80

A Bill for an Act Relating to the Insanity Defense.

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

**SECTION 1.** Chapter 704, Hawaii Revised Statutes, is amended as follows:

1. Section 704-402 is amended by amending subsection (2) to read as follows:

"(2) When the defense provided for by subsection (1) is submitted to a jury, the court shall, if requested by the defendant, instruct the jury as to the consequences to the defendant of an acquittal on the ground of physical or mental disease, disorder, or defect excluding responsibility."

2. Section 704-407 is amended to read as follows:

**"Sec. 704-407 Special post-commitment or post-conditional release hearing.** (1) At any time after commitment as provided in section 704-406, the defendant or his counsel or the director of health may apply for a special post-commitment hearing. If the application is made by or on behalf of a defendant not represented by counsel, he shall be afforded a reasonable opportunity to obtain counsel, and if he lacks funds to do so, counsel shall be assigned by the court. The application shall be granted only if the counsel for the defendant satisfies the court by affidavit or otherwise that as an attorney he has reasonable grounds for a good faith belief that his client has an objection based upon legal grounds to the charge.

(2) If the motion for a special post-commitment hearing is granted, the hearing shall be by the court without a jury. No evidence shall be offered at the hearing by either party on the issue of physical or mental disease, disorder, or defect as a defense to, or in mitigation of, the offense charged.

(3) After the hearing, the court shall rule on any legal objection raised by the application and may in an appropriate case quash the indictment or other charge, or find it to be defective or insufficient, or otherwise terminate the proceedings on the law. In any such case, unless all defects in the proceedings are promptly cured, the court shall terminate the commitment or conditional release ordered under section 704-406 and order the defendant to be discharged or, subject to the law governing the involuntary hospitalization or conditional release of persons suffering from physical

or mental disease, disorder, or defect, order the defendant to be committed to the custody of the director of health to be placed in an appropriate institution for detention, care, and treatment or order the defendant to be released on such conditions as the court deems necessary."

3. Section 704-408 is amended to read:

**"Sec. 704-408 Determination of irresponsibility.** If the report of the examiners filed pursuant to section 704-404, or the report of examiners of the defendant's choice under section 704-409, states that the defendant at the time of the conduct alleged suffered from a physical or mental disease, disorder, or defect which substantially impaired his capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law, the court shall submit the defense of physical or mental disease, disorder, or defect to the jury or the trier of fact at the trial of the charge against the defendant."

4. Section 704-410 is amended by amending subsection (1) to read as follows:

"(1) At the hearing pursuant to section 704-405 or upon the trial, the examiners who reported pursuant to section 704-404 may be called as witnesses by the prosecution, the defendant, or the court. If the issue is being tried before a jury, the jury may be informed that the examiners or any of them were designated by the court or by the director of health at the request of the court, as the case may be. If called by the court, the witness shall be subject to cross-examination by the prosecution and the defendant. Both the prosecution and the defendant may summon any other qualified physician or other expert to testify, but no one who has not examined the defendant shall be competent to testify to an expert opinion with respect to the physical or mental condition of the defendant, as distinguished from the validity of the procedure followed by, or the general scientific propositions stated by, another witness."

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

SECTION 3. This Act shall take effect upon its approval but shall not apply to any crimes which occurred prior to its effective date.

(Approved June 7, 1980.)

ACT 223

S.B. NO. 2877-80

A Bill for an Act Relating to Sexual Offenses.

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

SECTION 1. Chapter 707, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 707-700 Definitions of terms in this chapter.** In this chapter, unless a different meaning plainly is required:

(1) "Person" means a human being who has been born and is alive;

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

- (2) "Bodily injury" means physical pain, illness, or any impairment of physical condition;
- (3) "Serious bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ;
- (4) "Dangerous instrument" means any firearm, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to be capable of producing death or serious bodily injury;
- (5) "Restrain" means to restrict a person's movement in such a manner as to interfere substantially with his liberty:
  - (a) By means of force, threat, or deception; or
  - (b) If the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of him;
- (6) "Relative" means parent, ancestor, brother, sister, uncle, aunt, or legal guardian;
- (7) "Sexual intercourse" means sexual intercourse in its ordinary meaning or any intrusion or penetration, however slight, of any part of a person's body, or of any object, into the genital opening of another person, but emission is not required.
- (8) "Deviate sexual intercourse" means any act of sexual gratification:
  - (a) Between persons not married to each other involving the sex organs of one and the mouth or anus of the other; or
  - (b) Between a person and an animal or a corpse, involving the sex organs of one and the mouth, anus, or sex organs of the other.
- (9) "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor, done with the intent of gratifying the sexual desire of either party;
- (10) "Married" includes persons legally married, and a male and female living together as man and wife regardless of their legal status, but does not include spouses living apart under a judicial decree;
- (11) "Forcible compulsion" means physical force that overcomes resistance; or a threat, expressed or implied, that places a person in fear of death or bodily injury to himself or another person, or in fear that he or another person will be kidnapped;
- (12) "Mentally defective" means a person suffering from a disease, disorder, or defect which renders him incapable of appraising the nature of his conduct;
- (13) "Mentally incapacitated" means a person rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a substance administered to him without his consent;
- (14) "Physically helpless" means a person who is unconscious or for any other reason physically unable to communicate unwillingness to an act."

SECTION 2. Section 707-740, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 707-740 Prompt complaint.** No prosecution may be instituted or main-

tained under this part unless the alleged offense was brought to the notice of public authority within three months of its occurrence; provided that where the alleged victim was a minor or otherwise incompetent to make a complaint, the three-month requirement shall not apply."

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

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

(Approved June 7, 1980.)

ACT 224

S.B. NO. 2914-80

A Bill for an Act Relating to Workers' 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 part III to be appropriately designated and to read as follows:

**"Sec. 386- Rehabilitation unit.** There is established within the department of labor and industrial relations a rehabilitation unit. All professional and clerical employees of this unit shall be appointed by the director. The rehabilitation unit shall have the duties and responsibilities provided in section 386-25. Employees of the unit shall be subject to chapters 76 and 77."

SECTION 2. Section 386-25, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 386-25 Vocational rehabilitation.** (a) The director shall refer employees who may have or have suffered permanent disability as a result of work injuries and who in his opinion can be physically or vocationally rehabilitated to the department of social services and housing or to private providers of rehabilitation services for such physical and vocational rehabilitation services as are feasible. A referral shall be made upon recommendation of the rehabilitation unit established under section 386- and after the employee has been deemed physically able to participate in rehabilitation by the employee's attending physician. The unit shall include appropriate professional staff and shall have the following duties and responsibilities:

- (1) To foster, review, and approve rehabilitation plans developed by certified providers of rehabilitation services, whether they be private or public;
- (2) To adopt rules consistent with this section which shall expedite and facilitate the identification, notification, and referral of industrially injured employees to rehabilitation services, and establish minimum standards for providers providing rehabilitation services under this section;
- (3) To certify private and public providers of rehabilitation services in accordance with the minimum standards established; and
- (4) To coordinate and enforce the implementation of rehabilitation plans.

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

## **ACT 225**

(b) Enrollment in a rehabilitation plan or program shall not be mandatory and the approval of a proposed rehabilitation plan or program by the injured employee shall be required. After securing such approval the director shall select a certified provider of rehabilitation services for the injured employee after consultation with the employee and the employer.

(c) An injured employee's enrollment in a rehabilitation plan or program shall not affect the employee's entitlement to temporary total disability compensation if the employee earns no wages during the period of enrollment. If the employee receives wages for work performed under the plan or program, the employee shall be entitled to temporary total disability compensation in an amount equal to the difference between the employee's average weekly wages at the time of injury and the wages received under the plan or program, subject to the limitations on weekly benefit rates prescribed in section 386-31. The employee shall not be entitled to such compensation for any week during this period where the wages equal or exceed the average weekly wages at the time of injury.

(d) The director shall adopt rules for additional living expenses necessitated by the rehabilitation program, together with all reasonable and necessary vocational training.

(e) If the rehabilitation unit determines that physical and vocational rehabilitation are not possible or feasible, it shall certify such determination to the director.

(f) The eligibility of any injured employee to receive other benefits under this chapter shall in no way be affected by his entrance upon a course of physical or vocational rehabilitation as herein provided."

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 4.** This Act shall take effect upon its approval, but the rehabilitative services furnished under this Act to injured workers shall commence on January 1, 1981.

(Approved June 7, 1980.)

## **ACT 225**

**H.B. NO. 55**

A Bill for an Act Relating to the Hawaii State Planning Act.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 226-53, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) There is established a policy council whose membership shall include the following:

(1) The planning director from each county.

(2) Nine public members, being four from the city and county of Honolulu, one from the county of Kauai, and two from each of the counties of Maui and

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

Hawaii, provided that in the case of the county of Maui, one such public member shall be from Molokai or Lanai and, in the case of the county of Hawaii, one public member shall be from west Hawaii, one from east Hawaii, appointed by the governor from a list of public persons from each county which shall through its mayor or council, submit no less than three names for each appointive public member to which the county is entitled. The governor shall request lists of public persons from the respective mayors for appointment to the policy council. Within thirty days following the date of the governor's request, the mayor of the respective county shall submit the list to the council of the respective county for advice and consent. Within sixty days of the date of the governor's request, the mayor shall submit the list of public persons, with the advice and consent of the council of the respective county, to the governor for appointment to the policy council. If the mayor fails to submit a list to the council within thirty days of the date of the governor's request, the council shall submit a list to the governor within sixty days of the governor's request. If a list of public persons is not submitted by either the mayor or the council to the governor within sixty days following the date of the request for such a list, the governor shall appoint the public members from that county in accordance with the applicable geographic representation set forth above without nominations from that mayor.

- (3) The directors or chairmen from the departments of agriculture, budget and finance, planning and economic development, land and natural resources, health, social services and housing, transportation, and labor and industrial relations; from the office of environmental quality control; the superintendent of education; the president of the University of Hawaii; the executive director of the Hawaii housing authority; and the executive officer of the land use commission.

The director of the department of planning and economic development shall serve as chairman of the council.

The terms of the nine members from the public shall be for four years; provided, that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each such term shall commence on January 1 and expire on December 31; provided that the governor may establish the commencing and expiration dates of the terms of those initially appointed. No member from the public shall be appointed consecutively to more than two terms; provided, that membership shall not exceed eight consecutive years. No member from the public shall serve on any other public board or commission. The governor may remove or suspend for cause any member of the council after due notice and public hearing.

Expenses incurred by a state governmental member participating in policy council deliberations shall be borne by his respective governmental agency. Travel expenses incurred by planning directors participating in policy council deliberations shall be reimbursed by the department of planning and economic development. A public member shall receive no compensation for his services, but each shall be reimbursed by the department of planning and economic development for necessary expenses incurred in the performance of his duties."

## **ACT 226**

**SECTION 2.** Section 226-57, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

“(c) For each functional plan, the governor shall establish an advisory committee, where a committee which meets the criteria set out hereunder is not already in existence, whose membership shall be composed of at least one public official from each county to be nominated by the mayor of each county; members of the public; experts in the field for which a functional plan is being prepared; and state officials. The governor shall request the nominations of each of the respective mayors and shall appoint the public official nominated by the mayor of the respective county to serve on the advisory committee. If the nominations of county officials by a mayor are not submitted to the governor within sixty days following the date of the governor's request for such nominations, the governor shall appoint at least one public official from that county to serve on the advisory committee without nominations from that mayor. The committee shall advise the state agency in preparing a functional plan to be in conformance with the overall theme, goals, objectives, policies, and priority directions contained within this chapter. The functional plan, with any recommendations of the advisory committee including minority reports, if any, shall be submitted to the policy council for review and evaluation. The advisory committee shall serve until the respective functional plan is adopted by the legislature.”

**SECTION 3.** Section 226-58, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

“(d) Upon receipt by the legislature of a functional plan prepared by the appropriate state agency and submitted by the governor, with the findings and recommendations of the policy council, the legislature shall review, modify, and as appropriate[,]† adopt the functional plan by concurrent resolution.”

**SECTION 4.** This Act shall take effect upon its approval.\*

(Approved June 7, 1980.)

## **ACT 226**

H.B. NO. 501

A Bill for an Act Relating to Personal Records.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to implement in part the 1978 amendment to the Hawaii State Constitution (Article I, Section 6) relating to the right to privacy.

This Act permits individuals to gain access to personal records relating to themselves maintained by State or county executive branch agencies and to correct or amend those records under certain circumstances.

†Bracketed “,” added to correct manifest clerical error.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
FAIR INFORMATION PRACTICE  
(Confidentiality of Personal Record)**

**Sec. -1 Definitions.** As used in this chapter:

- (1) “Agency” means every office, officer, employee, department, division, bureau, authority, board, commission, or other entity of the executive branch of the State or of each county, but excludes:
  - (A) The legislature and the council of each county, including their respective committees, offices, bureaus, officers, and employees; and
  - (B) The judiciary, including the courts, and its offices, bureaus, officers, and employees.
- (2) “Individual” means a natural person.
- (3) “Personal record” means any item, collection, or grouping of information about an individual that is maintained by an agency. It includes, but is not limited to, the individual’s educational, financial, medical, or employment history, or items that contain or make reference to the individual’s name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. “Personal record” includes a “public record,” as defined under section 92-50.

**Sec. -2 Individual’s access to own personal record.** Each agency that maintains any accessible personal record shall make that record available to the individual to whom it pertains, in a reasonably prompt manner and in a reasonably intelligible form. Where necessary the agency shall provide a translation into common terms of any machine readable code or any code or abbreviation employed for internal agency use.

**Sec. -3 Exemptions and limitations on individual access.** An agency is not required by this part to grant an individual access to personal records, or information in such records:

- (1) Maintained by an agency that performs as its or as a principal function any activity pertaining to the enforcement of criminal laws or any activity pertaining to the prevention, control, or reduction of crime, and which consist of:
  - (A) Information which fits or falls within the definition of “criminal history record information” in section 846-1; or
  - (B) Information or reports prepared or compiled for the purpose of criminal intelligence or of a criminal investigation, including reports of informers, witnesses, and investigators; or
  - (C) Reports prepared or compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through confinement, correctional supervision, and release from supervision.
- (2) The disclosure of which would reveal the identity of a source who furnished information to the agency under an express or implied promise of confidentiality.

- (3) Consisting of testing or examination material or scoring keys used solely to determine individual qualifications for appointment or promotion in public employment, or used as or to administer a licensing examination or an academic examination, the disclosure of which would compromise the objectivity, fairness, or effectiveness of the testing or examination process.
- (4) Including investigative reports and materials, related to an upcoming, ongoing, or pending civil or criminal action or administrative proceeding against the individual.
- (5) Required to be withheld from the individual to whom it pertains by statute or judicial decision or authorized to be so withheld by constitutional or statutory privilege.

**Sec. -4 Limitation on public access to personal record.** No agency may disclose or authorize disclosure of personal record by any means of communication to any person other than the individual to whom the record pertains unless the disclosure is:

- (1) To a duly authorized agent of the individual to whom it pertains;
- (2) Of information collected and maintained specifically for the purpose of creating a record available to the general public;
- (3) Pursuant to a statute of this State or the federal government that expressly authorizes the disclosure;
- (4) Pursuant to a showing of compelling circumstances affecting the health or safety of any individual.

**Sec. -5 Limitations on disclosure of personal record to other agencies.** No agency may disclose or authorize disclosure of personal record to any other agency unless the disclosure is:

- (1) Compatible with the purpose for which the information was collected or obtained;
- (2) Consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided;
- (3) Reasonably appears to be proper for the performance of the requesting agency's duties and functions;
- (4) To the state archives for purposes of historical preservation, administrative maintenance, or destruction;
- (5) To an agency or instrumentality of any governmental jurisdiction within or under the control of the United States, or to a foreign government if specifically authorized by treaty or statute, for a civil or criminal law enforcement investigation;
- (6) To the legislature or any committee or subcommittee thereof;
- (7) Pursuant to an order of a court of competent jurisdiction;
- (8) To authorized officials of a department or agency of the federal government for the purpose of auditing or monitoring an agency program that receives federal monies.

**Sec. -6 Access to personal record; initial procedure.** Upon the request of an individual to gain access to the individual's personal record, an agency shall permit the individual to review the record and have a copy made within ten working days following the date of the request unless the personal record requested is exempted

under section -3. The ten-day period may be extended for an additional twenty working days if the agency provides to the individual, within the initial ten working days, a written explanation of unusual circumstances causing the delay.

**Sec. -7 Copies.** The agency may charge the individual for any copies and for the certification of any copies; provided that such charges or fees shall not exceed the actual cost of duplication or of transcription into readable or intelligible form and duplication and shall not include any costs of searching for the record.

**Sec. -8 Right to correct personal record; initial procedure.** (a) An individual has a right to have any factual error in that person's personal record corrected and any misrepresentation or misleading entry in the record amended by the agency which is responsible for its maintenance.

(b) Within twenty business days after receipt of a written request to correct or amend a personal record, an agency shall acknowledge the request in writing, and promptly:

- (1) Make the requested correction or amendment; or
- (2) Inform the individual in writing of its refusal to correct or amend the personal record, the reason for the refusal, and the agency procedures for review of the refusal.

**Sec. -9 Access and correction; review procedures.** (a) Not later than thirty business days after receipt of request for review of an agency refusal to allow access to, or correction or amendment of, a personal record, the agency shall make a final determination.

(b) If the agency refuses upon final determination to allow access to, or correction or amendment of, a personal record, the agency shall so state in writing and:

- (1) Permit, whenever appropriate, the individual to file in the record a concise statement setting forth the reasons for his disagreement with the refusal of the agency to correct or amend it; and
- (2) Notify the individual of the applicable procedures for obtaining appropriate judicial remedy.

**Sec. -10 Rules and regulations.** Each agency shall adopt rules, under chapter 91, establishing procedures necessary to implement or administer this chapter.

Such procedures and rules, subject to the direction of and review by the attorney general in the case of state agencies and by the corporation counsel or county attorney of each county in the case of county agencies, shall be uniform, insofar as practicable, respectively, among state agencies and among the county agencies of each county.

**Sec. -11 Civil actions and remedies.** (a) An individual may bring a civil action against an agency in a circuit court of the State whenever an agency fails to comply with any provision of this chapter, and after appropriate administrative remedy under sections -6, -8, and -9 have been exhausted.

(b) In any action brought under this section the court may order the agency to correct or amend the complainant's personal record, to require any other agency action, or to enjoin such agency from improper actions as the court may deem necessary and appropriate to render substantial relief.

- (c) In any action brought under this section in which the court determines that

## **ACT 227**

the agency acted in a manner which was intentional or wilful, the agency shall be liable to the complainant in an amount equal to the sum of:

- (1) Actual damages sustained by the complainant as a result of the failure of the agency to properly maintain the personal record, but in no case shall a complainant (individual) entitled to recovery receive less than the sum of \$100; and
- (2) The costs of the action together with reasonable attorney's fees as determined by the court.
- (d) The court may assess reasonable attorney's fees and other litigation costs reasonably incurred against the agency in any case in which the complainant has substantially prevailed, and against the complainant where the charges brought against the agency were frivolous.
- (e) An action may be brought in the circuit court where the complainant resides, the complainant's principal place of business is situated, or the complainant's relevant personal record is situated. No action shall be brought later than two years after the date of the cause of action, which shall be the date of the last written communication to the agency requesting compliance.

**Sec. -12 Violations; disciplinary action against employees.** A knowing or intentional violation of any provision of this chapter, or of any rule adopted to implement or administer this chapter, by any employee or officer of an agency shall be cause for disciplinary action, including suspension or discharge, by the head of the agency. Any person may file a complaint, with the head of the applicable agency, alleging such a violation.

**Sec. -13 Access to personal records by order in judicial or administrative proceedings; access as authorized or required by other law.** Nothing in this chapter, including section -3, shall be construed to permit or require an agency to withhold or deny access to a personal record, or any information in a personal record:

- (1) When the agency is ordered to produce, disclose, or allow access to the record or information in the record, or when discovery of such record or information is allowed by prevailing rules of discovery or by subpoena, in any judicial or administrative proceeding; or
- (2) Where any statute, administrative rule, rule of court, judicial decision, or other law authorizes or allows an individual to gain access to a personal record or to any information in a personal record or requires that the individual be given such access."

**SECTION 3. 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 4.** This Act shall take effect upon its approval.

(Approved June 7, 1980.)

**ACT 227**

H.B. NO. 1313

A Bill for an Act Relating to Adult Family Boarding Homes.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 346-1, Hawaii Revised Statutes, is amended by amending the definition of "adult family boarding home" to read:

"Adult family boarding home" means any family home providing twenty-four hour living accommodations for a fee to one to four adults unrelated to the family, who are in need of minimal assistance and supervision in their living activities, and includes other similar institutions."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

## ACT 228

H.B. NO. 1361

A Bill for an Act Relating to Excise Tax Credits.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-55.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Tax credit schedule. Each taxpayer may claim tax credits in the amount indicated for each adjusted gross income bracket as shown in the schedule below multiplied by the number of qualified exemptions to which he is entitled; provided each taxpayer sixty-five years of age or over may claim double the tax credit.

### Excise Tax Credit Schedule

Adjusted Gross Income	Tax Credit
Under \$5,000	48
\$5,000 under \$6,000	39
6,000 under 7,000	34
7,000 under 8,000	32
8,000 under 9,000	27
9,000 under 10,000	24
10,000 under 11,000	20
11,000 under 12,000	17
12,000 under 13,000	14
13,000 under 14,000	10
14,000 under 20,000	8"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 229

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1979.

(Approved June 7, 1980.)

## ACT 229

H.B. NO. 1429

A Bill for an Act Relating to Deposits of Public Funds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 38-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 38-2 Authorized; conditions.** All moneys in the state treasury may be deposited by the director to the credit of the State in any depository which the director, with the approval of the governor, may select, pursuant to this section, and any sums so deposited shall be deemed to be in the state treasury; provided that the depository in which the money is deposited furnish security as hereinafter provided; provided that in selecting a depository the class of security offered shall be considered as the basis of selection and due regard shall be given to a depository doing business in the State, or parts thereof, where the disbursements of public money are or may be made; provided that no more than sixty per cent of the aggregate amount of moneys of the State available for deposit and on deposit shall be deposited in any one depository. The director shall consider the safety and liquidity of the sums to be deposited in the depository and the yield offered by the depository prior to the selection of the depository. In case of loan fund money for which there is no immediate need, or expenditures from which would not be made for at least three months, the director may place these funds on time deposit on such terms and at such rates of interest as may be allowed by a depository to other depositors. All deposits of money, except time deposits, shall be paid upon demand on checks signed by the director and countersigned by the comptroller, or by the payment of a certificate of deposit issued by the depository, which certificate shall be endorsed by the payee named therein, as well as by the comptroller. Each depository shall at the end of every month render to the director a statement, in duplicate, for each of the funds of the State, showing the daily balances on open commercial account which were held by it during the month. One copy of the statement shall be filed by the director with the comptroller. The director shall annually, as of July 1, furnish each depository with a statement, certified by the comptroller, showing the amount and description of the securities on deposit with him by the depository to secure the deposits of the State. The duly authorized representatives of any depository shall at all times during office hours have access to the securities deposited for the purpose of examining the same and removing the coupons that may have matured, the examination to be made in the presence of the director or his representative."

SECTION 2. Section 38-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 38-3 Securities for protection of funds deposited.** For the protection of funds deposited by the director under this chapter, the following securities shall be deposited with the director, or with banks in the continental United States, as the director may select, to be held therein for safekeeping subject to the order of the director, any other provisions of the laws of the State to the contrary notwithstanding:

- (1) Bonds, notes, debentures, or other evidences of indebtedness of the State or of any county of the State, for which the payment of the interest and principal is a direct obligation of the State or the county, as the case may be, in an amount at least equal in their par value to the amount of the deposit with the depository; or
- (2) Bonds, notes, debentures, or other evidences of indebtedness of agencies of the State or of agencies of any county of the State, for which the payment of the interest and principal is from the revenues of the issuing agency, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (3) Bonds, notes, debentures, or other evidences of indebtedness of any improvement district or frontage improvement of any county of the State, for which the payment of the interest and principal is from the assessments made for the improvement, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (4) Bonds, notes, bills, or certificates of indebtedness of the United States or of agencies of the United States, for which the payment of the interest and principal is a direct obligation of the United States, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (5) Bonds, notes, or debentures of agencies of the United States, in an amount at least equal to ninety-five per cent of their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (6) Warrants or warrant notes of the State in an amount at least equal in their face value to the amount of the deposit with the depository; or
- (7) Bonds, notes, debentures, or other evidences of indebtedness of any other state of the United States, for which the payment of the interest and principal is a direct obligation of such state, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (8) Bonds, notes, debentures, or other evidences of indebtedness of any city or of any county in the continental United States, for which the payment of the interest and principal is a direct obligation of the city or county, as the case may be, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (9) Other safe bonds, notes, debentures, or other evidences of indebtedness as may be approved by the governor and the director, in an amount and value

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to the amount of the deposit with the depository as is determined by the director; or

- (10) Residential mortgage loans; provided that no more than five per cent of public deposits shall be secured with residential mortgage loans and that such security shall be accepted from depositories which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation; provided further that the director shall require mortgage loans representing no less than \$200 of the unpaid principal for each \$100 of deposits.

Security shall not be required for that portion of any deposit that is insured under any law of the United States.

Securities deposited under this section may be withdrawn from time to time; provided that the required amount of securities shall at all times be kept on deposit. The director may at any time require additional securities to be deposited under this section.

In the event that the depository shall fail to pay such deposits, or any part thereof, upon presentation of a check or a certificate of deposit, then the director shall forthwith convert the securities deposited under this section into money for and on behalf of the State; provided that no such securities shall be sold except at public auction, after giving at least ten days' notice by publication in some newspaper of general circulation in the State."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

## ACT 230

H.B. NO. 1772-80

A Bill for an Act Relating to the State Program for the Unemployed.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 4 of Act 151, Session Laws of Hawaii 1975, as amended, is amended to read:

"SECTION 4. This Act shall be in effect for the period July 1, 1975 to June 30, 1981. Appropriations made under Act 151, SLH 1975, and Act 134, SLH 1976, and not encumbered shall lapse on June 30, 1977. Appropriations made under Act 3, Special Session Laws of Hawaii 1977 and Act 237, Session Laws of Hawaii 1978, and not encumbered shall lapse on June 30, 1979. Appropriations made under Act 144, Session Laws of Hawaii 1979, and not encumbered shall lapse on June 30, 1981."

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 2. Except for funds sufficient to continue the administrative staff through December 31, 1981, for the purposes of program closeout, all appropriations made for the purpose of this Act not encumbered or expended on June 30, 1981 shall lapse into the general fund of the State.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000, or so much thereof as may be necessary for fiscal year 1980-81, to implement Act 151, Session Laws of Hawaii 1975, as amended. The sum appropriated shall be expended by the director of labor and industrial relations for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1981 shall lapse into the general fund.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 5. This Act shall take effect on July 1, 1980.

(Approved June 7, 1980.)

**ACT 231**

H.B. NO. 1864-80

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following names of persons, firms, corporations and others for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

Section 37-77, Hawaii Revised Statutes.

	<b>Division</b>	<b>Amount</b>
<b>REFUND OF TAXES:</b>		
Ottensmeier, Harold and Verna M. (Real Property)	Third	\$ 24.77
Evans, Kitchel and Jenckes, P.C. (Real Property)	Third	61.62
Cashman, James P. (Real Property)	Third	98.85
Tai, William K. (Real Property)	Third	167.64
Charlotte L. Lewis, et al. (Real Property)	Third	133.86
Nahoeu, Eliza K. (Real Property)	Third	39.17
Bent, Annie K. (Real Property)	Third	545.80
Gribbin, Sally L. (Real Property)	Third	295.25
Kunimura, Masato and Ruth (Real Property)	Third	354.28
Chuck, Wilfred C. (Real Property)	First	155.52

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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Okimoto Drugs, Inc. (Real Property)	First	526.06
Widasky, Ethel K. (Real Property)	First	155.52
Chang, Chia-Ling (Real Property)	First	26.40
Ueki, Fred Y. (Real Property)	First	167.28
Behnke, Richard F. (Real Property)	First	734.40

**Chapter 662, Hawaii Revised Statutes.****JUDGMENTS AGAINST THE STATE AND SETTLEMENT OF CLAIMS:**

Danner, Florence A.

Civil No. 54565, First Circuit

Date of Judgment: October 30, 1979

Amount of Judgment: \$ 3,500.00

4% Interest: 105.64 \$ 3,605.64

Nerpio, Jeremiah G.

Civil No. 1524, Fifth Circuit

Date of Settlement: December 18, 1979

Amount of Settlement: \$10,000.00

4% Interest: 248.13 10,248.13

Dupio, Tiburcio, individually and in his capacity as Special Administrator of the Estate of Jack C. Dupio, Deceased, Luciana Dupio, individually and in her capacity as Guardian Ad Litem for Justin Dupio, Leon Dupio and Gaius Dupio, minors, and Laura Dupio Civil No. 54117, First Circuit Date of Judgment: January 3, 1980

Amount of Judgment: 17,500.00

4% Interest: 403.55 17,903.55

Nerness, Billy C., Carol J. Nerness, and Thomas J. Jordan, Special Administrator of the Estate of Karen Lisa Nerness, Deceased

Civil No. 3837, Second Circuit

Date of Judgment: January 16, 1980

Amount of Judgment: 10,000.00

4% Interest: 216.39 10,216.39

Murashima, Priscilla T. and Frederick S.

Civil No. 50904, First Circuit

Date of Judgment: April 24, 1979

Amount of Judgment: 12,500.00

4% Interest: 636.19 13,136.19

Motas, Vinson Jose and Jose V.

Civil No. 56890, First Circuit

Date of Judgment: January 18, 1980

Amount of Judgment: 3,000.00

4% Interest: 64.26 3,064.26

Uyemura, Roberta J., Formerly known as Roberta Joy Paulo			
Civil No. 54576, First Circuit			
Date of Judgment: August 15, 1979			
Amount of Judgment:	5,000.00		
4% Interest:	192.54	5,192.54	
Maeda, Akio and Gladys			
Civil No. 51933, First Circuit			
Date of Judgment: October 30, 1979			
Amount of Judgment:	7,500.00		
4% Interest:	226.37	7,726.37	
Fontes, Renee L.			
Civil No. 46288, First Circuit			
Date of Judgment: January 14, 1980			
Amount of Judgment:	37,081.74		
4% Interest:	810.53	37,892.27	
Matson, Navigation Company			
Civil No. 52949, First Circuit			
Date of Judgment: March 6, 1980			
Amount of Judgment:	60,000.00		
4% Interest:	970.49	60,970.49	
Humel, George et al.			
Civil No. 56895, First Circuit			
Date of Judgment: February 14, 1980			
Amount of Judgment:	30,000.00		
4% Interest:	554.10	30,554.10	
Prigge, Elizabeth, et al.			
Civil No. 1873, Fifth Circuit			
Date of Judgment: March 14, 1980			
Amount of Judgment:	2,000.00		
4% Interest:	110.78	2,110.78	
Leiner, Robert and Gladys			
Civil No. 53860, First Circuit			
Date of Judgment: February 25, 1980			
Amount of Judgment:	30,000.00		
4% Interest:	518.03	30,518.03	
Yap, Henry P. S., III, et al.			
Civil No. 3717, Second Circuit			
Date of Judgment: February 26, 1980			
Amount of Judgement:	5,000.00		
4% Interest:	85.79	5,085.79	

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Smialek, Leon F., Jr., et al.		
Civil No. 5172, Third Circuit		
Date of Judgment: February 28, 1980		
Amount of Judgment:	5,000.00	
4% Interest:	84.70	5,084.70
Furukado, Kinue, et al.		
Civil No. 4756, Third Circuit		
Date of Settlement: February 25, 1980		
Amount of Settlement:	4,250.00	
4% Interest:	73.39	4,323.39

### Section 37-77, Hawaii Revised Statutes.

	<b>Warrant No.</b>	<b>Amount</b>
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#### OUTLAWED WARRANTS AND ESCHEATED ACCOUNTS:

National Union Fire Insurance Company of Pittsburg, PA	G 250762	\$20,992.50
Honolulu Community Action Program, Inc.	G 153907	8,975.22
Queypo, Emiliano and Kikue	S 193386	55.78

#### MISCELLANEOUS CLAIMS:

Montague, George		
Settlement of U.S.D.C. Civil		
No. 77-0208, George Montague		
v. George Ariyoshi, et al.		40,000.00

SECTION 2. The sums hereinabove appropriated shall be paid to the respective persons and in the several amounts hereinabove set out upon warrants issued by the comptroller of the State: (1) upon vouchers approved by the director of taxation as to claims for overpayment of taxes and (2) upon vouchers approved by the director of finance as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate of four per cent a year, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in Section 662-8, Hawaii Revised Statutes, and all unexpended balances thereof after payment shall lapse into the general fund of the State as of the close of business on June 30, 1981.

SECTION 4. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

## ACT 232

H.B. NO. 1911-80

A Bill for an Act Relating to Statutory Revision; Amending Various Provisions of the Hawaii Revised Statutes for the Purpose of Correcting Errors, Clarifying Language, and Correcting References.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, subpart XII.B., Hawaii Revised Statutes, is amended by substituting the words "this subpart" for the words "this chapter".

SECTION 2. Section 11-200, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A candidate, campaign treasurer, or committee shall not receive any contributions or receive or make any transfer of money or anything of value:

(1) For any purpose other than those directly related:

(A) In the case of the candidate, to his own campaign; or

(B) In the case of a campaign treasurer or committee, to the campaign of the candidate, question, or issue with which they are directly associated; or

(2) To support the campaigns of candidates other than the candidate[,] for whom the funds were collected or with whom the campaign treasurer or committee is directly associated; or

(3) To campaign against any other candidate not directly opposing the candidate for whom the funds were collected or with whom the campaign treasurer or committee is directly associated.

Any provision of law to the contrary notwithstanding, a candidate, campaign treasurer, or committee, as a contribution, may purchase from its campaign fund not more than two tickets for each fund raiser as defined in section 11-203, held by another candidate, committee, or party."

SECTION 3. Section 11-209, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) From January 1 of the year of a primary, special primary, or general election through the day of the general election, the total expenditures for candidates who voluntarily agree to limit their campaign expenditures, inclusive of all expenditures made or authorized by the candidate himself and all campaign treasurers and committees in his behalf, shall not exceed the following amounts expressed respectively [as the product of] multiplied by the number of [ ] voters[ ] in the last preceding general election registered to vote for the respective class of offices:

(1) For the office of governor—\$1.25;

(2) For the office of lieutenant governor—70 cents;

(3) For the office of mayor—[\$1.00;]\$1;

(4) For the offices of state senator, state representative, county council member, and prosecuting attorney—70 cents; and

(5) For the offices of the board of education and all other offices—10 cents."

SECTION 4. Section 91-12, Hawaii Revised Statutes, is amended to read:

**"Sec. 91-12 Decisions and orders.** Every decision and order adverse to a party

to the proceeding, rendered by an agency in a contested case, shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the agency shall incorporate in its decision a ruling upon each proposed finding so presented. [Parties to the proceeding shall be notified] The agency shall notify the parties to the proceeding by delivering or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party or to his attorney of record."

SECTION 5. Section 142-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 142-14 Sale of diseased animals; penalty.** Any person who sells or offers for sale, or uses, or exposes, or who causes or procures to be sold, or offered for sale, or used, or to be exposed, any horse or any other animal having the disease known as glanders, or farcy, or any other contagious or infectious disease, known by the person to be dangerous to human life, or which are diseased past recovery, shall be [punished as provided in section 722-12.] guilty of a petty misdemeanor."

SECTION 6. Section 144-10, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operation may be subject to such provisions, officers or employees duly designated by the department, upon presenting appropriate credentials, are authorized:

- (1) To enter, during normal business hours, any factory, warehouse, or establishment within the State in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and
- (2) To inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under section [144-7(d).] 144-7(8)."

SECTION 7. Section 149A-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Except as otherwise exempted in section 149A-12, it shall be unlawful for any person to distribute, solicit, sell, offer for sale, hold for sale, transport, deliver for transportation, or receive and having so received, deliver or offer to deliver to any person in intrastate commerce or between points within this State through any point outside this State any of the following:

- (1) Any pesticide which is not licensed pursuant to section 149A-13, or any pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its licensing, or if the composition of a pesticide differs from its composition

as represented in connection with its licensing; provided that in the discretion of the department, a change in the labeling or formula of a pesticide may be made within a licensing period without requiring an additional licensing of the product.

- (2) Any pesticide unless it is in the licensee's or the manufacturer's unbroken immediate container, and there is affixed to the container, and to the outside container or wrapper of the retail package, if any, through which the required information on the immediate container cannot be clearly read, a label bearing such information pursuant to section 149A-15.
- (3) Any pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in section 149A-19, unless the label bears, in addition to any other matter required by this chapter:
  - (A) A symbol of the skull and crossbones;
  - (B) The word "POISON" prominently, in red, on a background of distinctly contrasting color; and
  - (C) A statement of emergency medical treatment or an antidote when appropriate for the pesticide.
- (4) The pesticides containing any of the ingredients commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, or barium fluosilicate, unless they have been distinctly colored or discolored or any other white powder pesticide which the board, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, requires to be distinctly colored or discolored, unless it has been so colored or discolored pursuant to section 149A-16.
- (5) Any pesticide which is adulterated or misbranded as defined in section 149A-2.
- (6) Any pesticide or device that is an imitation of another pesticide or device.
- (7) Any restricted pesticide unless the person has a [license] permit issued in accordance with section 149A-17.
- (8) Any restricted pesticide to persons other than a certified pesticide applicator or any uncertified personnel under his supervision, or a licensed dealer, wholesaler, or retailer."

SECTION 8. Section 271-32, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) An appeal shall lie to the supreme court subject to chapter 602 from every order made by the commission which is final, or if preliminary is of the nature defined by section 91-14(a); provided such order is made after reconsideration or rehearing or is the subject of a motion for reconsideration or rehearing which the commission has denied or with respect to which the commission has not issued a final determination within twenty days from the filing date of the motion. An appeal shall lie to the supreme court subject to chapter 602 only by a person aggrieved in the contested case hearing provided for in this section in the manner and within the time provided by chapter 602 and by the rules of court [for an appeal from a judgment of a circuit court]."

SECTION 9. Section 271G-23, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(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].”

SECTION 10. Section 271G-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(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),] (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.”

SECTION 11. Section 281-92, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 281-92 Appeals.** Any licensee aggrieved by any order assessing, or providing for the collection of, a penalty or by any order suspending or revoking any license may appeal therefrom in the manner provided in chapter 91 to the circuit court of the circuit in which the liquor commission making the order has jurisdiction and the judgment of the court shall be subject to review by the supreme court[.] subject to chapter 602.”

SECTION 12. Section 286-56.5, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 286-56.5 Special license plates for consul or official representative of territorial government.** Notwithstanding any other law to the contrary, any consul or official representative of a foreign government or territory of the United States of America, duly licensed and holding an exequatur issued by the Department of State of the United States of America, may be furnished at no cost special license plates by the director of finance on such conditions as may be necessary on a vehicle used on official consular business, provided that upon application for special license plates a consul or official representative shall be given the option of using license plates issued by his government. Before such plates shall be considered as special license plates, they shall be registered and the appropriate fees paid to the county for the issuance.

The special license plates shall be securely fastened to the vehicle in lieu of the regulation number plates; provided that the tag or emblem, issued each year, shall be affixed to the special license plates in the manner provided for [on] in section 249-7. Whenever the consul or official representative transfers or assigns his interest in or title in the vehicle to which the special license plates were issued, he shall immediately surrender the special license plates to the director of finance."

SECTION 13. Section 286-201, Hawaii Revised Statutes, is amended by amending the definition of "motor carrier" to read:

"(4)"Motor carrier" as used in this part means [a common carrier by motor vehicle, or a private carrier by motor vehicle, all as defined in section 271-4.] any person who owns a motor vehicle used in, or engages in the transportation of persons or property by motor vehicle on the public highways in the furtherance of any commercial, industrial or educational enterprise."

SECTION 14. Section 290-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 290-11 Vehicles left unattended on private property.** Notwithstanding any other provision of this chapter, any vehicle left unattended without authorization of the owner or occupant of the property, may be towed away at the expense of the owner of the vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall state where the vehicle will be towed and held. The notice shall be of such size and be placed in a location reasonably calculated to call the sign to the attention of potential parkers. Towing companies engaged by the owner, occupant, or person in charge of the property shall charge no more than \$25 a tow, \$37.50 for a tow using a dolly and \$2 for each [24] twenty-four hour period of storage or fraction thereof. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles.

Each county by ordinance may enact additional restrictions to this section or may enact criminal sanctions in this area as required."

SECTION 15. Section 296-10, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 296-10 Educational districts not applicable.** The educational districts established by section 4-1 shall not be applicable to nor alter the school board districts or the departmental school districts, established by section [296-3.] 13-1."

SECTION 16. Section 329-14, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(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;] 5-dimethoxyamphetamine;
- (11) Ibogaine;
- (12) Lysergic acid diethylamide;
- (13) Marijuana;
- (14) Mescaline;
- (15) Peyote;
- (16) N-ethyl-3-piperidyl benzilate;
- (17) N-methyl-3-piperidyl benzilate;
- (18) Psilocybin;
- (19) Psilocyn;
- (20) Tetrahydrocannabinols;
- (21) Ethylamine analog of phencyclidine (PCE);
- (22) Pyrrolidine analog of phencyclidine (PcPy, PHP);
- (23) [Tiophene] Thiophene analog of phencyclidine (TPCP; TCP)."

SECTION 17. Section 333E-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 333E-3 State planning council on developmental disabilities.** The state planning council on developmental disabilities (hereinafter referred to as the state council or the council) shall be placed in the department of health for administrative purposes only and assigned the following responsibilities:

- (1) Planning. The state council shall:
  - (A) Develop, prepare, adopt, and periodically review and revise, as necessary, the state plan for developmentally disabled (hereinafter called the state plan) in conformance with federal substantive and procedural requirements therefor. The state council shall transmit the state plan to the governor for approval, and upon approval shall be submitted to the federal government for appropriate approval. The state plan and revisions thereto shall be effective upon the governor's approval thereof. The state plan shall include establishment of goals and priorities of the State in meeting the needs of the developmentally disabled, including the establishment of priorities for the distribution of public funds for comprehensive services to the developmentally disabled within the State and other matters deemed necessary to achieve normalization of lives of the developmentally disabled. The state plan shall in addition provide for coordinated delivery and establishment of comprehensive services, facilities, and programs for the developmentally disabled.
  - (B) Review and comment upon implementation plans prepared and carried out by the various departments of the State in carrying out the state plan for the developmentally disabled.
  - (C) Review and comment upon any other state plans which affect services

- to the developmentally disabled.
- (2) Coordination of departments and private agencies. The council shall:
- (A) Identify services duplicated by departments and private agencies and coordinate and assist in the elimination of unnecessary duplication.
  - (B) Encourage efficient and coordinated use of federal, state, and private resources in the provision of services.
  - (C) Designate areas of responsibility for services to both public and private agencies serving developmentally disabled clients, reviewing such designations as necessary. Identify gaps in services to the developmentally disabled and coordinate responsibilities of various public or private agencies for such missing services.
  - (D) Insure that implementation planning by the various departments is effectively coordinated and that interdepartmental programs receive the full support of all departments involved.
- (3) Evaluation. The council shall:
- (A) Monitor, evaluate, and comment upon implementation plans of the various public and private agencies for the developmentally disabled.
  - (B) Monitor all ongoing projects relating to developmental disabilities of the various public and private agencies.
  - (C) Monitor deinstitutionalization of Waimano training school and hospital and insure that individualized habilitation plans are being implemented for each resident transferred from Waimano.
- (4) Advocacy. The council shall:
- (A) Advocate for the needs of the developmentally disabled before the legislature and the public and to the governor.
  - (B) Act in an advisory capacity to the governor, the legislature, and all concerned department heads on all issues affecting the developmentally disabled.
  - (C) Serve as a channel for complaints by consumers of services for the developmentally disabled, following up on such complaints and taking such action as may be warranted.
- (5) Report. The council shall:
- (A) Prepare and submit annual reports to the governor, the legislature, and all concerned department heads on the implementation of the state plan. The report presented to the legislature shall be submitted ten days prior to the convening of the legislature.
  - (B) Prepare and submit to the United States Secretary of Health, Education and Welfare, through the governor, any periodic reports the Secretary may reasonably request.
  - (C) Prepare other reports necessary to accomplish its duties under this chapter.
- (6) Rules. The council shall adopt, amend, and repeal rules under chapter 91, necessary for the implementation of this chapter."

SECTION 18. Section 338-20, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

- "(b) Any certified copy of final decree of adoption, or abstract thereof, of

persons born in the State, rendered by courts of other states and territories subject to the jurisdiction of the United States or courts of a foreign country, shall be considered properly certified when attested by the clerk of the court in which it was rendered with the seal of the court annexed, if there be a seal, together with a certificate of the presiding judge, chancellor, or magistrate that the attestation is in due form."

SECTION 19. Section 351-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In the event any [person] private citizen is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State after June 6, 1967, which act or omission is within the description of the crimes enumerated in section 351-32, the criminal injuries compensation commission may, in its discretion, upon an application, order the payment of compensation in accordance with this chapter:

- (1) To or for the benefit of the victim; or
- (2) To any person responsible for the maintenance of the victim, where that person has suffered pecuniary loss or incurred expenses as a result of the victim's injury or death; or
- (3) In the case of the death of the victim, to or for the benefit of any one or more of the dependents of the deceased victim; or
- (4) To a parent of an adult deceased victim, or to an adult son or daughter of a deceased victim, where the parent, or adult son or daughter, has incurred expenses on account of hospital, medical, funeral, and burial expenses as a result of the victim's injury and death."

SECTION 20. Section 383-62, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In lieu of contributions required of employers under this chapter, the State and its political subdivisions and instrumentalities (hereinafter referred to as "governmental employers" or "governmental employer" as the case may be) shall pay in advance to the director of labor and industrial relations for the fund an amount equivalent to:

- (1) The amount of regular benefits plus one-half the amount of extended benefits payable in each calendar quarter beginning prior to January 1, 1979 to individuals based on wages paid by governmental employers; and
- (2) The amount of regular benefits plus the amount of extended benefits payable in each calendar quarter beginning after December 31, 1978 to individuals based on wages paid by governmental employers.

The director shall notify each governmental employer of the amount of money required to be paid to him. Such amounts shall be paid to the director prior to the commencement of the calendar quarter in which benefits are payable.

If benefits paid an individual are based on wages paid by one or more governmental employers and one or more other employers, [or on wages paid by two or more employers,] or on wages paid by two or more governmental employers, the amount payable by a governmental employer to the director for the fund shall be in accordance with the provisions of paragraphs (1) and (2) of subsection (e) of this section, governing the allocation of benefit costs among employers liable for payments in lieu

of contributions and between such employers and employers liable for contributions.

For the purposes of paragraphs (1) and (2) of subsection (e), governmental employers are employers liable for payments in lieu of contributions. The amount of payment required from governmental employers shall be ascertained by the department of labor and industrial relations and shall be paid from the general funds of such governmental employers upon approval by the comptroller of the State or the director of finance of the respective counties, except that to the extent that benefits are paid on the basis of wages paid by governmental employers from special administrative funds, the payment into the unemployment compensation fund shall be made from such special funds."

SECTION 21. Section 386-23.6, Hawaii Revised Statutes, is amended to read as follows:

**"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 shall be entitled to weekly benefits 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 22. Section 387-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 387-15 Relation to child labor law.** Nothing in this chapter shall in any way repeal or affect the validity of [section 371-14.] chapter 390."

SECTION 23. Section 437-1.1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 437-1.1 Definitions.** As used in this chapter:

- (1) "Auction" means any person engaged in the business of selling motor vehicles by means of bidding at a public or private sale, but excludes an auctioneer and any person referred to in paragraph (6)(A), (B), (D), or (E) when the auctioneer or person acts in his respective capacity described in this section.
- (2) "Auctioneer" means a person who for gain or compensation of any kind, sells or offers for sale or exchange, motor vehicles or any interest therein by means of soliciting bids on behalf of an auction.

- (3) "Board" means the motor vehicle industry licensing board created by this chapter.
- (4) "Business" includes any activities regularly engaged in by any person or regularly caused to be engaged in by him for the object of gain, benefit, or advantage, either direct or indirect.
- (5) "Consumer" means a person who intends to or actually drives or physically utilizes a motor vehicle for his personal, family, or business use, including the business of renting or leasing motor vehicles.
- (6) "Dealer" includes any person not expressly excluded by this chapter engaged in the business of selling, soliciting, offering, or attempting to negotiate sales, purchases, or exchanges of motor vehicles or any interest therein, including options to purchase motor vehicles. "New motor vehicle dealer" means a dealer who engages in the business of selling at wholesale or retail, or both, new motor vehicles or new and used motor vehicles. "Used motor vehicle dealer" means a dealer who engages in the business of selling at wholesale or retail, or both, only used motor vehicles.
- The term "dealer" excludes a person who sells or purchases motor vehicles in the capacity of:
- (A) A receiver, trustee, personal representative, guardian, or any other person appointed by or acting under a judgment or order of any court; or
  - (B) A public officer while performing his official duties; or
  - (C) A holder of a license issued under this chapter, other than a dealer, when acting within the scope of the license; or
  - (D) An insurance company, finance company, bank or other financial institution selling or offering for sale motor vehicles repossessed or foreclosed by it under the terms of a retail installment sales contract or security agreement; or
  - (E) A person not engaged in the business of selling or purchasing motor vehicles when acquiring or disposing of motor vehicles for their own personal, family, or business use; provided such vehicles are acquired or disposed of for such use in good faith and not for the purpose of evading any provisions of this chapter.
- (7) "Distributor" means any person, resident or nonresident, including a manufacturer, who in whole or in part offers for sale, sells, or distributes new motor vehicles to dealers.
- (8) "Distributor branch" means any office or establishment maintained by a distributor which is not at the same address as the distributor and is used, either directly or indirectly, for the purpose of selling, offering for sale, promoting the sale of, or distributing new motor vehicles to dealers, or for the purpose of directing or supervising, in whole or in part, factory or distributor representatives.
- (9) "Distributor representative" means any representative, employee, agent, contractor, or any person, other than an independent advertising agency, employed by or under a contract with a distributor, directly or indirectly, for the purpose of selling, promoting the sale of, or distributing new motor

- vehicles or for the purpose of supervising or regulating the business affairs of motor vehicle dealers or prospective dealers.
- (10) "Factory branch" means any office or establishment maintained by a manufacturer, directly or indirectly, for the purpose of selling, offering for sale, or promoting the sale of new motor vehicles to a distributor or dealer, or for directing or supervising, in whole or in part, factory or distributor representatives.
- (11) "Factory representative" means a representative, employee, agent, contractor, or any person, other than an independent advertising agency, employed by a manufacturer or factory branch for the purpose of selling or promoting the sale of new motor vehicles of such manufacturer or for supervising the franchised dealers or prospective dealers of such manufacturer.
- (12) "Franchise" means any contract or agreement between a dealer and a manufacturer or distributor or branches or representatives thereof, which authorizes the dealer to engage in the business of selling or purchasing any particular make or makes of new motor vehicles or parts therefor manufactured or distributed by such manufacturer or distributor.
- (13) "Manufacturer" means any person, resident or nonresident, who is engaged in the business of manufacturing or assembling new motor vehicles.
- (14) "Motor vehicle" includes any vehicle, motor vehicle, or truck, as defined in sections 249-1 and 249-2, except for tractors, trailers, and amphibious vehicles.
- (15) "New motor vehicle" means a motor vehicle which (A) has not previously been sold to any person except a distributor, wholesaler, or dealer for resale, except where the vehicle has not left the dealer's possession after the sale to a consumer, and (B) has not previously been registered or titled in the name of a consumer except where the vehicle has not left the dealer's possession after the sale to the consumer, and (C) has not been driven more than five hundred miles; provided that where a sale, registration, entitlement, or transfer of title of a motor vehicle or the accrual of mileage thereon is primarily for the purpose of evading this provision, the motor vehicle shall be deemed a new motor vehicle for the purposes of this chapter.
- (16) "Person" is defined as provided for in section 1-19.
- (17) "Premises" or "licensed premises" means the premises in connection with which a license has been, or is proposed to be, issued, including branch locations. The term "premises" or "licensed premises" is substituted for the term "place of business" wherever found in this chapter.
- (18) "Retail", "sale at retail", "retail sale", and equivalent expressions, mean the act or attempted act of selling a motor vehicle to a person for use as a consumer.
- (19) "Retail installment contract" is defined as provided for in section 476-1.
- (20) "Sale", "selling", and equivalent expressions, mean the act or attempted act, either as principal or an agent or in any capacity whatsoever, of selling, bartering, exchanging, or otherwise disposing of, or negotiating, or offering, or attempting to negotiate the sale, purchase, or exchange of,

or interest in, a motor vehicle, including an option to purchase a motor vehicle.

- (21) "Salesman" means any person who for gain or compensation of any kind, directly or indirectly, by any form of agreement or arrangement, sells, solicits, offers for sale, exchanges, or otherwise deals in, motor vehicles or any interest therein on behalf of any motor vehicle dealer.
- (22) "Treasurer" means the director of finance of each county.
- (23) "Used motor vehicle" means a motor vehicle other than a new motor vehicle.
- (24) "Wholesale" or "sale at wholesale" or "wholesale sale" and equivalent expressions, mean any sale other than a retail sale."

SECTION 24. Section 490:9-403, Hawaii Revised Statutes, is amended by amending subsection (6) to read as follows:

"(6) If the debtor is a transmitting utility [(subsection (5) of section 490:9-401)] and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under section 490:9-408 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate."

SECTION 25. Section 490:11-105, Hawaii Revised Statutes, is amended by amending subsection (4) to read as follows:

"(4) If the record of a mortgage of real estate would have been effective as a fixture filing of goods described therein if the new U.C.C. had been in effect on the date of recording the mortgage, the mortgage shall be deemed effective as a fixture filing as to such goods under [subsection (6) of section 490:9-402] section 490:9-408 of the new U.C.C. on the effective date of July 1, 1979."

SECTION 26. Section 558-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 558-6 Conveyance by trustee.** Any person dealing with the trustee under the recorded instrument shall take any interest transferred by the trustee free and clear of the claims of all the beneficiaries of the trust, and of any unrecorded separate declarations or agreements collateral to the [unrecorded] recorded instrument whether referred to in the recorded instrument or not, and of anyone claiming by, through or under such beneficiaries including, and without limiting the foregoing to, any claim arising out of any dower or courtesy interest of the spouse of any beneficiary thereof; provided that nothing herein contained shall prevent the beneficiary of any unrecorded collateral declarations or agreements from enforcing the terms of the unrecorded collateral declarations or agreements against the trustee."

SECTION 27. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-14 Jurisdiction; adults.** The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by his parent or guardian or by any other person having his legal or physical custody, and any violation of [sections] section 707-723, 709-902, 709-903, 709-904, or 709-905,

- whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
- (A) Deserting, abandoning, or failing to provide support for any person in violation of law; or
  - (B) An offense, other than a felony, against the person of the defendant's husband or wife. In any case within [paragraphs] paragraph(1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.
- (3) In all proceedings under chapter 580, and in all proceedings under chapter [579.] 584.
- (4) In proceedings under chapter 575, the Uniform Deserter and Nonsupport Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult.
- (7) In all proceedings for waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-22."

SECTION 28. Section 571-50, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-50 Modification of decree, rehearing.** Except as otherwise provided by this chapter, any decree or order of the court may be modified at any time.

At any time during supervision of a child the court may issue notice or other appropriate process to the child if he is of sufficient age to understand the nature of the process, to the parents, and to any other necessary parties to appear at a hearing on a charge of violation of the terms of supervision, for any change in or modification of the decree or for discharge. The provisions of this chapter relating to process, custody, and detention at other stages of the proceeding shall be applicable.

A parent, guardian, custodian, or next friend of any child whose status has been adjudicated by the court, or any adult affected by a decree of the court, may at any time petition the court for a rehearing on the ground that new evidence, which was not known or not available through the exercise of due diligence at the time of the original hearing and which might affect the decree, has been discovered. Upon a satisfactory showing of such evidence, the court shall order a new hearing and make such disposition of the case as the facts and the best interests of the child warrant.

A parent, guardian, or next friend of a child whose legal custody has been transferred by the court to an institution, facility, agency, or person may petition the court for modification or revocation of the decree, on the ground that such legal custodian has wrongfully denied application for the release of the child or has failed to act upon it within a reasonable time, or has acted in an arbitrary manner not consistent with the welfare of the child or the public interest. An institution, facility, agency, or person vested with legal custody of a child may petition the court for a renewal, modification, or revocation of the custody order on the ground that such change is necessary for the welfare of the child or in the public interest. The court may dismiss

the petition if on preliminary investigation it finds it without substance. If the court is of the opinion that the decree should be reviewed, it shall conduct a hearing on notice to all parties concerned, and may enter an order continuing, modifying, or terminating the decree.

Notwithstanding the foregoing provisions of this section the court's authority with respect to the review, rehearing, renewal, modification, or revocation of decrees, judgments, or orders entered in the hereinbelow listed classes of proceedings shall be limited by any specific limitations set forth in the statutes governing such proceedings or in any other specifically applicable statutes or rules. Such proceedings are as follows:

- (1) Annulment, divorce, separation, and other proceedings under chapter 580;
- (2) Adoption proceedings under chapter 578;
- (3) Paternity proceedings under chapter [579;] 584;
- (4) Termination of parental rights proceedings under this chapter;
- (5) Waimano training school and hospital commitment proceedings under chapter 333;
- (6) State hospital commitment proceedings under chapter 334.

A decree, judgment, or order committing a child to the care of the director of social services shall be reviewable under this section at the instance of others than duly authorized representatives of such department only after a lapse of thirty days following the date of the decree, judgment, or order, and thereafter only at intervals of not less than one year.

Notwithstanding this section the court shall not conduct a rehearing of any petition, filed under section 571-11(1), which, following a hearing, has been denied or dismissed."

**SECTION 29.** Section 571-52.1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-52.1 Determination and enforcement of support orders.** During the course of any proceeding in which the court is considering making or modifying an order for spouse support or child support, the court on its own motion or on motion of any interested person may refer the problem to the court trustee for investigation.

At any time when a support order payable through the court appears or is alleged to be inequitable or unsuitable, the court trustee on his own motion may, and when directed by the court shall, institute an investigation into the situation.

In connection with any such referral or inquiry, the court trustee shall investigate all matters pertinent to the determination of just and suitable allowances for the spouse and children, and shall submit his findings and recommendations in writing to the court.

The written reports of the court trustee shall be available to interested parties and may be received in evidence if no objection is made, or, if objection is made, may be received in evidence; provided the person or persons responsible for the reports are available for cross-examination as to any matter which has been investigated. When a report is received in evidence, any party may introduce other evidence supplementing, supporting, modifying, or rebutting the whole or any part of the report.

Every order for spouse support or child support which provides for payments to be made through the court may be enforced pursuant to this section.

The court trustee shall maintain files of the support orders and papers referred to him, shall maintain follow-up records to determine whether the payments ordered therein are being made, may make oral or written demand for overdue payments, and, in the event of a default and after such time as the court trustee may deem reasonable, may, and when directed by the court shall, institute contempt of court proceedings for the purpose of enforcing support orders.

The court trustee may utilize the services of public or private social agencies in conducting the investigations and making the reports and recommendations occasioned by this section. Reports of such agencies may be received in evidence under the same conditions as reports of the court trustee.

Court costs, service fees, and the expenses of any investigation conducted by the court trustee may, in the discretion of the court, be assessed wholly or partially against the party ordered to make the support payments.

As used in this section, support includes amounts ordered to be paid as reimbursement or advancement for expenses incurred or to be incurred by or on behalf of a spouse or child, including attorney's fees, court costs, and other expenses in connection with relevant litigation, unpaid amounts due under existing or prior support orders, and payments required by a valid sentence, order, judgment, or decree under chapters 575, 576, [579,] 580, and [580] 584 or section 571-51."

SECTION 30. Section 571-84, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-84 Records.** The court shall maintain records of all cases brought before it. In proceedings under section 571-11, and in paternity proceedings under chapter [579,] 584, the following records shall be withheld from public inspection: the court docket, petitions, complaints, motions, and other papers filed in any case; transcripts of testimony taken by the court; and findings, judgments, orders, decrees, and other papers other than social records filed in proceedings before the court. The records other than social records shall be open to inspection by the parties and their attorneys, by an institution or agency to which custody of a minor has been transferred, by an individual who has been appointed guardian; with consent of the judge, by persons having a legitimate interest in the proceedings from the standpoint of the welfare of the minor; and, pursuant to order of the court or the rules of court, by persons conducting pertinent research studies, and by persons, institutions, and agencies having a legitimate interest in the protection, welfare, or treatment of the minor.

Reports of social and clinical studies or examinations made pursuant to this chapter shall be withheld from public inspection, except that information from such reports may be furnished, in a manner determined by the judge, to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare, and treatment of the minor.

No information obtained or social records prepared in the discharge of official duty by an employee of the court shall be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive such information, unless and until otherwise ordered by the judge.

Except for the immediate use in a criminal case, any photograph or fingerprint taken of any child shall not be used or circulated for any other purpose and shall be

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subject to all rules and standards provided for in section 571-74.

The records of any police department, and of any juvenile crime prevention bureau thereof, relating to any proceedings authorized under section 571-11 shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the provisions of this chapter, except as otherwise ordered by the court. Any such police records concerning traffic accidents in which a child or minor coming within section 571-11(1) is involved shall, after the termination of any proceeding under section 571-11(1) arising out of any such accident, or in any event after six months from the date of the accident, be available for inspection by the parties directly concerned in the accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue because of death resulting from any such accident shall be deemed a party concerned.

Evidence given in proceedings under section 571-11(1) or (2) shall not in any civil, criminal, or other cause be lawful or proper evidence against the child or minor therein involved for any purpose whatever, except in subsequent proceedings involving the same child under section 571-11(1) or (2)."

**SECTION 31.** Section 633-27, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The small claims division of the district court may grant monetary relief and equitable relief [as provided for in subsection 2(c)(2) below], except that:

- (1) Monetary relief shall not include punitive damages; and
- (2) Equitable relief shall be granted only as between parties to a landlord-tenant disagreement pursuant to chapter 521, and shall be limited to orders to repair, replace, refund, reform, and rescind."

**SECTION 32.** Section 634-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 634-11 Interpleader; sheriff's application for order.** When, in the execution of process against goods and chattels issued by or under the authority of the courts of the State, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such process had issued, whereby the sheriffs and other officers are exposed to the hazard and expense of actions, any such claim shall be made to any goods or chattels taken or intended to be taken in execution under any such process or to the proceeds or value thereof, it shall be lawful for the court, out of which the execution shall have issued, or any judge thereof, upon application of the sheriff or other officer made before or after the return of such process, and as well before as after any action brought against the sheriff or other officer, to call before it or him by rule, order, or summons, as well the party issuing such process as the party making the claim. Thereupon the court or judge shall [exercise], for the adjustment of the claims and the relief and protection of the sheriff or other officer, [all or any of the powers and authorities in sections 634-41 and 634-42, and] make such rules, orders, and decisions as shall appear to be just according to the circumstances of the case. The costs of all such proceedings shall be in the discretion of the court or judge."

**SECTION 33.** Section 652-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 652-9 Garnishee may be heard on notice to plaintiff.** Whenever any person summoned as a garnishee may be desirous of so doing, he may apply to the district judge or any judge of the court from which the summons may have issued, and the judge having caused reasonable notice to be given to the plaintiff in the action, shall proceed to take the deposition of the person thus summoned, and make such order as may be proper in the premises, at any time previous to the date appointed for hearing the cause, and the person summoned as garnishee, shall be taken to have obeyed the summons. If it appears that there are conflicting claims to any moneys held for safekeeping, debt, goods, or effects in the garnishee's hands, any time after the summons is served the garnishee may be permitted upon order of the judge to pay into the court any moneys held for safekeeping, debts, goods, or effects in his hands, less any reasonable costs and attorney's fees allowed by the judge and the garnishee will thereupon be discharged. With or without payment into court, any garnishee may, where there are conflicting claims to any moneys held for safekeeping, debt, goods, or effects in his hands of any amount, make application for an interpleader order [in the manner provided by section 634-41 for defendants.] and the judge shall thereupon make all orders as appear to be just and reasonable."

SECTION 34. 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 person constructing, altering, or repairing the improvement, or manufacturing or furnishing materials incorporated in the improvement, or performing or furnishing services in the design, planning, supervision, observation of construction or administration of construction contracts for any construction, alteration, or repair 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 date of completion of the improvement. This section shall not apply to actions for damages against the owner or any other person having an interest in the real property or improvement based on their negligent conduct [or in the improvement] in the repair or maintenance of the improvement or to actions for damages against surveyors for their own errors in boundary surveys. The term "improvement" as used in this section shall have the same meaning as in section 507-41 and the phrase "date of completion" as used in this section shall mean the time when there has been substantial completion of the improvement or the improvement has been abandoned. The filing of an affidavit of publication and notice of completion with the circuit court where the property is situated in compliance with section 507-43(f) shall be *prima facie* evidence of the date of completion."

SECTION 35. Section 663-1.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any person who in good faith renders emergency care, without

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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.”

SECTION 36. Section 671-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In any such medical tort action, the party against whom the complaint, counterclaim, or cross-claim is made may at any time request a statement setting forth the nature and amount of the damages sought. The request shall be served upon the complainant, [>[]counterclaimant[]], or cross-claimant who shall serve a [responsible] responsive statement as to the damages within fifteen days thereafter. In the event a response is not served, the requesting party may petition the court with notice to the other parties, to order the appropriate party to serve a responsive statement.”

SECTION 37. Section 706-603, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 706-603 Pre-sentence [psychiatric, psychological,] mental 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, psychological,] mental 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, intake service center, or community correctional center 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.] or certified clinical psychologist. If a three-member panel is appointed one shall be a psychiatrist and one shall be a certified clinical psychologist. The third member may be either a psychiatrist, certified clinical psychologist, or qualified physician. One of the three shall be a psychiatrist or certified clinical psychologist designated by the director of health from within the department of health. The report of the examination shall be submitted to the court.”

SECTION 38. Chapter 707, part VII, Hawaii Revised Statutes, is amended by substituting the term “part” for the term “chapter”.

SECTION 39. Section 707-763, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 707-763 Collection of extensions of credit by extortionate means. (1)**  
“Collection of extensions of credit by extortionate means” includes[:]

(1) Knowingly] knowingly participating in any way, or conspiring to do so, in the use of any extortionate means:

- (a) To collect or attempt to collect any extension of credit; or
- (b) To punish any person for the nonrepayment thereof.

(2) In any prosecution under this [chapter,] part, for the purpose of showing an

implicit threat as a means of collection, evidence may be introduced tending to show that one or more extensions of credit by the creditor were, to the knowledge of the person against whom the implicit threat was alleged to have been made, collected or attempted to be collected by extortionate means or that the nonrepayment thereof was punished by extortionate means.

(3) [Any] In any prosecution under this [chapter,] part, if evidence has been introduced tending to show the existence, at the time the extension of credit in question was made, of the circumstances described in [subparagraph] subsection (2)(a) or [subparagraph] subsection (2)(b) of [this] section 707-761 and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing that words or other means of communication, shown to have been employed as a means of collection, in fact carried an express or implicit threat, the court may in its discretion allow evidence to be introduced tending to show the reputation of the defendant in any community of which the person against whom the alleged threat was made was a member at the time of collection or attempt at collection."

SECTION 40. Section 708-814, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 708-814 Criminal trespass in the second degree.** (1) A person commits the offense of criminal trespass in the second degree if:

- (a) He knowingly enters or remains unlawfully in or upon premises which are 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[.]; or
- (c) He enters or remains unlawfully in or upon commercial premises after reasonable warning or request to leave by the owner or lessee of the commercial premises or his authorized agent or police officer; provided that this [sub]paragraph shall not apply to any conduct or activity subject to regulation by the National Labor Relations Act.

(2) Criminal trespass in the second degree is a petty misdemeanor."

SECTION 41. Section 708-834, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 708-834 Defenses: unawareness of ownership; claim of right; household belongings[.]; co-interest not a defense.** (1) It is a defense to a prosecution for theft that the defendant:

- (a) Was unaware that the property or service was that of another; or
- (b) Believed that he was entitled to the property or services under a claim of right or that he was authorized, by the owner or by law, to obtain or exert control as he did.

(2) If the owner of the property is the defendant's spouse, it is a defense to a prosecution for theft of property that:

- (a) The property which is obtained or over which unauthorized control is exerted constitutes household belongings; and

(b) The defendant and his spouse were living together at the time of the conduct.

(3) "Household belongings" means furniture, personal effects, vehicles, money or its equivalent in amounts customarily used for household purposes, and other property usually found in and about the common dwelling and accessible to its occupants.

(4) In a prosecution for theft, it is not a defense that the defendant has an interest in the property if the owner has an interest in the property to which the defendant is not entitled."

SECTION 42. Section 853-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 853-1 Deferred acceptance of guilty plea, discharge and dismissal, expungement of records.** (a) Upon proper motion as provided by this chapter:

(1) When a defendant voluntarily pleads guilty, prior to commencement of trial, to a felony or misdemeanor or petty misdemeanor;

(2) It appears to the court that the defendant is not likely again to engage in a criminal course of conduct; and

(3) The ends of justice and the welfare of society do not require that the defendant shall presently suffer the penalty imposed by law, the court, without entering a judgment of guilt and with the consent of the defendant and after considering the recommendations, if any, of the prosecutor, may defer further proceeding.

(b) The proceedings may be deferred upon any of the conditions specified by section 706-624. The court may defer the proceedings for such period of time as the court shall direct but in no case to exceed the maximum sentence allowable. The defendant may be subject to bail or recognizance at the court's discretion during the period during which the proceedings are deferred.

(c) Upon his completion of the period designated by the court and in compliance with the terms and conditions established, the court shall discharge the defendant and dismiss the charge against him.

(d) Discharge of the defendant and dismissal of the charge against him under this section shall be without adjudication of guilt, shall eliminate any civil admission of guilt, and is not a conviction.

(e) Upon discharge of the defendant and dismissal of the charge against him under this section, the defendant may apply for expungement not less than one year following discharge, pursuant to section 831-3.2."

SECTION 43. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1980, whether enacted before or after the effective date of this Act, unless such acts specifically provide otherwise.

SECTION 44. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 45. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

A Bill for an Act Relating to Firearms and Ammunition.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 134-7, 134-8, 134-9, and 134-10, Hawaii Revised Statutes, are 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 from justice" means any person who has fled from any state, territory, the District of Columbia, or possession of the United States to avoid prosecution for a felony or to avoid giving testimony in any criminal proceeding.

(b) No person who has been convicted in this State or elsewhere, of having committed a felony, or of the illegal sale of any drug, shall own, or have in his possession, or under his control any firearm or ammunition therefor.

(c) Any person violating this section shall be guilty of a class C felony.

**Sec. 134-8 Ownership, etc., of machine guns, automatic rifles, silencers, etc., prohibited; penalty.** The manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of any machine guns, submachine guns, automatic rifles, or rifles with barrel lengths less than sixteen inches, or shotguns with barrel lengths less than eighteen inches, cannon, mufflers, silencers, or devices for deadening or muffling the sound of discharged firearms, or any hand grenade, dynamite, or other explosives, blasting caps, bombs, or bombshell is prohibited. Any person violating this section shall be guilty of a class C felony and shall be imprisoned for a term of five years, without probation.

**Sec. 134-9 Permits to carry; penalty.** In an exceptional case, when the applicant shows reason to fear injury to his person or property, the respective chiefs of police may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the county where the license is granted, a pistol or revolver and ammunition therefor; or where the urgency of the need has been sufficiently indicated to the respective chiefs of police, they may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty years or more, who is engaged in the protection of life and property and not prohibited under section 134-7 from the ownership or possession of a firearm, a license to carry unconcealed on his person within the county where the license is granted, a pistol or revolver. Unless renewed, the license shall automatically become void at the expiration of one year from date of issue. No license shall be issued unless it appears that the applicant is a suitable person to be so licensed, and in no event to a person who is prohibited under section 134-7 from the ownership or possession of a firearm, or a person adjudged insane or appearing to be mentally deranged. No person shall carry concealed or unconcealed on his person a pistol or revolver without being licensed so to do under this section or in compliance with section 134-6.

<sup>†</sup>So in original, but probably should read "from".

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For each license there shall be charged a fee of \$10, which shall be deposited in the treasury of the county in which the license is granted.

Any person violating this section shall be guilty of a class C felony.

**Sec. 134-10 Alteration of identification marks prohibited; penalty.** No person shall wilfully alter, remove, or obliterate the name of the make, model, manufacturer's number, or other mark of identity of any firearm or ammunition. Possession of a firearm or ammunition upon which any mark of identity has been altered, removed, or obliterated shall be presumptive evidence that the possessor has altered, removed, or obliterated the same. Any person who violates this section shall be guilty of a misdemeanor."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

## ACT 234

H.B. NO. 1986-80

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. Section 294-2, Hawaii Revised Statutes, is amended by amending the definition of "no-fault benefits" to read:

- "(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.
  - (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 not for income but

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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); provided that the term, when applied to a no-fault policy issued at no cost under the provisions of section 294-24(b)(2), shall not include benefits under subparagraphs (A), (B), and (C) for any person receiving public assistance benefits."

SECTION 2. Section 294-10, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read:

"(b) The commissioner shall accumulate experience data on a yearly basis for all motor vehicle accidents in the State resulting in accidental harm, and shall tabulate the amounts of benefits paid or reserved, hereinafter collectively termed "claims", for expenses specified in section 294-2(10) (A) and (B) for each of these accidents. He shall perform such actuarial evaluations of this data necessary to determine, annually, that specific figure in dollar value, below which ninety per cent of all non-zero motor vehicle accident medical-rehabilitative claims arising from motor vehicle accidents occurring during the next no-fault policy term year are expected to fall. This specific figure shall be utilized annually as the medical-rehabilitative limit for all accidents occurring during the next no-fault policy term year for the purpose of section 294-6(a) (2).

(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 April 1 to March 31 preceding the September 1 start of the no-fault policy term year."

SECTION 3. Section 294-39, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Any person subject to the provisions of this chapter in the capacity of the operator, owner, or registrant of a motor vehicle in this State, or registered in this State, who violates any applicable provision of this chapter, shall be subject to citation for such violation by any county police department in a form and manner approved by the violations bureau of the district court of the first circuit. Notwithstanding any provision of the Hawaii Penal Code, each violation shall be deemed a separate offense and shall be subject to a fine not less than \$100 nor more than \$1,000 and such fine shall not be suspended.

In the case of multiple violations the court shall in addition to any other penalty, impose the following penalties:

- (1) Imprisonment of not more than thirty days; or
- (2) Suspension or revocation of driver's license of the driver and of the registered owner; or
- (3) Suspension or revocation of the motor vehicle registration plates of the vehicle involved; or
- (4) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or

(5) Any combination of such penalties."

SECTION 4. Section 805-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read:

"(c) In the case of multiple violations the court shall, in addition to any other penalty, impose the following penalties:

- (1) Imprisonment of not more than thirty days; or
- (2) Suspension or revocation of driver's license of the driver and of the registered owner; or
- (3) Suspension or revocation of the motor vehicle registration plates of the vehicle involved; or
- (4) Impoundment, or impoundment and sale, of the motor vehicle for the costs of storage and other charges incident to seizure of the vehicle; or any other cost involved pursuant to section 294-10; or
- (5) Any combination of such penalties.

The court shall impose any other sanction it finds necessary to remove the vehicle or driver involved from the highways, and to preclude the driver or registered owner from the continued operation of any uninsured motor vehicle."

SECTION 5. Chapter 294, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 294- Administrative hearing on denial of claim.** (a) If an insurer or self-insurer elects to deny a claim for no-fault or optional additional insurance benefits in whole or in part, it shall within five business days thereafter notify the claimant in writing of the denial and the reasons for the denial.

(b) If a claimant objects to the denial of benefits, he shall file with the commissioner two copies of the denial, a written request for review and a written statement setting forth specific reasons for his objections. The documents must be filed within sixty days after the date of denial of his claim.

(c) The commissioner shall not review any denial of benefits in which the disputed amount exceeds \$5,000.

(d) The commissioner shall conduct a hearing to review the denial of benefits in conformity with chapter 91. The commissioner shall have all the powers to conduct a hearing as set forth in section 92-16. After granting an opportunity for hearing to the insurer and claimant, the commissioner shall affirm the denial or reject the denial and order the payment of benefits as the facts may warrant.

(e) The commissioner may assess the cost of the hearing upon either or both of the parties. The commissioner's final order may be appealed in the manner provided for by chapter 91."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 235

H.B. NO. 2131-80

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-2.3, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-2.3 Conformance to the federal Internal Revenue Code.** (a) For all taxable years beginning after December 31, 1978, as used in this chapter "Internal Revenue Code" means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of December 31, 1978 as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter and this section do not apply or are otherwise limited in application and except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of this chapter on the effective dates set forth in section 702.

Sections 235-2, 235-2.1, and 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978, except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of (1) and (2) of this subsection even if such determination was made or such taxable year begins before January 1, 1978.

(b) The following Internal Revenue Code subchapters, parts of subchapters, sections, subsections, and parts of subsections shall not be operative for the purposes of this chapter, unless otherwise provided:

- (1) Subchapter A (sections 1 to 58) (with respect to determination of tax liability).
- (2) Section 78 (with respect to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit).
- (3) Section 103 (with respect to interest on certain governmental obligations). For treatment, see section 235-7(b).
- (4) Section 116 (with respect to partial exclusion of dividends received by individuals). For treatment, see section 235-7(c).
- (5) Section 120 (with respect to amounts received under qualified group legal services plans). For treatment, see subsection (g) of this section and sections 235-7(a) (10) to (12) and 235-9(a) (2) and (5).
- (6) Section 122 (with respect to certain reduced uniformed services retirement pay). For treatment, see section 235-7(a) (3).
- (7) Section 151 (with respect to allowance of deductions for personal exemptions). For treatment, see section 235-54.
- (8) Section 169 (with respect to amortization of pollution control facilities).

For treatment, see section 235-11.

- (9) Subchapter B, part VIII (sections 241 to 250) (with respect to special deductions for corporations), except sections 248 (with respect to organizational expenditures) and 249 (with respect to limitation on deduction of bond premium on repurchase). For treatment, see section 235-7(c).
- (10) Section 280C (with respect to portion of wages for which credit is claimed under section 44B).
- (11) Section 367 (with respect to foreign corporations).
- (12) Section 457 (with respect to deferred compensation plans with respect to service for state and local governments).
- (13) Subchapter F (sections 501 to 528) (with respect to exempt organizations), except as provided in subsection (g) of this section. For treatment, see section 235-9.
- (14) Subchapter G (sections 531 to 565) (with respect to corporations used to avoid income tax on shareholders).
- (15) Subchapter H (sections 581 to 596) (with respect to banking institutions). For treatment, see chapter 241.
- (16) Section 642(a), (b), and (d) (with respect to special rules for credits and deductions).
- (17) Section 668 (with respect to interest charge on accumulation distributions from foreign trusts).
- (18) Subchapter L (sections 801 to 844) (with respect to insurance companies). For treatment, see sections 431-318 and 431-320.
- (19) Section 853 (with respect to foreign tax credit allowed to shareholders). For treatment, see section 235-55.
- (20) Subchapter N (sections 861 to 999) (with respect to tax based on income from sources within or without the United States). For treatment, see sections 235-4, 235-5, and 235-7(b).
- (21) Section 1055 (with respect to redeemable ground rents).
- (22) Section 1057 (with respect to election to treat transfer to foreign trust, etc., as taxable exchange).
- (23) Section 1201 (with respect to alternative tax). For treatment, see section 235-71(a).
- (24) Subchapter Q (sections 1301 to 1351) (with respect to readjustment of tax between years and special limitations).
- (25) Subchapter T (sections 1381 to 1388) (with respect to cooperatives and their patrons). For treatment, see chapter 421.
  - (c) The determinations, provisions, and requirements relating to zero-bracket amounts in the amendments to the Internal Revenue Code by Public Law 95-30, sections 101 (with respect to change in tax rates and tax tables to reflect permanent increase in standard deduction) and 102 (with respect to change in definition of taxable income to reflect change in tax rates and tables) and Public Law 95-600, section 101(b) (with respect to increase in zero-bracket amount) and any other present or future amendments to the Internal Revenue Code relating to zero-bracket amounts shall not be operative for the purposes of this chapter.
  - (d) Sections 141 (with respect to standard deduction), 142 (with respect to individuals not eligible for standard deduction), and 144 (with respect to election of

standard deduction) of the Internal Revenue Code, as amended, as of June 7, 1957, shall be operative for the purposes of this chapter, subsection (a) of this section to the contrary notwithstanding.

(e) Section 403 (with respect to taxation of employee annuities) of the Internal Revenue Code shall be operative for the purposes of this chapter; except the amendments to section 403 by Public Law 87-370, section 3 (with respect to employees of certain educational organizations) shall not be operative.

(f) In administering the provisions of sections 410 to 415 (with respect to special rules relating to pensions, profit sharing, stock bonus plans, etc.) of the Internal Revenue Code, the department of taxation shall adopt rules under chapter 91 relating to the specific requirements under such sections and to such other administrative requirements under those sections as may be necessary for the efficient administration of sections 410 to 415.

In administering sections 401 to 415 (with respect to deferred compensation) of the Internal Revenue Code, Public Law 93-406, section 1017(i), shall be operative for the purposes of this chapter.

In administering section 402 (with respect to the taxability of beneficiary of employees' trust) of the Internal Revenue Code, the tax imposed on lump sum distributions by section 402(e) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter.

(g) Sections 512 to 515 (with respect to taxation of business income of certain exempt organizations) of the Internal Revenue Code shall be operative for the purposes of this chapter as provided in this subsection.

The persons and organizations exempted by section 235-9 shall, if subject to tax under the Internal Revenue Code upon their "unrelated business taxable income", be taxed thereon under this chapter. For the purposes of this subsection the term "taxable income" as used in subsection (h)(2) of this section and section 235-71 shall be read as "unrelated business taxable income".

"Unrelated business taxable income" means the same as in the Internal Revenue Code, except that in the computation thereof sections 235-3 to 235-5, and 235-7 (except subsection (c) ), shall apply, and in the determination of the net operating loss deduction under section 235-7(d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income. Unrelated business income shall not include any income from a prepaid legal service plan.

(h) Section 641 (with respect to imposition of tax) of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

- (1) The deduction for exemptions shall be allowed as provided in section 235-54(b).
- (2) The deduction for contributions and gifts in determining taxable income shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the State.
- (3) The tax imposed by section 1(e) of the Internal Revenue Code as applied by section 641 of the Internal Revenue Code is hereby imposed by this chapter at the rate and amount on individuals as determined under section 235-51(a).

(i) Section 644 (with respect to special rule for gain on property transferred to trust at less than market value) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the determination of the interest rate established under section 6621 of the Internal Revenue Code referred to in section 644(a) (2) of the Internal Revenue Code shall instead be the interest rate established under section 231-39(b) (4).

(j) Section 667 (with respect to treatment of amounts deemed distributed by trusts in preceding years) of the Internal Revenue Code shall be operative for the purposes of this chapter and the tax imposed therein is hereby imposed by this chapter at the rate determined under this chapter; except that the reference to tax-exempt interest to which section 103 of the Internal Revenue Code applies in section 667(a) of the Internal Revenue Code shall instead be a reference to tax-exempt interest to which section 235-7(b) applies.

(k) Section 1034 (with respect to rollover of gain on sale of principal residence) of the Internal Revenue Code shall be operative for the purpose of this chapter subject to the following:

(1) Section 1034(a) (with respect to nonrecognition of gain) of the Internal Revenue Code shall apply only to:

(A) A taxpayer who purchases a replacement residence which is located within the State, or

(B) A taxpayer who is a resident of the State, taxable upon the taxpayer's entire income, computed without regard to source within the State.

[(l)] (1) Section 1212 (with respect to capital loss carrybacks and carryforwards) of the Internal Revenue Code shall be operative for the purposes of this chapter; except that for the purposes of this chapter the capital loss carryback provisions of section 1212 shall not be operative and the capital loss carryforward allowed by section 1212(a), shall be limited to five years.

[(l)] (m) Subchapter S (sections 1371 to 1379) (with respect to the election of certain small business corporations as to taxable status) of chapter 1 of the Internal Revenue Code shall be operative for the purposes of this chapter subject to the following:

(1) The term small business corporation as defined in section 1371 of the Internal Revenue Code means a corporation which does not have:

(A) A nonresident as a shareholder; or

(B) A resident who is an individual who has taken up residence in the State after attaining the age of sixty-five years and before July 1, 1976 and who is taxed under this chapter only on the basis of income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the State;

unless the individual resident in subparagraph (B) shall have waived the benefit of section 3, Act 60, Session Laws of Hawaii 1976, as to income includible in the individual's gross income under this chapter and as to such gross income shall have consented to the taxation thereof in the same manner as if the individual had taken up residence in the State after June 30, 1976.

- (2) An election under section 1372(a) of the Internal Revenue Code made by a small business corporation shall terminate, if for any taxable year of the corporation for which the election is in effect such corporation derives more than eighty per cent of its gross receipts from sources outside the State of Hawaii. Such termination shall be effective for the taxable year of the corporation in which it derives more than eighty per cent of its gross income from sources outside the State and for all succeeding taxable years;
- (3) An election under section 1372 of the Internal Revenue Code shall not be effective for any taxable year of the corporation unless there is also in effect for such taxable year an election for federal income tax purposes under subchapter S of chapter 1 of the Internal Revenue Code.
- (4) The tax imposed by section 1378(a) of the Internal Revenue Code is hereby imposed by this chapter at an amount equal to 3.08 per cent on the amount by which the net capital gain of the corporation exceeds \$25,000. For the purposes of section 1378(c) (3) of the Internal Revenue Code the amount of tax to be determined shall not exceed 3.08 per cent on the net capital gain attributable to property acquired as provided in section 1378(c) (3) (B) of the Internal Revenue Code and having a basis described in section 1378(c) (3) (C) of the Internal Revenue Code.

[(m)] (n) References in provisions of subtitle A, chapter 1, of the Internal Revenue Code which are operative in this State to provisions in the Internal Revenue Code which are not operative in this State shall be considered inoperative for the purposes of determining gross income, adjusted gross income, ordinary income and loss, and taxable income; provided that references to time limits and other administrative provisions in subtitle F (sections 6001 to 7852) of the Internal Revenue Code contained in operative sections of subtitle A, chapter 1, of the Internal Revenue Code shall be deemed references to applicable provisions of this chapter or chapter 231 or 232, and in the absence of applicable provisions in this chapter or chapter 231 or 232, then to rules adopted by the director of taxation under subsection (n). If inoperative provisions of subtitle A, chapter 1, of the Internal Revenue Code have been codified in this chapter such references shall be deemed references to the codified provisions in this chapter. Transitory and savings provisions in federal Public Laws amending sections of the Internal Revenue Code operative in this chapter shall be operative for the purposes of this chapter. Provisions in this chapter or chapter 231 or 232 in conflict with the Internal Revenue Code or transitory or savings provisions in federal Public Law shall control.

[(n)] (o) The director of taxation may adopt by rule under chapter 91 the rules and regulations promulgated by the United States Secretary of Treasury or a delegate of the Secretary relating to the provisions of subtitle A, chapter 1 or 6, of the Internal Revenue Code operative in this chapter and any administrative provisions of the Internal Revenue Code (subtitle F, sections 6001 to 7852) not in conflict with or similar to provisions contained in this chapter or chapter 231 or 232 either by reference or by setting them forth in full.

[(o)] (p) The department of taxation shall submit to each regular session of the legislature a bill to amend subsection (a) of this section and such other sections and subsections of this chapter as may be necessary to adopt the Internal Revenue Code as it exists on the December 31 preceding such regular session. In submitting the bill the

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department may provide that certain amendments to the Internal Revenue Code by Congress during the preceding calendar year shall not be operative in this State or as operative are limited in their operation. The department shall also prepare a digest and explanation of the amended provisions of the Internal Revenue Code recommended for operation, as well as those provisions which are limited in their operation, or which are not recommended for operation, and shall submit with the bill required by this subsection the digest, explanation, and a statement of revenue impact of the adoption of such bill. In preparing the bill, digest, and explanation the department may request the assistance of the office of the legislative reference bureau.

It is the intent of the legislature that it shall each year adopt all amendments to the Internal Revenue Code for the calendar year preceding the year in which the legislature meets; provided that the legislature may choose to adopt none of the amendments to the Internal Revenue Code or may provide that certain amendments are limited in their operation."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1979.

(Approved June 7, 1980.)

## ACT 236

H.B. NO. 2133-80

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 235-63, Hawaii Revised Statutes, is amended to read:

**"Sec. 235-63 Statements to employees.** Every employer required to deduct and withhold any tax on the wages of any employee shall furnish to each employee in respect of his employment during the calendar year, on or before January 31 of the succeeding year, or if his employment is terminated before the close of a calendar year, on the day on which the last payment of wages is made, a written statement, showing the period covered by the statement, the wages paid by the employer to the employee during such period, and the amount of the tax deducted and withheld or paid in respect of such wages. Each such employer shall file on or before the last day of February following the close of the calendar year a duplicate copy of each such statement. The department of taxation may grant to any employer a reasonable extension of time, not in excess of sixty days, with respect to any statement required by this section to be furnished to an employee or filed, and may by regulation provide for the furnishing or filing of statements at such other times and containing such other information as may be required for the administration of this chapter. The department shall prescribe the form of the statement required by this section and may adopt any federal form appropriate for the purpose."

SECTION 2. Statutory material to be repealed is bracketed. New material is

underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 7, 1980.)

ACT 237

H.B. NO. 2134-80

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 237-33, Hawaii Revised Statutes, is amended to read:

**"Sec. 237-33 Annual return, payment of tax.** On or before the twentieth day of the fourth month following the close of the taxable year, each taxpayer shall make a return showing the value of products, gross proceeds of sales or gross income, and compute the amount of tax chargeable against him in accordance with this chapter and deduct the amount of monthly payments (as hereinbefore provided), and transmit with his report a remittance in the form required by section 237-31 covering the residue of the tax chargeable against him to the district office of the department of taxation hereinafter designated. The return shall be signed by the taxpayer, if made by an individual, or by the president, vice president, secretary, or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, firm, society, unincorporated association, group, hui, joint adventure, joint stock company, corporation, trust estate, decedent's estate, trust, or other entity, any individual delegated by the entity shall sign the same on behalf of the taxpayer. If for any reason it is not practicable for the individual taxpayer to sign the return, it may be done by any duly authorized agent. The department, for good cause shown, may extend the time for making the return on the application of any taxpayer and grant such reasonable additional time within which to make the same as may, by it, be deemed advisable.

Section 232-2 applies to the annual return, but not to a monthly return."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 7, 1980.)

ACT 238

H.B. NO. 2219-80

A Bill for an Act Relating to Taxation.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to continue the efforts of the State in maintaining the conformity of the state income tax law with the federal Internal Revenue Code.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 239**

**SECTION 2.** Section 235-2.3, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) For all taxable years beginning after [December 31, 1978,] December 31, 1979, as used in this chapter "Internal Revenue Code" means subtitle A, chapter 1 of the federal Internal Revenue Code of 1954 as amended as of [December 31, 1978] December 31, 1979 as it applies to the determination of gross income, adjusted gross income, ordinary income and loss, and taxable income, except those provisions of the Internal Revenue Code and federal Public Law which pursuant to this chapter and this section do not apply or are otherwise limited in application and except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of this chapter on the effective dates set forth in section 702.

Sections 235-2, 235-2.1, 235-2.2 shall continue to be used to determine (1) the basis of property, if a taxpayer first determined the basis of property in a taxable year to which such sections apply, and if such determination was made before January 1, 1978, and (2) gross income, adjusted gross income, ordinary income and loss, and taxable income for a taxable year to which such sections apply where such taxable year begins before January 1, 1978, except that amendments to the Internal Revenue Code made by Public Law 95-600, section 702 (with respect to technical, clerical, and conforming amendments to estate and gift tax provisions) shall be operative for the purposes of (1) and (2) of this subsection even if such determination was made or such taxable year begins before January 1, 1978."

**SECTION 3.** If any section, sentence, clause, or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portion of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature declares that it would have passed this Act and each section, sentence, clause, or phrase thereof irrespective of the fact that any one or more other sections, sentences, clauses, or phrases is declared unconstitutional or invalid.

**SECTION 4.** All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are amended to conform with this Act. All acts passed during this regular session of 1980, whether enacted before or after the effective date of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

**SECTION 5.** Statutory material to be repealed is bracketed. New material is underscored.

**SECTION 6.** This Act, upon its approval, shall apply to taxable years beginning after December 31, 1979, except as otherwise provided in this Act.

(Approved June 7, 1980.)

**ACT 239**

H.B. NO. 2286-80

A Bill for an Act Relating to Developmental Disabilities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 333E-1, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 333E-1 Findings and purpose.** The legislature finds that:

- (1) The State of Hawaii has a responsibility to provide services for its developmentally disabled citizens in order to aid them in living as complete and normal lives as possible.
- (2) Several departments of the State are responsible for various services to the developmentally disabled, namely the department of health provides health services, the department of education provides educational services, and the department of social services and housing provides vocational rehabilitation and other social services.
- (3) Lack of coordination among the services and planning activities of the various departments of the State results in gaps in the spectrum of needed services, duplication of services, lack of clarity in responsibility for services, and poorly articulated inter-agency programs, thereby reducing the quality of programs for the developmentally disabled.
- (4) Because of specific mandates of the departments, it is essential that a body responsible for coordinating services and planning for the developmentally disabled be established outside the departments responsible for services.
- (5) There exists within the state department of health for administrative purposes only, a state planning council on developmental disabilities appointed by the governor and mandated by federal legislation, supported in large part by federal moneys and required by federal law to provide coordination and planning in the field of developmental disabilities.
- (6) The purpose of this chapter is to establish the state planning council on developmental disabilities as the state agency responsible for coordinating services to the developmentally disabled residents of Hawaii.
- (7) Deinstitutionalization of the developmentally disabled is a major goal of the State, thus state and county agencies should adopt policies and regulations which will encourage the development of suitable housing for this group within the community.”

SECTION 2. Chapter 333E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 333E- Encouragement of suitable housing.** The state council shall encourage the adoption of ordinances in each political subdivision in the State which would permit the maintenance and construction of residences for persons with developmental disabilities, including those developmentally disabled persons defined in this chapter and in section 202 of the Federal Housing Act of 1959, as amended. The ordinances should include provisions for permitting an appropriate number of unrelated persons with developmental disabilities and two supervisory staff to reside in a single-family dwelling provided that, in determining the appropriate number, the political subdivisions should consider the cost of maintenance and construction of the residence, in order that financial obligations can be met.”

SECTION 3. Section 321-11, Hawaii Revised Statutes, is amended to read as

follows:

**"Sec. 321-11 Subjects of health regulations, generally.** The department of health may make such regulations as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, vapors, waters in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial, or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, mid-wives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;
- (10) Hospitals, freestanding surgical outpatient facilities, skilled nursing facilities, intermediate care facilities, care homes, special treatment facilities and programs, home health agencies;
- (11) Hotels, rooming houses, lodging houses, apartment houses, tenements, and residences for persons with developmental disabilities including but not limited to, those built under federal funding;
- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufacturers are carried on, or intended to be carried on;
- (14) Milk;
- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable, or (E) generates pressure through decomposition, heat, or other means, if such substance or

mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;

- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department there is danger of an epidemic from any communicable disease;
- (23) Disinsectization of aircraft entering or within the State as may be necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;
- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department may be lethal, poisonous, noxious, or dangerous to human life; and
- (25) Ambulances and ambulance equipment.

The department may require such certificates, permits, or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section."

**SECTION 4.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 5.** This Act shall take effect upon its approval.

(Approved June 7, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 240**

**ACT 240**

H.B. NO. 2532-80

A Bill for an Act Authorizing the Placement of the Sculpture "The Spirit of Liliuokalani" at the State Capitol Complex.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to permit the statue to be entitled "The Spirit of Liliuokalani", to be permanently displayed at the State Capitol Complex.

SECTION 2. Any law to the contrary notwithstanding, the statue to be entitled "The Spirit of Liliuokalani", which has been commissioned from funds appropriated and set aside for works of art by virtue of section 103-8, Hawaii Revised Statutes, is hereby authorized to be placed for permanent display at the State Capitol Complex.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

**ACT 241**

H.B. NO. 2552-80

A Bill for an Act Relating to Exemptions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that the federal Internal Revenue Code was amended by Congress in 1978 to increase the exemption for individuals from \$750 to \$1,000. The legislature further finds that it has been the legislature's desire to conform as closely as possible with the federal Internal Revenue Code in order to make income tax preparation as easy as possible for the people of Hawaii.

The purpose of this Act is to conform the amount individuals are allowed for exemption under the state income tax law to the amount allowed by the federal Internal Revenue Code.

SECTION 2. Section 235-54, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In computing the taxable income of any individual, there shall be deducted, in lieu of the personal exemptions allowed by the Internal Revenue Code, personal exemptions computed as follows: Ascertain the number of exemptions which the individual can lawfully claim under the Internal Revenue Code and multiply that number by the amount as shown below for the corresponding taxable years as follows:

- (1) Effective with respect to taxable years beginning after December 31, 1972, the amount shall be \$750;
- (2) Effective with respect to taxable years beginning after December 31, 1979, the amount shall be \$1,000.

A nonresident shall be entitled to the same personal exemptions as a resident, without proration of the personal exemptions on account of income from sources outside the State."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act, upon its approval, shall apply to taxable years beginning after December 31, 1979.

(Approved June 7, 1980.)

**ACT 242**

H.B. NO. 2558-80

A Bill for an Act Relating to Bail.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there has been great abuse of the privilege of bail by persons who have been previously convicted of felonies and that such persons pose a significant danger to the community due to their persistent choices not to conform their conduct to the law. The legislature also finds extensive abuse of the privilege of bail pending appeal and blunting of the deterrent effect of punishment due to delays caused by appeals.

SECTION 2. Section 804-3, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 804-3 Bailable offenses.** (a) For purposes of this section, “serious crime” means a class A or B felony, except forgery in the first degree and failing to render aid under section 291C-12, and “bail” includes release on one’s own recognizance.

(b) Any person charged with a criminal offense shall be bailable by sufficient sureties; except that no bail shall be allowed where the charge is for a serious crime where the proof is evident and the presumption great, and

- (1) The offense is punishable by imprisonment for life not subject to parole; or
- (2) The defendant has been previously convicted of a serious crime within the ten-year period immediately preceding the date of the charge against him; or

(3) The defendant is already on bail on a felony charge.

(c) If a defendant has been admitted to bail on any charge, the prosecutor may move at any time for revocation of bail on the grounds set out in subsection (b) above, and bail shall be revoked upon proof thereof.”

SECTION 3. Section 804-4, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 804-4 When a matter of right.** If the charge is for an offense for which bail is allowable under section 804-3, the defendant may be admitted to bail before conviction as a matter of right. The right to bail shall continue after conviction of a misdemeanor, petty misdemeanor or violation, and release on bail may continue, in

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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the discretion of the court after conviction of a felony until the final determination of any motion for a new trial, appeal, habeas corpus, or other proceedings which are made, taken, issued, or allowed for the purpose of securing a review of the rulings, verdict, judgment, sentence, or other proceedings of any court or jury in or by which the defendant has been arraigned, tried, convicted, or sentenced; except that no bail shall be allowed after conviction and prior to sentencing in cases where bail was not available under section 804-3, or where bail was denied or revoked before conviction; and provided further that no bail shall be allowed pending appeal of a felony conviction where a sentence of imprisonment has been imposed. No defendant entitled to bail, whether bailed or not, shall, without his written consent, be subject to the operation of any sentence passed upon him while any proceedings to procure a review of any action of the trial court or jury in the premises are pending and undetermined, except as provided in section 641-14(a)."

SECTION 4. Section 804-7.1, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 804-7.1 Conditions of release on bail.** Upon a showing that there exists a danger that the defendant will commit a serious crime or will seek to intimidate witnesses, or will otherwise unlawfully interfere with the orderly administration of justice, the judicial officer named in section 804-5 may deny the defendant's release on bail or, upon the defendant's release on bail, may enter an order:

- (1) Prohibiting the defendant from approaching or communicating with particular persons or classes of persons, except that no such order should be deemed to prohibit any lawful and ethical activity of defendant's counsel;
- (2) Prohibiting the defendant from going to certain described geographical areas or premises;
- (3) Prohibiting the defendant from possessing any dangerous weapon, engaging in certain described activities, or indulging in intoxicating liquors or certain drugs;
- (4) Requiring the defendant to report regularly to and remain under the supervision of an officer of the court; or
- (5) Imposing any combination of conditions listed above.

The judicial officer may revoke a defendant's bail upon proof that the defendant has breached any of the conditions imposed."

SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 243

H.B. NO. 2660-80

A Bill for an Act Relating to Housing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 359G-9.2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The following restrictions shall apply to the transfer of a dwelling unit purchased from the authority, whether on fee simple or leasehold property;

- (1) For a period of ten years after the purchase, whether by lease, assignment of lease, deed, or agreement of sale, if the purchaser wishes to transfer title to the dwelling unit and the property or the lease, the authority shall have the first option to purchase the unit and property or lease at a price which shall not exceed the sum of:
  - (A) The original cost to the purchaser;
  - (B) The cost of any improvements added by the purchaser; and
  - (C) Simple interest on the purchaser's equity in the property at the rate of seven per cent a year.

The authority may purchase the unit either outright, free and clear of all liens and encumbrances; or by transfer subject to an existing mortgage.

If by outright purchase, the authority shall insure that all existing mortgages, liens, and encumbrances are satisfactorily paid by the purchaser.

In any purchase by transfer subject to an existing mortgage, the authority shall agree to assume and to pay the balance on any first mortgage created for the purpose of enabling the purchaser to obtain funds for the purchase of the unit and any other mortgages which were created with the approval and consent of the authority. In such cases, the amount to be paid to the purchaser by the authority shall be the difference between the above-mentioned price and the principal balance of all mortgages outstanding and assumed at the time of transfer of title to the authority.

- (2) After the end of the tenth year from the date of purchase, or execution of an agreement of sale, 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 the sum of:
  - (A) The balance of any mortgage note, agreement of sale, or other amount owing to the authority;
  - (B) Any subsidy made by the authority in the acquisition, development, construction, and sale of the unit, and any other amount expended by the authority 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; and
  - (C) Interest on the subsidy and any other amount expended at the rate of seven per cent a year computed as to the subsidy, from the date of purchase, or execution of the agreement of sale, and as to any amount expended, from the date of expenditure; provided that if any proposed sale or transfer will not generate an amount sufficient to pay the

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authority the sum as computed under paragraph (2) above the authority shall have the first option to purchase the dwelling unit at a price which shall not exceed the sum as computed under paragraph (1) above."

SECTION 2. Section 359G-15, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 359G-15 Exemption from general excise tax.** Notwithstanding any other law to the contrary, all rents and proceeds received from housing or housing projects, including all gross proceeds received by contractors for the construction of such housing or housing projects, developed pursuant to section 359G-6 and section 359G-11 shall be exempt from general excise or receipts taxes. At the request of the authority, the department of taxation shall exempt such items from general excise or receipts taxes for projects developed pursuant to section 359G-10.5 and section 359G-11.1. A claim for such exemption shall be filed with the director of taxation pursuant to rules adopted by the director of taxation. Such exemption as filed and approved, shall not be considered a subsidy for the purpose of this chapter."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1980.)

## ACT 244

H.B. NO. 2752-80

A Bill for an Act Relating to the Initial Appointment of Civil Service 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 in classes SR 18 and above is not practicable at the first step, the director may, after appropriate notice and advertising, recruit at any step within the appropriate salary range at which an appropriate employee can be recruited. The director shall report all such recruitment in classes SR 18 and above and the justification therefor to the legislature not later than ten days prior to the opening of each regular session and, in case of the counties, similar reports shall be made to the council not later than July 15 each year.

Where deemed essential in the public interest, the director may, with the prior approval of the chief executive, declare a class or group of positions in 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

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

recruited from the labor market as the minimum salary level for that class or group of positions in a class.

The director shall review each shortage category class or group of positions in a class at least once each year to determine whether the labor shortage exists to the same degree as previously determined and shall adjust the entry level accordingly. If the director determines that a shortage no longer exists, the director shall reestablish the first step of the appropriate salary range as the entry level for that class or group of positions in a 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 case of the counties, similar reports shall be made to the council not later than July 15 each year.

Incumbents in a shortage category class or group of positions in a class shall be compensated at a rate not less than the entry level shortage category rate. When these employees transfer to another class or other positions, including those in another political jurisdiction of the State, their compensation shall be adjusted without the shortage category rate received, to the pay rate in effect for the class or group of positons to which they transfer."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 7, 1980.)

## ACT 245

H.B. NO. 2773-80

A Bill for an Act Relating to Bonds.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 39-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 39-5 Interest rate, denominations, maturities, place payable, medium of payment, registration, redemption and other details of bonds.** All bonds issued under this part shall bear interest, payable annually or semi-annually, at a coupon or stated rate or rates; not exceeding nine and one-half per cent a year; shall mature and be payable at such time or times from the date of the issue thereof as will comply with the provisions of the Constitution of the State; may be made payable as to both principal and interest at places within and without the State; may be issued in coupon form without privilege of registration or registrable as to principal only or as to both principal and interest or issued in fully registrable form; may be made registrable at places within and without the State; and may be<sup>†</sup> redeemable at any time or times prior to their stated maturities at prices not to exceed one hundred four per cent of the par value thereof. The director of finance shall determine the date, denomina-

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

<sup>†</sup>In section prior to amendment, here appeared the word "made".

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tion or denominations, interest payment dates, maturities, places of payment, registration privileges and places of registration, redemption prices and time or times and method of redemption, and all other details of bonds issued under this part. The principal and interest of all bonds issued under this part shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for public and private debts."

**SECTION 2.** Section 47-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The director of finance of the county may, upon authorization of its governing body, issue from time to time and in accordance with the provisions of this chapter, bonds of the county authorized for issuance by the governing body thereof. All bonds issued under authority of this chapter:

- (1) Shall bear interest payable semiannually at a coupon or stated rate or rates not exceeding a rate or rates established by ordinance adopted by the governing body of the issuing county;
- (2) If for a term exceeding two years, shall be in serial form maturing in substantially equal installments of principal, or maturing in substantially equal installments of both principal and interest, the first installment of principal to mature not later than five years from the date of issue of such series and the last installment not later than twenty-five years from the date of such issue and the last installment on general obligation bonds sold to the federal government, on reimbursable general obligation bonds, and on bonds constituting instruments of indebtedness under which the county incurs a contingent liability as a guarantor shall mature not later than thirty-five years from the date of such issue;
- (3) May be payable as to both principal and interest at places within and without the State;
- (4) May be issued in coupon form without privilege of registration or registrable as to principal only or as to both principal and interest or in fully registrable form;
- (5) May be made redeemable at any time or times prior to their stated maturities at prices not exceeding one hundred four per cent of the par value thereof; and
- (6) Shall be payable, as to principal, premium, if any, and interest, in any coin or currency of the United States which at the time of payment is legal tender for public and private debts."

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 7, 1980.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**ACT 246**

S.B. NO. 3146-80

A Bill for an Act Relating to Campaign Spending.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, part XII, subpart B, is amended to read as follows:

(a) Section 11-191, Hawaii Revised Statutes, is amended to read:

"(4) "Candidate's committee" means a committee as defined in section (6) of this section which makes an expenditure or accepts a contribution in behalf of a candidate with the candidate's authorization.

(5) "Commission" means the campaign spending commission.

(6) "Committee" means:

(A) Any organization or association which, or any individual who, accepts a contribution or makes an expenditure for or against any candidate, individual who files for nomination at a later date and becomes a candidate, or party, with or without the authorization of the candidate, individual, or party, or who accepts a contribution or makes an expenditure for or against any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election;

(B) Any organization or association which, or any individual who, raises or holds money or anything of value for a political purpose, with or without the consent or knowledge of any candidate, individual who files for nomination at a later date and becomes a candidate, or any party, and which subsequently contributes the money or anything of value to, or makes expenditures in behalf of, a candidate, individual who files for nomination at a later date and becomes a candidate, or party;

(C) Notwithstanding any of the foregoing, the term "Committee" shall not include any person making a contribution or expenditure of his own funds or anything of value which he originally acquired for his own use and not for the purpose of evading any provision of this chapter.

(7) "Contribution" means:

(A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fund raisers for the purpose of:

(i) Influencing the nomination for election, or election, of any person to office; or

(ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or

(iii) Use by any party for the purposes set out in clause (i) or (ii) above;

(B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in clause (i), (ii), or (iii) in

- paragraph (A) above; or
- (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding subparagraphs (A), (B), and (C) of this paragraph, the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
- (D) Notwithstanding the above, a candidate's expenditure of his own funds or the making of a loan or advance in the pursuit of his campaign shall not be a contribution for the purpose of this chapter but shall nevertheless be reportable as a campaign receipt.
- (8) "Earmarked funds" means contributions received by a committee or party on the condition that the funds be contributed to or expended on certain candidates, issues, or questions.
- (9) "Election" means any election for office or for determining a question or issue provided by law or ordinance.
- (10) "Expenditure" means:
- (A) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a nonmonetary contribution for the purpose of:
- (i) Influencing the nomination for election, or election, of any person seeking nomination for election, or election, to office whether or not the person has filed his nomination paper; or
- (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
- (iii) Use by any party for the purposes set out in clause (i) or (ii) above;
- (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee for any of the purposes mentioned in clause (i), (ii), or (iii) of this paragraph; or
- (C) The expenditure by a candidate of his own funds for the purposes set out in clauses (i), (ii), and (iii) above.
- (11) "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.
- (12) "Immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.
- (13) "Individual" means a natural person.
- (14) "Matching payment period" means:
- (A) For a primary election, from January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of a special primary or special election; and

- (B) For a general election, from the day after a primary or special primary election through the day of the general or special general election.
- (15) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.
- (16) "Office" means any elective public or constitutional office excluding federal elective offices.
- (17) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees.
- (18) "Political party" means any party which satisfies the requirements of section 11-61.
- (19) "Private contribution" means a monetary contribution other than from a candidate's own funds or from the Hawaii election campaign fund.
- (20) "Qualifying campaign contribution" means a monetary contribution of \$100 or less, and not more than \$100 of a person's total aggregate monetary contribution. Qualifying contributions do not include loans or in-kind contributions."

(b) Section 11-194, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-194 Registration.** Each candidate, committee, or party shall file an organizational report as set forth in section 11-196, no later than 4:30 p.m. on the earliest of the following applicable days:

- (1) On or before the day of filing for nomination or election;
- (2) At least forty-five days before the primary election or special primary election;
- (3) At least forty-five days before the general, special general, or special election, when there is no primary election; or
- (4) By the tenth day after (A) receiving any contributions in an aggregate amount of more than \$100, or (B) making or incurring any expenditure which is reportable under section 11-212 or 11-213."

(c) Section 11-195, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-195 Filing of reports, generally.** (a) All reports required to be filed under this chapter by a candidate or those committees directly associated with his candidacy shall be certified by the candidate. Reports required to be filed under this chapter by a party or committee which supports more than one candidate shall be certified by a person authorized to sign such reports. All reports required to be filed under this chapter shall be open for public inspection in the office of the commission.

(b) The original and one copy of all reports required under this chapter shall be filed at the office of the commission. In the case of counties having less than 200,000 voters, the filing shall be accomplished by filing an original and two copies of the required report with either the commission or the clerk of the county in which the candidate resides. The clerk shall then immediately mail the original and one copy of the report to the commission by certified mail.

(c) The commission or county clerk shall give each person filing a report a receipt stating the type of report filed and the date and time of filing.

(d) All reports filed with the county clerk's office shall be preserved by that office for five years.

(e) All reports required to be filed under this chapter shall at all times be

available to the lieutenant governor.

(f) For purposes of this chapter, whenever a report is required to be filed with the commission, "filed" means received in the office of the commission or county clerk, whichever is applicable, by the date and time specified for the filing of such report."

(d) Section 11-200, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-200 Campaign contributions; restrictions against transfer.** (a) A candidate, campaign treasurer, or candidate's committee shall not receive any contributions or receive or make any transfer of money or anything of value:

(1) For any purpose other than that directly related:

(A) In the case of the candidate, to his own campaign; or

(B) In the case of a campaign treasurer or candidate's committee, to the campaign of the candidate, question, or issue with which they are directly associated; or

(2) To support the campaigns of candidates other than the candidate, for whom the funds were collected or with whom the campaign treasurer or candidate's committee is directly associated; or

(3) To campaign against any other candidate not directly opposing the candidate for whom the funds were collected or with whom the campaign treasurer or candidate's committee is directly associated.

Any provision of law to the contrary notwithstanding, a candidate, campaign treasurer, or candidate's committee, as a contribution, may purchase from its campaign fund not more than two tickets for each fund raiser as defined in section 11-203, held by another candidate, committee, or party."

(b) This section shall not be construed to prohibit a party from supporting more than one candidate."

(e) Section 11-203, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-203 Fund raisers and fund raising activities.** (a) As used in this chapter, "fund raiser" means any function held for the benefit of a person which is designed to raise funds for political purposes for which the total price of attending the function is more than \$25 per person.

(b) There shall be no more than one fund raiser held for a person prior to a general or special election in which that person is either elected or defeated. Where a person seeks election to statewide office, he or his directly associated committee may hold not more than one fund raiser in each county prior to a general or special election.

Within six months after a general, special general, or special election, however, a candidate or committee directly associated with a candidate who has a deficit may hold an additional fund raiser.

(c) No fund raiser shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair, and whether contributions will be solicited at the affair and the method thereof.

(d) Fund raisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).

(e) The following expenses incident to a fund raiser and to all other political

fund raising activities held for the benefit of a person for which there is a charge for attending or participating in the fund raiser or fund raising activity, shall not be considered expenditures within the limitations set by section 11-209:

- (1) The cost of food and beverages consumed at the function;
- (2) Rent and utilities for the premises where the function is held;
- (3) The amount paid for guest speakers and entertainment;
- (4) Printing and postage; and
- (5) All other direct costs incurred in solicitation of the fund raiser or fund raising activity."

(f) Section 11-204, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-204 Campaign contributions; limits as to persons.** (a) No person or any other entity other than a political party shall make contributions to a candidate in an aggregate amount greater than \$2,000 in any primary, special primary, special, or general election.

(b) A candidate or his immediate family in making a contribution to the candidate's campaign shall be exempt from the above limitation, but shall be limited in the aggregate to \$50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor's parent or guardian.

(d) Any candidate who knowingly receives in the aggregate more than \$2,000 in any primary, special primary, special, or general election from a person, shall be required to return any excess over \$2,000 to such person. If the contributor cannot be found, the excess over the contribution limit shall be deposited with the Hawaii election campaign fund. A candidate who complies with the provisions of this subsection prior to the initiation of prosecution shall not be subject to any penalty under section 11-228."

(g) Section 11-206, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-206 Campaign contributions; restrictions as to excess.** (a) Every candidate in a primary, special primary, special, or general election who has voluntarily agreed to abide by spending limits and who subsequently receives campaign contributions in excess of the expenditure limit set for his respective office shall reserve use of such contributions until after a general or special election.

(b) Campaign contributions received in excess of the candidate's expenditure limit shall not be used for personal expenses or to qualify for public funding in any subsequent election, and shall not be transferred to another candidate as prohibited in section 11-200.

(c) Such contributions may be used after a general or special election for fund raising activities and any other politically related activity sponsored by the candidate.

(d) All contributions collected pursuant to this section shall be reportable under section 11-213."

(h) Section 11-209, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-209 Campaign expenditures; limits as to amounts.** (a) From January 1 of the year of a primary, special primary, special, or general election through the day of the special or general election, the total expenditures for candidates who voluntarily agree to limit their campaign expenditures, inclusive of all expenditures

made or authorized by the candidate himself and all campaign treasurers and committees in his behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered to vote for each respective class of offices:

- (1) For the office of governor—\$1.25;
  - (2) For the office of lieutenant governor—70 cents;
  - (3) For the office of mayor—\$1;
  - (4) For the offices of state senator, state representative, county council member, and prosecuting attorney—70 cents; and
  - (5) For the offices of the board of education and all other offices—10 cents.
- (b) An additional five per cent increase shall be added to the base amounts allowable under subsection (a) starting in 1979 and each year thereafter."

(i) Section 11-212, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-212 Preliminary reports.** (a) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a preliminary report with the commission or appropriate county clerk's office, on forms provided by the commission no later than 4:30 p.m. on the tenth working day prior to each election. The report shall be certified pursuant to section 11-195 and shall contain the following information which is current through the fifteenth calendar day prior to the election:

- (1) The aggregate sum of all contributions and other campaign receipts received;
- (2) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) All expenditures made, incurred, or authorized by or for a candidate, including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (4) A current statement of the balance on hand or deficit.

(b) Notwithstanding this section, a candidate, party, or committee whose expenditures for the reporting period total \$500 or less may file a short form report with the commission or appropriate county clerk's office in lieu of the reports required by this section and section 11-213."

(j) Section 11-213, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-213 Final and supplemental reports.** (a) Primary and special primary. Each candidate whether or not successful in a primary or special primary election, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a final primary report certified pursuant to section 11-195 with the commission on forms provided by the commission no later than 4:30 p.m. on the twentieth day after a primary or special primary election. The report shall include:

- (1) A statement of the total contributions and campaign receipts received;
- (2) The amount and date of deposit of each contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (4) The cash balance and a statement of surplus or deficit.

(b) General, special general, or special election. Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a final general report with the commission on forms provided by the commission no later than 4:30 p.m. on the thirtieth day after a general, special general, or special election. The final general report shall be certified pursuant to section 11-195 and shall report all items prescribed in subsection (a). A candidate who is unsuccessful in a primary or special primary election need not file a final general report.

(c) Deficit. In the event of a deficit over \$250, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every six months until the deficit is eliminated, file supplemental reports covering all items prescribed in subsection (a). The first report shall be due no later than 4:30 p.m. on the fifth day after the last day of the election year.

(d) Surplus. In the event of a surplus over \$250, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall:

- (1) Maintain the cash surplus in a financial depository; and
- (2) Every six months, until he becomes a candidate again, or in the case of a party or committee until they participate in an election again, file supplemental reports detailing all items prescribed in subsection (a).

The first report shall be due not later than 4:30 p.m. on the fifth day after the last day of the election year.

(e) Short form reporting. A candidate, party, or committee who receives no contributions, makes no expenditures, or has a deficit or surplus of \$250 or less in any prescribed reporting period shall nevertheless be required to file preliminary, final, and supplemental reports on the respective dates pursuant to this chapter. Such reports may be filed on a short form as provided by the commission.

(f) Supplemental reporting. All supplemental reports required by this section are to be filed until a candidate, party, or committee:

- (1) Re-registers with the commission for a new election period; or
- (2) Terminates registration with the commission."

(k) Section 11-223, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-223 Candidate funding; restrictions.** (a) Each candidate who accepts public campaign funds under this chapter shall be required to abide by the campaign spending limits for his respective office as set forth in section 11-209.

(b) Public campaign funds provided under this chapter shall only be used to:

- (1) Defray campaign expenses incurred by and paid for an eligible candidate or all committees authorized by such candidate; and
- (2) Repay loans, the proceeds of which were used to defray campaign expenses.

(c) No candidate or committee authorized by a candidate shall be entitled to receive any public funds under subsection (a) unless the candidate and at least one other candidate for the same elective seat have qualified to have their names on the election ballot in the same election.

(d) In no event shall any portion of the total sum of public campaign funds allowable for primary or special primary election expenditures be shifted to the total amount allowable for general election expenditures pursuant to section 11-221.

(e) In no event shall any candidate or campaign treasurer in receipt of public

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campaign funds transfer any portion of such funds to another candidate for any primary, special primary, special, or general election campaign.

(f) All public funds received under this chapter shall be deposited in a financial institution designated to do business in the State. No expenditures of any public funds received under this chapter shall be made except by checks drawn on such checking account. The commission may require such reports relating to the expenditure of such funds as it considers appropriate.

(g) Upon the filing of a final report for any primary, special primary, special, or general election, each candidate who has spent an amount below the expenditure limit set for his respective office, but who has received the maximum amount of public funds allowable for his respective office, shall return all unexpended public funds to the Hawaii election campaign fund."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 10, 1980.)

## ACT 247

H.B. NO. 2161-80

A Bill for an Act Relating to Elections.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-118, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-118 Vacancies; new candidates; insertion of names on ballots.** In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the appropriate committee of the party. The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification. If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the thirtieth day prior to a primary, special primary, special, general, or special general election the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. If no substitution is made the candidacy involved shall be declared vacant."

SECTION 2. Section 17-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 17-3 State senator.** Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

appointee shall be of the same political party or nonpartisanship as the person he succeeds.

In the case of a vacancy, the term of which does not end at the next succeeding general election:

- (1) If it occurs not later than on the tenth day prior to the close of filing for the next succeeding primary election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party or nonpartisanship as the person he succeeds.
- (2) If it occurs later than on the tenth day prior to the close of filing for the next succeeding primary election but not later than on the thirtieth day prior to the next succeeding primary election, or if there are no qualified candidates for any party or nonpartisan candidates qualified for the primary election ballot, nominations for the unexpired term may be filed not later than 4:30 p.m. on the thirtieth day prior to the next succeeding primary election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party or nonpartisanship as the person he succeeds.
- (3) If it occurs after the thirtieth day prior to the next succeeding primary but not later than on the thirtieth day prior to the next succeeding general election, or if there are no qualified candidates for any party or nonpartisan candidates in the primary, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. Party candidates for the unexpired senate term shall be nominated by the county committees of the parties not later than 4:30 p.m. on the thirtieth day prior to the general election; nonpartisan candidates may file nomination papers for the unexpired term not later than 4:30 p.m. on the thirtieth day prior to the general election with the nonpartisan candidate who is to be nominated to be decided by lot, under the supervision of the chief election officer. The candidates for the unexpired term shall be elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy. The appointee shall be of the same political party or nonpartisanship as the person he succeeds.
- (4) If it occurs after the thirtieth day prior to the next succeeding general election or if no candidates are nominated, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee

shall be of the same political party or nonpartisanship as the person he succeeds."

SECTION 3. Section 17-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 17-6 Board of education members.** (a) Whenever any vacancy in the membership of the board of education occurs, the term of which ends at the next succeeding special election held in conjunction with the general election, the governor shall make an appointment to fill the vacancy for the unexpired term.

(b) In the case of a vacancy, the term of which does not end at the time of the next succeeding special election held in conjunction with the general election:

- (1) If it occurs not later than on the thirtieth day prior to the next succeeding special election held in conjunction with the general election, the vacancy shall be filled for the unexpired term at the next succeeding special election held in conjunction with the general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than 4:30 p.m. on the thirtieth day prior to the special election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) and shall be elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy.
- (2) If it occurs after the thirtieth day prior to the next succeeding special election held in conjunction with the general election, the governor shall make an appointment to fill the vacancy for the unexpired term.

(c) All appointments made by the governor under this section shall be made without consideration of the appointee's party affiliation or preference or nonpartisanship, however the persons so appointed shall meet the residency requirement specified in section 13-1."

SECTION 4. Section 17-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 17-7 Board of trustees, office of Hawaiian affairs.** (a) Whenever any vacancy in the membership of the board of trustees occurs, the term of which ends at the next succeeding special election held in conjunction with the general election, the vacancy shall be filled by a two-thirds vote of the remaining members of the board. If the board fails to fill the vacancy within sixty days after it occurs, the governor shall fill the vacancy within ninety days after the vacancy occurs. When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred and shall serve for the duration of the unexpired term.

(b) In the case of a vacancy, the term of which does not end at the next succeeding special election held in conjunction with the general election:

- (1) If it occurs not later than on the thirtieth day prior to the next succeeding special election held in conjunction with the general election, the vacancy shall be filled for the unexpired term at the next succeeding special election held in conjunction with the general election. The chief election officer

shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall file nomination papers not later than 4:30 p.m. on the thirtieth day prior to the special election (but if such day is a Saturday, Sunday, or holiday then not later than 4:30 p.m. on the first working day immediately preceding) and shall be elected in accordance with this title. Pending the election, the board or the governor shall make a temporary appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term and shall serve until the election of the person duly elected to fill such vacancy.

(2) If it occurs after the thirtieth day prior to the next succeeding special election held in conjunction with the general election, the board or the governor shall make an appointment to fill the vacancy in the manner prescribed under subsection (a). When island residency is required under section 13D-1, the person so appointed shall reside on the island from which the vacancy occurred, and shall serve for the duration of the unexpired term.

(c) All appointments made by the board or the governor under this section shall be made without consideration of the appointee's party preference or nonpartisanship."

**SECTION 5.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 6.** This Act shall take effect upon its approval.

(Approved June 10, 1980.)

ACT 248

H.B. NO. 2162-80

A Bill for an Act Relating to Absentee Voting.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 15, Hawaii Revised Statutes, is amended as follows:

(a) Section 15-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-2 Who may vote by absentee ballot.** Any voter may cast an absentee ballot subject to this chapter and rules promulgated by the chief election officer if he is a voter in a remote area or he is unable to appear at his polling place during the hours of voting because of one of the following reasons:

- (1) Absence from the island, county, or district in which he is registered on election day;
- (2) Confinement in any hospital;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (3) Confinement in any public institution for the care [of]† indigents or aged persons;
- (4) Confinement in any leprosy institution or settlement located on the same island in which he is registered to vote or in the county of Kalawao;
- (5) Confinement in any penal institution for a misdemeanor or as a pretrial detainee;
- (6) Confinement to his home because of illness, infirmity or physical disability; or
- (7) Conflicting religious belief, ruling, doctrine, or standard.

Any other voter unable to appear at his polling place 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 promulgated thereunder."

- (b) Section 15-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-4 Request for absentee ballot.** Any person entitled to vote under this chapter may request an absentee ballot in person or in writing from the clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The clerk may waive any or all of the foregoing requirements in special cases as provided in the rules promulgated by the chief election officer.

The request shall include information such as the address under which the person is registered, the establishment of his right to an absentee ballot, and the address to which he wishes his ballot forwarded. The request, when made for any primary or special primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary or special primary provided the person so indicates in his request.

Subsequent to the closing of registration for each election, the clerk may mail a request form for an absentee ballot to each voter in a remote area who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form."

- (c) Section 15-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-5 Delivery of ballots.** Immediately upon receipt of a request within the time limit specified in section 15-4, the clerk shall examine the records to ascertain whether or not the voter is lawfully entitled to vote as requested. As soon as the printed official ballots are available, the clerk shall mail in a forwarding envelope or deliver in person if the voter appears at the office of the clerk, an official ballot and other materials prescribed in section 15-6 except that an incapacitated voter may send a representative to obtain his ballots pursuant to the rules promulgated by the chief election officer. All requests received upon the last day specified in section 15-4 for receipt shall be mailed to the voter requesting the same as soon as reasonably practicable, but in no event later than twenty-four hours after receipt thereof."

- (d) Section 15-6, Hawaii Revised Statutes, is amended to read as follows:

†Bracketed word "of" substituted for "or" to correct manifest clerical error.

**"Sec. 15-6 Return envelope, ballot envelope; instructions.** The clerk shall provide the absentee voter with the ballots, ballot envelopes, and a return envelope which shall contain a statement to be subscribed to by the voter which affirms the fact that he is the person voting, the instruction that his ballot will be valid only if the affirmation statement is signed, and any other information prescribed by the rules promulgated by the chief election officer."

(e) Section 15-8, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-8 Absentee ballot box.** An absentee ballot box or boxes shall be provided in the absentee polling place for the purpose of depositing the return envelopes and the ballot envelopes of those who vote in person at the absentee polling place. The ballot box shall be secured in accordance with rules promulgated by the chief election officer.

Tampering with the ballot box or opening it before the time prescribed in section 15-9 shall be an election offense under section 19-6."

(f) Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-9 Return and receipt of absentee ballots.**

(a) The return envelope shall be:

- (1) Mailed and must be received by the clerk issuing the absentee ballot not later than the closing of the polls on any election day; or
- (2) Delivered other than by mail to the clerk issuing the absentee ballot not later than the closing of the polls on any election day; or
- (3) Delivered other than by mail to the regular polling place at which the voter is registered and deposited by a precinct official in the ballot box before the closing of the polls on any election day.

Upon receipt of the return envelope from any person voting under this chapter, the clerk or the officials of the absentee polling place shall time stamp the return envelope and deposit it in the correct absentee ballot box, provided that return envelopes delivered to the regular polling place and deposited in the ballot box by a precinct official before the closing of the polls need not be time stamped. On election day the absentee ballot box shall be opened by the officials of the absentee ballot team.

(b) Prior to opening the return and ballot envelopes and counting the ballots, the return envelopes shall be checked for the following:

- (1) Signature on the affirmation statement;
- (2) Whether the signature corresponds with the absentee request or register as prescribed in the rules promulgated by the chief election officer; and
- (3) Whether the person is a registered voter and has complied with the requirements of sections 11-15 and 11-16.

If any of the above requirements is not met or if the return or ballot envelope appears to be tampered with, the clerk or the absentee ballot team official shall mark across the face of the envelope "invalid" and it shall be kept in the custody of the clerk and disposed of as prescribed for ballots in section 11-154.

If an absentee polling place is established at the clerk's office prior to election day, the officials of the absentee polling place shall check the return or ballot envelopes for the above requirements prior to depositing them in the correct absentee ballot box."

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(g) Section 15-10, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-10 Counting of absentee ballots.** If the requirements in section 15-9 are met, the return and ballot envelopes may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee polling places using paper ballots, counting of the absentee ballots may begin after noon of election day.

In those absentee polling places using the electronic voting system, the absentee ballots shall be transported to the counting center in a manner and by a schedule as provided in the rules promulgated by the chief election officer. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed.

Any person violating this section shall be guilty of an election offense under section 19-6."

(h) Section 15-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-12 Receipt and disposition of late absentee ballots.** For any election all return envelopes containing absentee ballots received by the clerk after the deadline for receipt stated in section 15-9 shall be kept unopened and disposed of pursuant to section 11-154."

(i) Section 15-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 15-13 Death of voter prior to opening of polls.** Whenever sufficient proof is shown to the clerk that an absentee voter who has returned his return envelope has died prior to the opening of the polls on the date of election, his ballot shall be deemed invalid and disposed of pursuant to section 11-154. The casting of any such ballot shall not invalidate the election."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 10, 1980.)

## ACT 249

H.B. NO. 159

A Bill for an Act Relating to Dentistry.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 448-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 448-5 Board of examiners; appointment.** The governor shall appoint, in the manner prescribed in section 26-34, and for neglect of duty, incompetency, or dishonorable conduct, may remove the board of dental examiners, which shall consist of eleven members, eight of whom shall be practicing dentists, who have been engaged in the practice of dentistry in the State for a period of five years preceding

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

their several appointments, one of whom shall be a practicing dental hygienist, duly licensed under section 447-1, who has been engaged in the practice of dental hygiene in the State for a period of five years preceding appointment, and two of whom shall be public members. No member shall be in any way connected with, or interested financially in, any dental supply company. One member in the practice of dentistry shall be appointed from each of the counties of Hawaii, Maui, and Kauai and five members in the practice of dentistry shall be appointed from the city and county of Honolulu. The members of the board shall serve without pay, and each shall serve until a successor is appointed and qualified."

SECTION 2. Section 448-6, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 448-6 Officers, meeting, quorum.** (a) The board of dental examiners shall elect one of its members president, another secretary, and another treasurer thereof.

(b) The board shall meet for the purpose of examining applicants in February and August of each year and for other purposes at such times as it designates. Adequate notice of the times and places of examinations shall be given by publication in a newspaper of general circulation in the State. The board may prescribe which members shall participate in the examination and licensing procedures.

(c) The board shall adopt such rules as it deems proper and necessary for the performance of its work."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 250

H.B. NO. 1494

A Bill for an Act Relating to Public Employment.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 78-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 78-1 Citizenship and residence of government officials and employees; exceptions.** (a) All elective officers in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens of the United States and residents of the State for at least three years immediately preceding assumption of office.

(b) All appointive officers in the service of the government of the State or in the service of any county or municipal subdivision of the State who are employed as

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

department heads, first assistants, first deputies, second assistants, or second deputies to a department head shall be citizens of the United States and residents of the State for at least one year immediately preceding their appointment; however, all others appointed in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their appointment. A national or permanent resident alien appointed pursuant to this section shall not be eligible for continued employment unless such person diligently seeks citizenship upon becoming eligible to apply for United States citizenship.

(c) All employees in the service of the government of the State or in the service of any county or municipal subdivision of the State shall be citizens, nationals, or permanent resident aliens of the United States and residents of the State at the time of their application for employment.

"Resident" means a person who is physically present in the State at the time he claims to have established his domicile in the State and shows his intent is to make Hawaii his permanent residence. In determining this intent, the following factors shall be considered:

- (1) Maintenance of a domicile or permanent place of residence in the State;
- (2) Absence of residency in another state.

(d) For the purpose of obtaining services which are essential to the public interest for which no competent person with the qualifications under subsection (c) applies within forty-five days after the first publication of an advertisement of the position or a notice of an examination therefor, which advertisement or notice has been published more than once, and not more often than once a week, in a newspaper of general circulation in the State, a person without the qualifications may, upon prior certification by the state director of personnel services or the city and county director of civil service or the county personnel director, whichever is applicable, and with the approval of the chief executive officer for the State or the political subdivision concerned, be employed.

(e) The requirement of residency, as defined under subsection (c) above, shall not apply to a resident who was a resident of the State before marrying a non-resident and who continues to reside in the State.

(f) For the positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States, the employees shall be citizens of the United States in addition to meeting the requirement of residency in subsection (c).

(g) The requirements of subsections (c), (d), and (h) shall not apply to persons recruited by the University of Hawaii under the authority of section 304-11; provided that all persons recruited as Administrative/Professional/Technical personnel of the University of Hawaii shall be subject to the requirement of residency as defined under subsection (c) and the requirement of subsection (h); provided further that appointment of persons to positions requiring highly specialized technical and scientific skills or knowledge may be made without consideration of residency.

(h) A preference shall be granted to state residents who have filed resident income tax returns within the State or who have been claimed as a dependent on such a return at the time of their application for employment with the State or any county or municipal subdivision of the State.

For residents applying for positions covered by chapters 76 and 77, the preference shall be accomplished as provided in section 76-23.

For residents applying for positions not covered by chapters 76 and 77, the preference shall be accomplished by giving first consideration to such residents, if all other factors are relatively equal."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

**ACT 251**

H.B. NO. 1655

A Bill for an Act Relating to Dentistry.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The purpose of this Act is to allow foreign graduates to apply for and take the examinations for licensure to practice dentistry.

**SECTION 2.** Section 448-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 448-9 Application for examination; fee.** Any person of eighteen years or more, shall be eligible to take an examination before the board of dental examiners upon complying with the following requirements:

- (1) Submit an application in writing to the secretary of the board no later than sixty days prior to the date of the scheduled examination.
- (2) Remit an examination fee set by the board with each application, said fee to be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.
- (3) Submit with each application documentation and credentials which include but are not limited to the following:
  - (A) A recent unmounted photograph of the applicant; and
  - (B) A certificate that the applicant is of good moral character; and
  - (C) A diploma or certificate of graduation from a dental college accredited by the Council of Dental Education of the American Dental Association, recognized and approved by the board."

**SECTION 3.** Chapter 448, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 448- Application for examination; graduates of foreign dental schools.** (a) Any person of eighteen years or more, who is a graduate of a foreign dental school and a permanent resident of the United States shall be eligible to take an examination before the board of dental examiners upon complying with the following requirements:

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (1) Submit an application in writing to the secretary of the board no later than sixty days prior to the date of scheduled examination.
  - (2) Remit an examination fee set by the board with each application, said fee to be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.
  - (3) Submit with each application documentation and credentials which include but are not limited to the following:
    - (A) A recent unmounted photograph of the applicant.
    - (B) A certificate that the applicant is of good moral character.
    - (C) A complete transcript of the academic and clinical dental school record of the applicant, authenticated by either the president, secretary, dean, or registrar of the educational institution. The transcript shall be accompanied by an affidavit showing to the satisfaction of the board that the applicant is the person named in each transcript submitted, that the transcript is a true recital of the full number of academic years of undergraduate courses required for graduation, that such courses of professional instruction in dentistry were accomplished in a resident course of instruction.
    - (D) A legible, true copy of the dental diploma or dental degree conferred upon the applicant as evidence of the completion of the courses of dental instruction required for graduation, authenticated by either the president, secretary, dean, or registrar of the educational institution. The diploma or degree shall be accompanied by an affidavit showing to the satisfaction of the board that the applicant is the person named in the document, that the applicant is the lawful holder, and that it was procured in the regular resident course of instruction and examination without fraud or misrepresentation.
    - (E) Certification by the licensing authority of the governmental jurisdiction, wherein is located the foreign institution from which the applicant was graduated that the applicant has been admitted or licensed to practice dentistry in such foreign state, country, or political subdivision.
  - (F) Other documentation and credentials as may be required by the board.
- (b) Credentials and documentation required by this section which are submitted in a foreign language shall be accompanied by a certified original translation by a qualified translator.
- (c) When, because of circumstances beyond the applicant's control, an applicant is unable to furnish any of the documents, authentication, or certification required by this section, the board may in its discretion accept other documents which it deems satisfactory to establish the applicant's eligibility.
- (d) After the applicant's credentials have been accepted by the board, the applicant shall take and pass Parts I and II of the examination of the National Board of Dental Examiners prior to taking the restorative technique examination, provided for under section 448- . The applicant shall not be permitted to take the practical examination provided for under section 448-10(a) until satisfactorily passing Parts I and II of the examination of the National Board of Dental Examiners and the restorative technique examination.”

SECTION 4. Section 448-10, Hawaii Revised Statutes, is amended to read:

**"Sec. 448-10 Examination; time.** (a) The board of dental examiners shall examine all applicants in both theory and practice of dentistry. In the selection of subjects, it shall take cognizance of current trends in dental education. The board may accept an applicant who presents a certificate or other bona fide evidence as having passed the theory examination of the National Board of Dental Examiners in lieu of the theory portion of the state dental board examination.

The requirements for the practical examination in operative and prosthetic dentistry shall be decided upon and announced to the applicant on the day selected for beginning the theoretical examination.

All instruments, materials, and patients shall be supplied by the applicant. An engine and chair shall be furnished by the board.

Two examinations shall be held in each year.

(b) The board of dental examiners shall establish and administer a restorative technique examination to all qualified applicants under section 448-. The examination shall consist of preparation and restorative procedures in gold foil, amalgam and crown and bridge on a special typodont model. No applicant shall be permitted to take the practical examination under subsection (a) unless they have passed the restorative technique examination."

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 252

H.B. NO. 2168-80

A Bill for an Act Relating to Collective Bargaining.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 89-2, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of "strike" to read as follows:

"(17) "Strike" means a public employee's refusal, in concerted action with others, to report for duty, or his wilful absence from his position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of public employment; and except in the case of absences authorized by public employers, includes such refusal, absence, stoppage, or abstinence by any public employee out of sympathy or support for any other public employee who is on strike or because of the presence of any picket line maintained by any other public employee; provided, that

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

nothing herein shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of employment."

2. By adding two new definitions to be appropriately designated and to read as follows:

- "( ) "Essential employee" means an employee designated by the public employer to fill an essential position.
- "( ) "Essential position" means any position designated by the board as necessary to be worked in order to avoid or remove any imminent or present danger to the public health or safety, which position shall be filled by the public employer."

SECTION 2. Section 89-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 89-12 Strikes, rights and prohibitions.** (a) Participation in a strike shall be unlawful for any employee who (1) is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the board, or (2) is included in an appropriate bargaining unit for which process for resolution of a dispute is by referral to final and binding arbitration, or (3) is an essential employee.

(b) It shall be lawful for an employee, who is not prohibited from striking under paragraph (a) and who is in the appropriate bargaining unit involved in an impasse, to participate in a strike after (1) the requirements of section 89-11 relating to the resolution of disputes have been complied with in good faith, (2) the proceedings for the prevention of any prohibited practices have been exhausted, (3) sixty days have elapsed since the fact-finding board has made public its findings and any recommendation, (4) the exclusive representative has given a ten-day notice of intent to strike to the board and to the employer.

(c)(1) If a strike, which may endanger the health or safety of the public, is about to occur or is in progress, the public employer concerned may petition the board to make an investigation. If the board finds that there is imminent or present danger to the health or safety of the public, the board shall establish specific requirements that must be complied with and which shall include, but not be limited to:

- (i) Designation of essential positions; and
- (ii) Any other requirement it deems necessary in order to avoid or remove any imminent or present danger to the health or safety of the public.

(2) The public employer shall give notice to an essential employee:

- (i) By serving or delivering a copy thereof to the essential employee being notified; or
- (ii) By mailing a copy thereof by certified or registered mail, return receipt requested, deliverable to the addressee only, addressed to the essential employee being notified at his place of residence; or
- (iii) If service cannot be effected as set forth in (2)(i) or (2)(ii) above, or if the strike is in progress, by publishing at least once a day for three consecutive days, a copy thereof in both of the newspapers having the largest general circulation in the State. After the final publication, it shall be conclusively presumed that the essential employee has re-

ceived such notice.

After receipt of notice, it shall be the duty of the essential employee to contact the public employer for his work assignment.

(d) No employee organization shall declare or authorize a strike of employees, which is or would be in violation of this section. Where it is alleged by the public employer that an employee organization has declared or authorized a strike of employees which is or would be in violation of this section, the public employer may apply to the board for a declaration that the strike is or would be unlawful and the board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration.

(e) If any employee organization or any employee is violating or failing to comply with the requirements of this section, or if there is reasonable cause to believe that an employee organization or an employee will violate or fail to comply with such requirements, the public employer affected shall, forthwith, institute appropriate proceedings in the circuit in which the violation occurs to enjoin the performance of any acts or practices forbidden by this section, or to require the employee organization or employees to comply with the requirements of this section. Jurisdiction to hear and dispose of all actions under this section is conferred upon each circuit court, and each court may issue in compliance with chapter 380, such orders and decrees, by way of injunction, mandatory injunction, or otherwise, as may be appropriate to enforce this section. The right to a jury trial shall not apply to any proceeding brought under this section."

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

**ACT 253**

H.B. NO. 2634-80

A Bill for an Act Relating to the Compensation of Public Officers and Employees.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The purpose of this Act is to authorize a reduction in the number of steps within the existing salary ranges for positions covered under chapter 77, Hawaii Revised Statutes.

The legislature finds that the existing five-step pay ranges for blue collar positions and the ten-step salary ranges for white collar positions, which were established prior to collective bargaining, are no longer appropriate. Since the enactment of the collective bargaining law, employees have received negotiated pay increases each year. The granting of step increases, in addition to separately negotiated pay increases each year, resulted in prohibitive costs. Therefore, effective July

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

1, 1976, the legislature proscribed the granting of step increases in any fiscal year when an increase in a pay schedule is effected. Such deferral of step increases was, and remains, necessary until appropriate pay ranges with fewer steps are developed.

Presently, however, the number of steps as well as the number of ranges are fixed by statute. The legislature believed that these matters should remain within its purview, particularly during the formative years of collective bargaining. Ten years have elapsed since the enactment of the collective bargaining law, which established thirteen appropriate bargaining units based on broad occupational categories. Seven of these units include positions governed by chapter 77, Hawaii Revised Statutes—two units include blue collar positions subject to five-step salary ranges and five units include white collar positions subject to ten-step salary ranges. Prior proposals calling for a uniform, statutorily mandated reduction in the number of steps for all positions under chapter 77, Hawaii Revised Statutes, have been considered and rejected by the legislature. Each bargaining unit has its own particular concerns and objectives. Several bargaining units have voiced a desire to share in the decision-making process regarding the manner in which the number of steps are to be reduced. Other bargaining units have remained silent on the subject.

While the legislature believes that the number of steps and ranges should remain within its purview, it finds that the parties to negotiations should be granted the option to share in the decision-making process regarding the manner in which the number of steps are to be reduced. This would be consonant with the legislature's policy on collective bargaining; provided the option is exercised and a conversion plan is developed and executed on or before December 31, 1980, to allow the parties sufficient time to conduct their next wage negotiations based on such mutually agreed upon conversion plan, as well as subsequent wage negotiations. In the absence of such mutually agreed upon conversion plan, the parties to negotiations shall continue wage negotiations based on the existing five-step salary ranges for blue collar positions and the ten-step salary ranges for white collar positions contained in the statutes.

The legislature further finds that the chief executives together with the chief justice of the supreme court should have the discretion to determine the manner in which the number of steps are to be reduced for employees excluded from collective bargaining who are covered under chapter 77, Hawaii Revised Statutes. This would be consistent with the intent of chapter 89C, Hawaii Revised Statutes, which authorizes adjustments for such employees which are comparable to their counterparts included in collective bargaining units.

Accordingly, the legislature authorizes the parties to negotiations and the chief executives together with the chief justice of the supreme court, as the case may be, to reduce the number of steps within the existing pay ranges for employees covered under chapter 77, Hawaii Revised Statutes, in accordance with the guidelines under this Act. Additionally, since pay rates are negotiable under chapter 89, Hawaii Revised Statutes, and can be adjusted under chapter 89C, Hawaii Revised Statutes, the obsolete pay rates contained in the statutes are being deleted. The personnel directors and the administrative director of the courts are required to maintain the pay schedules applicable to positions under chapter 77, Hawaii Revised Statutes.

**SECTION 2.** Section 77-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 77-1 Definitions.** As used in this part, unless the context clearly indicates otherwise:

- (1) "Commission" means the civil service commission;
- (2) "Class" or "class of positions" means a group of positions sufficiently similar with respect to duties, authority, and responsibility so that the same title may reasonably be required for, and the same salary range may apply to, each position allocated to the class;
- (3) "Position classification plan" means classes of positions arranged in a logical and systematic order;
- (4) "Compensation" means any salary, wage, fee, or other cash emolument paid to an employee for service in a position;
- (5) "Department" includes the judicial branch and any department, board, commission, or agency of the State or any of its political subdivisions;
- (6) "Director" means the director of personnel services in the case of the State, the administrative director of the courts in the case of the judiciary, director of civil service in the case of the city and county of Honolulu, or the respective personnel directors in the case of the counties of Hawaii, Maui, and Kauai;
- (7) "Employee" means a person holding a position in accordance with chapter 76, whether permanently or otherwise;
- (8) "Position" means a group of current duties and responsibilities legally assigned or delegated by competent authority to an officer or employee and performed on either a full- or part-time basis;
- (9) "Salary range" means the group of steps, from minimum to maximum, to which a class may be assigned;
- (10) "Salary schedule" or "pay schedule" means the rates of compensation for all steps under a salary structure;
- (11) "Salary structure" means the number of steps and salary ranges prescribed in section 77-5(2) and section 77-13(a);
- (12) "Compensation plan" is the result of the assignment of all classes in the position classification plan to appropriate salary ranges in the salary structures;
- (13) "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 counties of Hawaii, Maui, and Kauai;
- (14) "Legislative body" means the legislature in the case of the State, the city council in the case of the city and county of Honolulu, and the respective county councils in the case of the counties of Hawaii, Maui, and Kauai;
- (15) "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 counties of Hawaii, Maui, and Kauai;
- (16) "Affected persons or parties" includes employee organizations, departments, persons, and their respective representatives;
- (17) "Pricing" means the assignment of classes to salary range;
- (18) "Bench mark class" means a class which is (A) pivotal in that the assign-

ment of other classes within a series of classes may be made with reference to such class, (B) easily identifiable according to the nature of the duties and responsibilities of the positions within the class, and (C) common to all or most of the jurisdictions."

SECTION 3. Section 77-5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 77-5 Compensation plan for blue-collar positions.** The salary structures and schedules prescribed in section 77-13 shall not apply to positions in recognized trades or crafts or other skilled mechanical crafts, or unskilled, semiskilled, or skilled manual labor occupations, including positions of foremen, inspectors, and supervisors in positions having trades, crafts, or laboring experience and knowledge as the paramount requirement, commonly known as blue collar positions.

- (1) The provisions of section 77-4 where it is not inconsistent with the provisions of this section shall be applicable.
- (2) Salary structures and schedules.
  - (A) The salary structures applicable to blue collar positions shall be comprised of fifteen salary grades with each grade consisting of five increment steps.
  - (B) Pay schedules for nonsupervisory blue-collar positions, hereafter to be referred to as the wage board schedules, shall be established as provided under subparagraph (D) below.
  - (C) Pay schedules for supervisory blue-collar positions, hereafter to be referred to as wage board supervisory schedules, shall be established as provided under subparagraph (D) below for each of the following levels:
    - (i) Working foreman;
    - (ii) Foreman I;
    - (iii) Foreman II;
    - (iv) Foreman III; and,
    - (v) General foreman.
  - (D) The pay schedules applicable to employees in blue-collar positions, who are included in collective bargaining units under section 89-6(a), shall be subject to negotiations. The pay schedules applicable to employees in blue-collar positions, who are excluded from coverage under chapter 89, shall be subject to chapter 89C.
- (3) Wherever payment is made on the basis of an annual, weekly, hourly, or daily rate, the rate shall be computed as provided for under section 77-13(c).
- (4) Implementation of compensation plan.
  - (A) The conference of personnel directors shall compile and recommend to the public employees compensation appeals board a tentative compensation plan based upon such factors as the kind and subject matter of work, level of difficulty and responsibility, and qualification requirements for classes deemed covered by this section by October 15 of every odd-numbered year.

Full opportunity for consultation with the persons and organiza-

tions including employee organizations shall be afforded.

- (B) The appeals board referred to in section 77-4 shall provide for the publication of the tentative compensation plan. All petitions for appeal against the compensation plan, including the pricing of classes or whether the class should be included or excluded from the blue-collar plan, shall be filed with the appeals board within twenty days from the date of publication of the tentative plan.

The board shall meet biennially to hear appeals from affected persons and parties concerning the tentative compensation plan and may hold public hearings as well. At least one appeal hearing shall be held in each jurisdiction.

Final adjustment by the board to the compensation plan shall be in accordance with its established policies and standards relative to compensation. The board shall complete its final adjustments by the third Wednesday in January of every even-numbered year.

Following the final adjustment, the conference of personnel directors shall submit to the state legislature, through the office of the governor, a report setting forth the final compensation plan and the cost thereof for its information and approval. The effective date of the approved plans shall be July 1 of every even-numbered year.

- (5) Subsequent implementation of the compensation plan. The compensation plan for positions covered under this section shall be reviewed and adjusted biennially in accordance with paragraph (4) of this section."

SECTION 4. Section 77-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 77-13 Salary structures and schedules for white-collar positions.** (a)

The salary structures for white-collar positions covered under this chapter shall be comprised of thirty-one salary ranges, designated SR 4 to SR 31, SC-1, SC-2, and SC-3, with each range consisting of ten steps, designated B to G and L-1 to L-4; provided that range SC-2 shall consist of nine steps, designated B to G, L-1, L-2, and L-3, and range SC-3 shall consist of eight steps, designated B to G, L-1, and L-2.

(b) The salary schedules applicable to employees in white-collar positions, who are included in appropriate bargaining units under section 89-6(a), shall be subject to negotiations. The salary schedules applicable to employees in non-managerial white-collar positions, who are excluded from coverage under chapter 89, shall be subject to chapter 89C.

(c) Whenever payment is made on the basis of monthly, weekly, hourly, or daily rate, the rate shall be computed in the following manner:

- (1) By dividing the annual rate by twelve in order to find the monthly rate;
- (2) By dividing the annual rate by fifty-two in order to find the weekly rate;
- (3) By dividing the weekly rate by forty in order to find the hourly rate; and
- (4) By multiplying the hourly rate by the number of daily hours of service required in order to find the daily rate.

(d) Salary ranges SC-1, SC-2, and SC-3 shall be utilized in the following manner:

- (1) Salary ranges SC-1, SC-2, and SC-3 may be utilized by the State and

counties for physicians and psychiatrists positions.

- (2) No position shall be classified and paid in salary ranges SC-1, SC-2, and SC-3 unless specifically recommended by the director of personnel services and approved by the governor, or recommended by the personnel director of a county and approved by the respective council and mayor.
- (3) There shall be at any given period not more than sixteen positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by the State and not more than eight positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by any county. Psychiatrists and physician positions shall be excluded from the above mentioned totals.
- (4) The salary of any employee assigned to SC-1, SC-2, or SC-3 shall not be more than the applicable limits under section 78-18.
- (5) The director of personnel services and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2, and SC-3 are being used."

**SECTION 5.** Chapter 77, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 77- Conversion to appropriate salary ranges.** (a) Any provision of law to the contrary notwithstanding, the chief executives of the State and counties and the chief justice of the supreme court, as appropriate, may reduce the number of steps within the salary ranges under sections 77-5 and 77-13, as provided in this section. In no event shall the number of steps be increased, except by action of the state legislature.

(b) For employees in positions under this chapter who are included in bargaining units under chapter 89, the conversion to salary ranges with fewer steps shall be subject to negotiations, at the option of the exclusive representative of an appropriate bargaining unit; provided the option is exercised in accordance with subsections (c) and (d) below. For employees in positions under this chapter who are excluded from collective bargaining units, the conversion shall be subject to chapter 89C and subsection (e) below.

(c) Each exclusive representative may exercise the option to negotiate a model conversion plan regarding a reduction in the number of steps within the salary ranges under section 77-5 or 77-13, as applicable, for positions within its appropriate bargaining unit, by notifying the appropriate employers of its intent in writing. The employers and the exclusive representative shall meet for the purpose of developing a mutually agreeable conversion plan which meets the requirements of subsection (d). Any such plan mutually agreed upon shall be reduced to writing and signed by the parties on or before December 31, 1980. The plan shall be binding upon the parties, except that all costs relative to the conversion shall be subject to approval and appropriations by the appropriate legislative bodies, along with negotiated pay increases and other cost items, as required under section 89-10(b). In the absence of a mutually agreed upon model conversion plan on or before December 31, 1980 for any particular bargaining unit, wage negotiations for such unit shall be based on the existing salary ranges and steps as provided in section 77-5 or 77-13, as applicable.

(d) Any model conversion plan agreed to between the employers and the exclusive representative shall contain the following:

- (1) An agreement that the objective of the conversion plan is to reduce the number of steps within each salary range under section 77-5 or 77-13, as applicable, for positions within the appropriate bargaining unit, to a specific number of steps.
- (2) An agreement that the model conversion plan shall not be terminated until the objective under paragraph (1) is reached and shall not be modified except by written mutual agreement of the parties.
- (3) An agreement that during the fiscal year commencing July 1, 1981, and each subsequent fiscal year, at least one step shall be deleted from the salary ranges until the salary ranges are reduced to such number of steps mutually agreed upon under paragraph (1).
- (4) An agreement that all negotiations on wages, to be effective July 1, 1981 and subsequently, shall be based on the model conversion plan and that no other pay rates shall be negotiated, other than those rates for the number of steps allowable under paragraph (3) or such fewer number of steps as mutually agreed upon between the parties.
- (5) An agreement that all employees in bargaining unit positions subject to this chapter shall be paid, commencing July 1, 1981, in accordance with the rates negotiated for the steps on the revised salary schedule within their applicable salary ranges.
- (6) An agreement regarding the adjusting of employees' pay from their existing rates to those rates negotiated for the steps on the revised salary schedule within their applicable salary ranges; provided that such an agreement may contain a provision for the payment of a bonus or conversion differential if it is not to be considered as an adjustment to an employee's basic pay rate.

The parties shall not agree to a conversion plan which does not meet the requirements of this section nor agree to any amendments which would be inconsistent with this section.

(e) The chief executives of the State and the counties and the chief justice of the supreme court, as applicable, may reduce the number of steps within the salary ranges under sections 77-5 and 77-13 for positions excluded from collective bargaining coverage. Their designated representatives shall review the model conversion plans applicable to employees included in collective bargaining units before reaching a decision under section 89C-3 concerning adjustments regarding a reduction in the number of steps for excluded employees; provided that any reduction in the number of steps for excluded employees shall harmonize with the model conversion plans developed for included employees; provided further that if a model conversion plan is not developed for employees included in a collective bargaining unit, there shall be no reduction in the number of steps for excluded employees under the same compensation plan as the employees included in that bargaining unit. The costs of reducing the salary ranges to fewer steps and any other general pay adjustments shall be subject to approval and appropriations by the appropriate legislative bodies in accordance with section 89C-5."

SECTION 6. Section 89-9, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Excluded from the subjects of negotiations are matters of classification and

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reclassification, the Hawaii public employees health fund, retirement benefits, and the salary ranges and the number of incremental and longevity steps now provided by law; provided that the number of steps in accordance with section 77- , the amount of wages to be paid in each range and step, and the length of service necessary for the incremental and longevity steps shall be negotiable. Effective July 1, 1976, an employee shall not be entitled to his normal annual increment or longevity increase, as the case may be, in any fiscal year that a negotiated pay increase is effected, whether by statute or agreement, and no part of such a fiscal year shall be counted as service creditable for any future increment or longevity pay increase. The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to sections 76-1, 76-2, 77-31, and 77-33, which would be inconsistent with section 77- , relating to the conversion to appropriate salary ranges, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies."

**SECTION 7.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 8.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

## **ACT 254**

S.B. NO. 2977-80

A Bill for an Act Relating to the Compensation of Public Officers and Employees  
Covered by Chapter 77, Hawaii Revised Statutes.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The pay structures (number of steps and pay ranges) for classes of positions covered under chapter 77, Hawaii Revised Statutes, are currently fixed by law in sections 77-5 and 77-13, Hawaii Revised Statutes. The legislature finds that the pay structures for excluded non-managerial positions covered under chapter 77, Hawaii Revised Statutes, should continue to be fixed by law. For excluded managerial positions covered under chapter 77, Hawaii Revised Statutes, the legislature believes that the chief executives should have the discretion to develop an appropriate pay structure. Therefore, the chief executives of the State and counties and the chief justice of the supreme court are hereby authorized to develop an appropriate pay structure for excluded managerial positions covered under chapter 77, Hawaii Re-

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

vised Statutes, in accordance with the provisions set forth in chapter 89C, Hawaii Revised Statutes. They shall determine which positions under chapter 77, Hawaii Revised Statutes, are managerial, but no position shall be designated as managerial unless or until the employee occupying such position has been excluded from coverage under chapter 89, Hawaii Revised Statutes.

The legislature further finds that the existing pay schedules under chapter 77, Hawaii Revised Statutes, (the amount of wages to be paid at each step and pay range) are obsolete. Pay schedules for employees included in collective bargaining units under chapter 89, Hawaii Revised Statutes, are subject to negotiations. Pay schedules for employees excluded from coverage under chapter 89, Hawaii Revised Statutes, are subject to the provisions of chapter 89C, Hawaii Revised Statutes. Therefore, the obsolete rates contained in section 77-13, Hawaii Revised Statutes, are being deleted and the authorities by which pay schedules are to be established are being inserted.

SECTION 2. Section 77-13, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 77-13 Salary structures and schedules for white-collar positions.** (a) The salary structures for white-collar positions covered under this chapter shall be comprised of thirty-one salary ranges, designated SR 4 to SR 31, SC-1, SC-2, and SC-3, with each range consisting of ten steps, designated B to G and L-1 to L-4; provided that range SC-2 shall consist of nine steps, designated B to G, L-1, L-2, and L-3, and range SC-3 shall consist of eight steps, designated B to G, L-1, and L-2.

(b) The salary schedules applicable to employees in white-collar positions, who are included in appropriate bargaining units under section 89-6(a), shall be subject to negotiations. The salary schedules applicable to employees in nonmanagerial white-collar positions, who are excluded from coverage under chapter 89, shall be subject to chapter 89C.

(c) Whenever payment is made on the basis of monthly, weekly, hourly, or daily rate, the rate shall be computed in the following manner:

- (1) By dividing the annual rate by twelve in order to find the monthly rate;
- (2) By dividing the annual rate by fifty-two in order to find the weekly rate;
- (3) By dividing the weekly rate by forty in order to find the hourly rate; and
- (4) By multiplying the hourly rate by the number of daily hours of service required in order to find the daily rate.

(d) Salary ranges SC-1, SC-2, and SC-3 shall be utilized in the following manner:

- (1) Salary ranges SC-1, SC-2, and SC-3 may be utilized by the State and counties for physicians and psychiatrists positions.
- (2) No position shall be classified and paid in salary ranges SC-1, SC-2, and SC-3 unless specifically recommended by the director of personnel services and approved by the governor, or recommended by the personnel director of a county and approved by the respective council and mayor.
- (3) There shall be at any given period not more than sixteen positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by the State and not more than eight positions classified and paid in salary ranges SC-1, SC-2, and SC-3 by any county. Psychiatrists and physician positions shall be excluded from the above mentioned totals.

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- (4) The salary of any employee assigned to SC-1, SC-2, or SC-3 shall not be more than the applicable limits under section 78-18.
- (5) The director of personnel services and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2, and SC-3 are being used."

SECTION 3. Chapter 77, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 77- Compensation plan for managerial white-collar positions.** (a) The chief executives of the State and counties and the chief justice of the supreme court shall determine which white-collar positions under this chapter are managerial; provided that no position shall be designated as managerial unless or until the employee occupying such position has been excluded from coverage under chapter 89.

(b) The salary structure for managerial white-collar positions covered under this chapter shall be comprised of such number of salary ranges with each range consisting of such number of steps as the chief executives of the State and counties and the chief justice of the supreme court deem appropriate under the provisions set forth in chapter 89C.

(c) The salary schedule applicable to employees in managerial white-collar positions shall be subject to chapter 89C."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

## ACT 255

H.B. 25

A Bill for an Act Relating to Health Care.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose; findings and determinations.** The purpose of this Act is to implement Article VII, section 12, of the Constitution of the State of Hawaii as proposed by the Hawaii Constitutional Convention of 1978 and ratified by the voters, pertaining to the authorization for the issuance of special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public. This Act establishes a means whereby the State is authorized to issue special purpose revenue bonds to finance or refinance facilities of, or for, or to loan the proceeds of such bonds to assist, not-for-profit corporations that provide health care facilities to the general public.

The legislature finds and declares that the health, safety, and general welfare of the people of the State require that the people of this State have adequate medical care and health facilities; that it is essential that not-for-profit corporations within the State

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

be provided with appropriate additional means to assist in reducing the cost of health care to the people of the State of Hawaii and in the development and maintenance of public health, health care, hospitals, and related facilities; that it is the purpose of this Act to assist not-for-profit corporations to reduce the cost of health care to the people of the State of Hawaii by assisting such corporations to refinance outstanding indebtedness incurred for health care facilities and to assist not-for-profit corporations to provide additional health care facilities and structures which are needed to accomplish the purposes of this Act; that the interest on borrowings necessary to provide health care facilities is a significant factor in the cost of providing health care to the general public and that the interest cost would be less if tax exempt bonds could be issued for the financing thereof; that the protection and promotion of the public health at the lowest practicable cost can be encouraged with the assistance of the State through the issuance of special purpose revenue bonds by the State to finance the cost of health care facilities provided by not-for-profit corporations to the general public; and that assisting the not-for-profit corporations providing health care facilities to the general public by the issuance by the State of special purpose revenue bonds to finance the cost of health care facilities is a valid public purpose and in the public interest.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . ASSISTING NOT-FOR-PROFIT  
CORPORATIONS THAT PROVIDE HEALTH CARE FACILITIES  
TO THE GENERAL PUBLIC**

Sec. -31 Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

- (1) "Department" means the department of budget and finance.
- (2) "Health care facility", "facility", or "project" means any facility for each single project or multi-project program of a project party and includes any structure or building suitable for use as a hospital, clinic, nursing home, home for the aged or infirm, or other health care facility; laboratory; laundry; nurses' or interns' residences; administration building; research facility; maintenance, storage, or utility facility; auditorium; dining hall; food service and preparation facility; mental or physical health care facility; dental care facility; nursing school; medical or dental school or teaching facility; mental or physical health facilities related to any such structure or facility; or any other structure or facility required or useful for the operation of a health care facility, including, but not limited to, offices, parking lots and garages, and other supporting service structures and all necessary, useful, and related equipment, furnishings, and appurtenances and including the acquisition, preparation, and development of all real and personal property necessary or convenient as a site or sites for any such structure or facility, and including the refinancing of outstanding obligations of a project party relating to any of the foregoing. "Health care facility", "facility", or "project" does not include any property used or to be used primarily for sectarian instruction or study or as a place for devotional activities or

religious worship or any property used or to be used primarily in connection with any part of a program of a school or department of divinity of any religious denomination.

- (3) "Project agreement" means any agreement entered into under this part by the department with a project party providing for the issuance of special purpose revenue bonds to finance facilities of a project party or for a project party or to loan the proceeds of such bonds to assist not-for-profit corporations that provide health care facilities to the general public, including without limitation any loan agreement.
- (4) "Project party" means a not-for-profit corporation that provides health care facilities to the general public.
- (5) "Refinancing of outstanding obligations" or "refinancing" means the liquidation, retirement, or provision for retirement with the proceeds of bonds issued by the State, of any indebtedness of a project party incurred to finance or aid in financing a lawful purpose of such project party not financed pursuant to this part which constitutes a health care facility or consolidation of such indebtedness with indebtedness of the State incurred for a health care facility related to the purpose for which the indebtedness of the project party was initially incurred.
- (6) "Special purpose revenue bonds" or "bonds" means bonds, notes, or other evidences of indebtedness of the State issued pursuant to this part.

**Sec. -32 Department powers as to health care facilities.** In addition to powers which it may now have, the department shall have all powers necessary or convenient to accomplish the purposes of this part. The powers of the department include, but are not limited to, the following:

- (1) Notwithstanding and without compliance with sections 103-7 and 103-22, but with the approval of the governor, to enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and to enter into and carry out any agreement whereby the obligation of a project party under a project agreement will be unconditionally guaranteed by a person other than a project party.
- (2) To issue special purpose revenue bonds pursuant to and in accordance with this part.
- (3) To lend the proceeds of the special purpose revenue bonds issued for a project to the project party for use and application by the project party for the acquisition, purchase, construction, reconstruction, improvement, betterment, extension, or refinancing of outstanding obligations related to a project.
- (4) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for this project, to pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the department under the project agreement for the project for which such bonds are issued; to pledge and assign the interest and rights of the department under the project agreement or other agreement with respect to such project or such special purpose revenue bonds; and to pledge and assign any bond, debenture,

- note, or other evidence of indebtedness received by the department with respect to such project; or any combination of the foregoing.
- (5) To extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor.
- (6) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this part.

When the department finances or refinances a project by the issuance of special purpose revenue bonds as contemplated by this part, the State shall not exercise the power of eminent domain to acquire a project or any part thereof for lease or transfer to a project party, nor shall the State operate a project on behalf of a project party.

**Sec. -33 Compliance with state and local law.** The issuance of special purpose revenue bonds with respect to any project under this part shall not relieve any project party or other user of such project from the laws, ordinances, and rules and regulations of the State or any political subdivision thereof, or any departments or boards thereof with respect to the construction, operation, and maintenance of projects, compliance with health care planning laws or regulations, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project, and such laws shall be applicable to such party or such other user to the same extent it would be if the costs of the project were directly financed by the project party.

**Sec. -34 Conditions precedent to negotiating and entering into a project agreement.** The department prior to entering into negotiations with any project party shall require that the State shall be reimbursed for any and all costs and expenses (direct or indirect) incurred by it in implementing and administering this part, as determined by the department, even though a project agreement may not be entered into and may further require the deposit of moneys with the department for such reimbursement. Any amount of such deposit in excess of the amount required to reimburse the State shall be returned by the department to the party which has made such deposit. The State shall not be required to pay to the project party any interest or earnings on such deposit.

The department shall not enter into any project agreement with respect to any project unless the department shall first find and determine either that the project party is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project, or otherwise, or that the obligations of the project party under the project agreement will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through such project or otherwise.

**Sec. -35 Project agreement.** No special purpose revenue bonds shall be issued unless at the time of issuance the department shall have entered into a project agreement with respect to the project for the financing or refinancing of which such

revenue bonds are to be issued. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

- (1) To pay to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project is used or occupied by the project party, such sum or sums, at such time or times and in such amounts that will be at least sufficient:
  - (A) To pay the principal and interest on all special purpose revenue bonds issued with respect to the project as and when the same become due, including any premium payable upon any required redemption of such bonds;
  - (B) To establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds;
  - (C) To pay all fees and expenses (including the fees and expenses of the paying agents and trustees) incurred in connection with such special purpose revenue bonds; and
  - (D) To pay the expenses (direct or indirect) incurred by the State, as determined by the department, in administering such bonds or in carrying out the project agreement.
- (2) To operate, maintain, and repair the project as long as the same is used in the provision of health care to the general public, and to pay all costs of such operation, maintenance, and repair.

Moneys received by the department pursuant to paragraph (1)(D) of this section shall not be, nor be deemed to be, revenues of the project and shall be paid into the general fund of the State.

**Sec. -36 Issuance of special purpose revenue bonds to finance projects.**

In addition to the other powers which it may otherwise have, the department may issue special purpose revenue bonds to finance or refinance, the costs of facilities, of, or for, or to loan the proceeds of such bonds to assist project parties. All revenue bonds issued under this part are special purpose revenue bonds and the provisions of part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the department and not in the name of the State.

The department in determining the cost of any project, may also include the following: financing charges, fees, and expenses of any trustee and paying agents for special purpose revenue bonds issued to pay the cost of such project; interest on such bonds and the expenses of the State in connection with such bonds and the project to be financed or refinanced from the proceeds of such bonds accruing or incurred prior to and during the period of construction and for not exceeding twelve months thereafter; amounts necessary to establish or increase reserves for the special purpose revenue bonds; the cost of plans, specifications, studies, surveys, and estimates of costs and of revenues; other expenses incidental to determining the feasibility or practicability of the project; administration expenses; interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; fees and expenses incurred in connection with the refinancing of outstanding obligations; and such other costs, commissions, and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment, operation, or extension of the project, the financing or refinancing thereof,

placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of such bonds.

The legislature finds and determines that the exercise of the powers vested in the department by this part constitutes assistance to not-for-profit corporations serving the general public and that the issuance of special purpose revenue bonds to finance or to refinance facilities of, or for, or to loan the proceeds of such bonds to assist, project parties, is in the public interest.

**Sec. -37 Authorization of special purpose revenue bonds.** (a) Special purpose revenue bonds for each single project or multi-project program for health care facilities provided to the general public by not-for-profit corporations shall be authorized by a separate act of the legislature, by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of such bonds is in the public interest. Special purpose revenue bonds issued pursuant to this part may be in one or more series for each project. The special purpose revenue bonds of each issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not exceeding forty years from their date or dates, shall have such rank or priority and may be made redeemable before maturity at the option of the department, at such price or prices and under such terms and conditions, all as may be determined by the department. The department shall determine the form of the special purpose revenue bonds, including any interest coupons to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the department may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The department may sell special purpose revenue bonds in such manner, either at public or private sale, and for such price as it may determine.

(b) Prior to the preparation of definitive special purpose revenue bonds, the department may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

(c) Should any bond issued under this part or any coupon appertaining thereto become mutilated or be lost, stolen, or destroyed, the department may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of such mutilated bond or coupon, or in lieu of and in substitution for such lost, stolen, or destroyed bond or coupon. Such new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon has (1) paid the reasonable expense and charges in connection therewith, (2) in the case of a lost, stolen, or destroyed bond or coupon, has filed with the department or its fiduciary evidence satisfactory to such department or its fiduciary that such bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof, and (3) has furnished indemnity satisfactory to the department.

(d) The department in its discretion may provide that CUSIP identification numbers shall be printed on such bonds. In the event such numbers are imprinted on any such bonds (1) no such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted, and (2) no liability shall attach to the department or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for such bonds, by reason of such numbers or any use made thereof, including any use thereof made by the department, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The department in its discretion may require that all costs of obtaining and imprinting such numbers shall be paid by the purchaser of such bonds. For the purposes of this subsection, the term "CUSIP identification numbers" means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

**Sec. -38 Special purpose revenue bond anticipation notes.** Whenever the department shall have authorized the issuance of special purpose revenue bonds under this part, special purpose revenue bond anticipation notes of the department may be issued in anticipation of the issuance of such bonds and of the receipt of the proceeds of sale thereof, for the purposes for which such bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the department, and the maximum principal amount of such notes shall not exceed the authorized principal amount of such bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the revenues from which would be payable and by which would be secured such bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of such bonds, the maximum amount of bonds in anticipation of which the notes are issued that has been authorized shall be reduced by the amount of notes paid in such manner. The authorization, issuance, and the details of such notes shall be governed by the provisions of this part with respect to special purpose revenue bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this section, shall mature within five years from the date of the original note.

**Sec. -39 Powers with respect to and security for special purpose revenue bonds.** In order to secure the payment of any of the special purpose revenue bonds issued pursuant to this part, and interest thereon, or in connection with such bonds, the department shall have the power as to such bonds:

- (1) To pledge all or any part of the revenues derived by the department from the project agreement to the punctual payment of special purpose revenue bonds issued with respect to the project financed or refinanced from proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such revenues or receipts to any other bonds or any other obligations of the department for any other purpose, except as otherwise stated in the law providing for the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such revenues.

- (2) To pledge and assign the interest of the department under the project

- agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder.
- (3) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
  - (4) To covenant to set aside or pay over reserves and sinking funds for such bonds and as to the disposition thereof.
  - (5) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.
  - (6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, conditions, or obligation.
  - (7) To designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture or trust agreement or indenture or mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold, and administer the proceeds of the special purpose revenue bonds issued for the project and to apply the same to the purposes for which such bonds are issued, or to receive and receipt for, hold, and administer the revenues derived by the department under the project agreement and to apply such revenues to the payment of the principal and interest on such bonds, or both, and any excess revenues to the payment of expenses incurred by the State in administering such bonds or in carrying out the project agreement. In the event that such trustee shall be appointed, any trust indenture or trust agreement or indenture of mortgage entered into by the department with the trustee may contain whatever covenants and provisions as may be necessary or convenient or desirable in order to secure such bonds. The department may pledge and assign to the trustee the interest of the department under the project agreement and other agreements related thereto and the rights, duties, and obligations of the department thereunder, including the right to receive revenues thereunder. The department may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange, and redemption, as the department may deem necessary, advisable, or expedient, including without limitation the holding of the special purpose revenue bonds and coupons which have been paid and the supervision of the destruction thereof in accordance with law.
  - (8) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties.
  - (9) To make such covenants and do any and all acts and things as may be necessary or convenient or desirable in order to secure such bonds, notwithstanding that such covenants, acts, or things may not be enumerated herein;

it being the purpose hereof to give the department power to do all things in the issuance of such bonds and for their security that may be consistent with the Constitution of the State of Hawaii.

**Sec. -40 Security for special purpose revenue bonds.** Special purpose revenue bonds shall be payable solely from the revenues derived by the department from payments made to the department under the project agreement or other supplemental agreements entered into with respect to the project, and shall be secured solely by such revenues and by the pledges and assignments authorized by this part. All special purpose revenue bonds of the same issue subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic's and materialmen's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the project, for which such bonds have been issued, over and ahead of all special purpose revenue bonds of any issue payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the right and privilege may be reserved in any law authorizing the issuance of special purpose revenue bonds to subsequently issue additional special purpose revenue bonds, from time to time, payable from the revenues derived from such project agreement on a parity with the special purpose revenue bonds thereby authorized and the subsequently issued special purpose revenue bonds, date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with this part and the law authorizing the special purpose revenue bonds.

Notwithstanding any other provisions herein, all or part of the property constituting the project and all interest of the project party in the project and the revenues of the project party therefrom may be subjected to the present and future lien of any mortgage of the project party securing the project party's bonds, and the rights of the department and any trustee for the holders of the special purpose revenue bonds and the holders of the special purpose revenue bonds in the project and the revenues therefrom may be made subject to the prior lien of the project party's mortgage.

**Sec. -41 Special purpose revenue bonds not a general obligation of State.** No holder or holders of any special purpose revenue bonds issued under this part shall ever have the right to compel any exercise of taxing power of the State to pay such bonds or the interest thereon and no moneys other than the revenues pledged to such bonds shall be applied to the payment thereof. Each special purpose revenue bond issued under this part shall recite in substance that such bond, including interest thereon, is not a general obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that such bond is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the revenues specifically pledged thereto.

**Sec. -42 Validity of special purpose revenue bonds.** The special purpose revenue bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the department. The special purpose revenue bonds shall contain a recital that they are issued pursuant to

this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**Sec. -43 Use of revenues derived from project agreement.** The department shall have the right to appropriate, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

- (1) To pay when due all special purpose revenue bonds, premium, if any, and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (2) To the extent not paid by the project party to provide for all expenses of administration, operation, and maintenance of the project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, the department shall not transfer the revenues derived from the project agreement to the general fund of the State.

**Sec. -44 Special purpose revenue bonds exempt from taxation.** Special purpose revenue bonds and the income therefrom issued pursuant to this part shall be exempt from all state, county, and municipal taxation except inheritance, transfer, and estate taxes.

**Sec. -45 Exemption from taxation of department property.** All revenues derived by the department from any project or under the project agreement pertaining thereto shall be exempt from all state, county, and municipal taxation. Any right, title, and interest of the department in any project shall also be exempt from all state, county, and municipal taxation. Except as otherwise provided by law, the interest of the project party or user of such project in a project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the project were directly financed by the project party or other user.

**Sec. -46 Refunding special purpose revenue bonds.** The legislature, by act enacted by an affirmative vote of two-thirds of the members to which each house is entitled, may authorize the issuance of refunding special purpose revenue bonds for the purpose of refunding any special purpose revenue bonds then outstanding and issued under the provisions of this part, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. The legislature is further authorized to provide, by act finally enacted by an affirmative vote of two-thirds of the members to which each house is entitled, for the issuance of a single issue of special purpose revenue bonds for the combined purposes of (1) financing or refinancing the cost of a project or improvement or expansion thereof, and (2) refunding special purpose revenue bonds which shall theretofore have been issued under the provisions of this part and shall then be outstanding, whether or not such outstanding special purpose revenue bonds have matured or are then subject to redemption. Nothing in this section shall require or be deemed to require the legislature to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose revenue bonds being refunded which were issued in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any law authorizing the issuance thereof, or, in the

event the department elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of such special purpose revenue bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the department with respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable.

**Sec. -47 Status of special purpose revenue bonds under Uniform Commercial Code.** Notwithstanding any of the provisions of this part or any recitals in any special purpose revenue bonds issued under this part, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.

**Sec. -48 Special purpose revenue bonds as legal investments and lawful security.** The special purpose revenue bonds issued pursuant to this part shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. Such special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State and any and all public funds of counties or other political corporations or subdivisions of the State, and such bonds shall be lawful and sufficient security for such deposits to the extent of their value when accompanied by all unmatured coupons appertaining thereto.

**Sec. -49 Access to and public disclosure of financial records of project party.** (a) Each project party with a project agreement with the department shall allow the department full access to its financial records. Upon the request of the department for the examination of any such financial records, the project party shall allow the department to examine the requested records within a reasonably prompt time from the date of the request. If the department requests copies of the records, the project party shall provide the copies.

(b) To provide the public with full knowledge of the use of the proceeds and benefits derived from special purpose revenue bonds issued under this part, the department shall require each project party with a project agreement with the department to make available to the public all relevant financial records which pertain to the use of or savings resulting from the use of special purpose revenue bonds.

(c) The department shall adopt rules under chapter 91 for the purpose of this section.

**Sec. -50 Estimate of benefits.** (a) Each project party with a project agreement with the department shall estimate the benefits derived from the use of the proceeds of special purpose revenue bonds. The benefits estimated shall be based on a comparison between the use of the proceeds of the special purpose revenue bonds instead of other means of financing and shall be in terms of dollars projected to be or actually saved by consumers of the services of the project party. The format of and method for determining the estimates shall be established by the department and shall be uniform for each project party.

(b) To promote public understanding of the role played by special purpose

revenue bonds in providing less costly services by a project party to the general public, the department shall take appropriate steps to ensure public access to and scrutiny of the estimates determined under subsection (a).

(c) The department shall adopt rules under chapter 91 for the purposes of this section.

**Sec. -51 Construction of this part.** The powers conferred by this part shall be in addition and supplemental to the powers conferred by any other law. Insofar as the provisions of this part are inconsistent with the provisions of any other law, this part shall be controlling.

**Sec. -52 Sunset provision.** After June 30, 1986 no new special purpose revenue bonds shall be issued under this part."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

## ACT 256

H.B. NO. 687

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 281-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Standard bar" means any establishment licensed to sell liquor for consumption on the premises, except:

- (1) Premises in which a person performs or entertains unclothed or in attire restricted to use by entertainers pursuant to commission regulations; or
- (2) Premises in which live or recorded music is played and with facilities for dancing by the patrons are provided; or
- (3) Premises in which employees or entertainers consume non-alcoholic beverages while in the company of patrons or sit with patrons."

SECTION 2. Section 281-41, Hawaii Revised Statutes, is amended to read:

**"Sec. 281-41 Transfer of licenses; notice of change in officers, directors and stockholders of corporate licenses; penalty.** No license issued under this chapter to an original applicant or to any transferee shall be transferable or be transferred within one year of such issuance or transfer except for good cause shown to the satisfaction of the liquor commission. No license issued under this chapter shall be transferable or be transferred except upon written application to the commission by the proposed transferee, and after prior inspection of the premises, reference to, and report by an inspector, and a public hearing held by the commission not less than fourteen days after one publication of notice thereof, but without sending notice of the

hearing by mail to persons being the owners or lessees of real estate situated within the vicinity of the premises and without the right to such owners or lessees to protest the transfer of a license; provided that no class 5 or 12 license issued to a standard bar as defined in section 281-1, shall be transferable to other than a standard bar, and that such license shall be subject to revocation if the licensed premise is not retained as a standard bar except upon written application to the commission by the licensee and/or the proposed transferee, subject to sections 281-51 to 281-60.

Where a license is held by a partnership, the commission may, notwithstanding this section, transfer the license upon the death or withdrawal of a member of the partnership to any remaining partner or partners without publication of notice and without public hearing.

Where a license is held by a limited partnership, the admission or withdrawal of a limited partner shall not be deemed a transfer of the license held by the partnership, but the licensee shall, prior to such admission or withdrawal, so notify the commission in writing, stating the name of the partner or partners who have withdrawn, if such be the case, and the name, age, and place of residence of the partner or partners who have been admitted, if that be the case. If the commission finds a limited partner to be an unfit or improper person to hold a license in his own right pursuant to section 281-45, it may revoke the license or suspend the license of the partnership until the unfit or improper partner is removed or replaced.

Except as otherwise provided in this section, the same procedure shall be followed in regard to the transfer of a license as is prescribed by this chapter for obtaining a license. Sections 281-51 to 281-60, except where inconsistent with any provision hereof, are hereby made applicable to such transfers. The word "applicant", as used in such sections, shall include each such proposed transferee, and the words, "application for a license or for the renewal of a license", as used in such sections, shall include an application for the transfer of a license.

Upon the hearing, the commission shall consider the application and any objections to the granting thereof, and hear the parties in interest. It shall inquire into the propriety of each transfer and determine whether the proposed transferee is a fit person to hold the license. It may approve a transfer or refuse to approve a transfer, and the refusal by the commission to approve a transfer shall be final and conclusive, unless an appeal is taken as provided in chapter 91.

If any licensee without such approval transfers to any other person his business for which his license was issued, either openly or under any undisclosed arrangement whereby any person other than the licensee comes into possession or control of the business, or takes in any partner or associate the commission may in its discretion suspend or cancel the license.

If the licensee is a corporation, a change in ownership of any outstanding capital stock shall not be deemed a transfer of a license; provided that in the case of a change in ownership of twenty-five per cent or more of the stock or in the case of change in ownership of any number of shares of the stock which results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding capital stock, the corporate licensee shall, prior to the date of such transfer, apply for and secure the approval of the transfer from the commission in writing. If the commission finds that the proposed transferee is an unfit or improper person to

hold a license in his own right pursuant to section 281-45, it shall not approve the proposed transfer. If any transfer is made without the prior approval of the commission, the commission may in its discretion revoke or suspend the license until it determines that the transferee is a fit and proper person, and if the commission finds that the transferee is not a fit and proper person, until a retransfer or new transfer of the capital stock is made to a fit and proper person pursuant to section 281-45. In addition, the corporate licensee shall, within thirty days from the date of election of any officer or director, notify the commission in writing of the name, age, and place of residence of such officer or director. If the commission finds the transferee, officer or director an unfit or improper person to hold a license in his own right pursuant to section 281-45, it may in its discretion revoke the license or suspend the license until a retransfer or new transfer of such capital stock is effected to a fit or proper person pursuant to section 281-45 or until the unfit or improper officer or director is removed or replaced by a fit and proper person pursuant to section 281-45.

If a licensee closes out the business for which the license is held, during the term for which the license was issued, he shall, within five days from the date of closing the same, give the commission written notice thereof and surrender his license for cancellation."

### SECTION 3. Section 281-57, Hawaii Revised Statutes, is amended to read:

**"Sec. 281-57 Notice.** Upon the filing of the inspector's report upon any application the liquor commission may hold a preliminary hearing and upon such preliminary hearing it may deny the application. If no preliminary hearing is had or if the application is not denied upon a preliminary hearing, the commission shall fix a day for the public hearing of the application (other than an application for an alcohol license or a license in classes 7 to 10) and shall publish notice of the hearing at least once in each of two consecutive weeks (two insertions) in some newspaper published in the English language in the county (or if there be none such then in the city and county of Honolulu) having a general circulation in the county, the date of the hearing to be not less than twenty-one days after the first publication. The notice shall require that all protests or objections against the issuance of the license applied for shall be filed with the secretary of the commission at or before the time of hearing. Before making such publication the commission shall collect from the applicant the cost of making the publication or require a deposit to cover the same.

Immediately upon the commission's fixing a day for the public hearing of the application, the applicant shall mail a notice setting forth the time and place of the hearing on the application to not less than two-thirds of the persons being the owners or lessees of real estate situated within a distance of five hundred feet from the nearest point of the premises for which the license is asked to the nearest point of such real estate, not less than twenty-one days prior to the date set for the hearing of the application; provided that before the hearing the applicant shall file with the commission an affidavit as to such mailing of notice and provided further that in meeting this requirement, the applicant shall mail a notice to not less than three-fourths of the persons being the owners or lessees of real estate situated within a distance of one hundred feet from the nearest point of the premises as provided herein. Notice by mail may be addressed to the last known address of the person concerned or to the address as shown in the last tax return filed by him or his agent or representative. In addition,

## **ACT 257**

for each condominium project within the affected area, one notice of the hearing shall be sent by mail addressed "To the Residents, Care of the Manager", followed by the name and address of the condominium involved."

**SECTION 4. 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 every other provision thereof shall not be effected thereby.

**SECTION 5.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 6.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

**ACT 257**

H.B. NO. 1610

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.** Notwithstanding any other law to the contrary, the State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the Hawaii public employees health fund an amount appropriate for each jurisdiction for the payment of the appropriate charge attributable to the special benefit improvements for pregnancy, childbirth, and other related medical conditions within an employee-beneficiary's health benefits plan for the period July 1, 1979 to June 30, 1980 which are mandated by the 1978 amendment under Public Law 95-555, 92 Stat. 2076 to the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 253), as amended.

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$161,000, or so much thereof as may be necessary for fiscal year 1980-1981, for the State's payment to the Hawaii public employees health fund under this Act. The sum appropriated shall be expended by the department of budget and finance for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1981 shall lapse into the general fund.

**SECTION 3.** This Act shall take effect on July 1, 1980.

(Approved June 13, 1980.)

**ACT 258**

H.B. NO. 1964-80

A Bill for an Act Relating to the Public Employee Compensation Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 77-2, Hawaii Revised Statutes, is amended to read as

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

follows:

**"Sec. 77-2 Purpose of this chapter; statement of policy.** It is the purpose of this chapter to establish a sound statewide system under which it will be possible to attract and retain competent persons for the government service, to establish and maintain a high level of efficiency of employees and to adequately compensate them for the work they do.

It is also the purpose of this chapter that in so compensating employees in the civil service, due consideration shall be given to a decent standard of living and to the ability of the people to pay for such service. In order to effectively achieve this purpose, it is the declared policy of the State that the compensation for public employees be set and determined after careful consideration of at least the following factors:

- (1) The general economic condition of the State;
- (2) Conditions of the labor market;
- (3) The appropriate cost of living index;
- (4) The minimum standard of living which is compatible with decency and health;
- (5) The amount of compensation which is offered by employers competing for labor sought by the government with due consideration being given to compensation offered or paid of a non-monetary character and with proper concern over apparent economic trends.

Each director may conduct studies consistent with the purposes and policies expressed in this section. A director may enter into cooperative arrangements with other public and private agencies in the conduct of such studies."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 259

H.B. NO. 1985-80

A Bill for an Act Relating to Corporations.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 416-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-4 Directors, qualifications of.** The directors of every corporation shall be one or more in number, if the corporation has only one stockholder. If the corporation has two stockholders, the corporation shall have two or more directors. If the corporation has three or more stockholders or any number of members, the corporation shall have three or more directors. In any event, at least one member of every board of directors shall be a resident of the State. In the absence of one such

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

member, no board of directors shall function.

An act done in derogation of the above shall be void in any action brought by any stockholder or member."

SECTION 2. Section 416-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-11 Creation by articles of incorporation.** Any number of persons not less than one desiring to form a corporation shall execute articles of incorporation and acknowledge the same before any officer authorized to take acknowledgements. The articles shall contain the following particulars:

- (1) The name of the corporation, which shall include as the last word thereof the word "Limited", "Incorporated", or "Corporation" or the abbreviation "Ltd.", "Inc.", or "Corp.;"
- (2) The place of its principal office in Hawaii and also the street or mailing address (including zip code) of the initial office;
- (3) The period of duration, which may be perpetual;
- (4) The primary specific purpose, and such other purposes for which the corporation is organized which may be stated to be, or to include, the transaction of any or all lawful business for which corporations may be incorporated under this chapter;
- (5) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of authorized shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value; and if the privilege of subsequent extensions of the authorized capital stock is reserved the limit of the extension.
- (6) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations, and relative rights in respect of the shares of each class;
- (7) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;
- (8) If any preemptive right is to be granted to shareholders, the provisions therefor;
- (9) The number of directors constituting the initial board of directors and the names and residence addresses of the persons who are to serve as officers and directors until the first annual meeting of shareholders or until their successors be elected and qualify;
- (10) The names of the initial subscribers for shares of each class and the number of shares subscribed for;
- (11) The subscription price or prices for the shares of each class subscribed for by each initial subscriber, and, if it is to be paid in other than cash, the

- consideration in which it is to be paid;
- (12) The amount of capital and paid-in surplus, if any, paid in by each initial subscriber, separately stating the amount paid in cash and in property."

SECTION 3. Section 416-15, Hawaii Revised Statutes, is repealed.

SECTION 4. Section 416-16, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-16 Powers and liabilities.** On the filing of the articles of association the persons who have subscribed the articles, their associates, successors, and assigns, shall thereafter be deemed to be and be a body corporate by the name and style provided in the articles, shall have succession and corporate existence for such period of duration as is agreed upon, which may be perpetual; shall have all of the powers and be subject to all of the liabilities provided by law for corporations; and shall be subject to all general laws then in effect or thereafter enacted in regard to corporations."

SECTION 5. Section 416-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-17 Capital necessary to engage in business; liability of directors.**

No corporation for profit shall upon the incorporation thereof engage in business in the State until not less than \$1,000 of its authorized capital stock has been paid in by the acquisition of cash or by the acquisition of property of a net value of not less than \$1,000. In case of any violation of this section by any corporation, the incorporators and the directors thereof at the time the corporation commences to engage in business shall in their individual and private capacities be jointly and severally liable to the corporation and the stockholders and creditors thereof in the event of its bankruptcy or insolvency or in the event of its dissolution for any loss suffered by the corporation or its stockholders or creditors unless the incorporators and directors can establish that the loss did not occur by reason of the violation."

SECTION 6. Section 416-19, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-19 Nonprofit corporations; charter grant of.** The director of regulatory agencies shall grant to all applicants who file petitions in conformity with section 416-20, charters of incorporation for the establishment and conduct of any lawful purpose, except the carrying on of a business, trade, avocation, or profession for profit. Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to corporations."

SECTION 7. Section 416-78, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-78 Consent of stockholders in lieu of meeting.** Whenever the vote of stockholders or members at a meeting thereof is required or permitted to be taken in connection with any corporate action permitted by any section of this chapter or of chapter 417, the meeting and vote of stockholders or members may be dispensed with if all of the stockholders or members who would have been entitled to vote upon the action if the meeting were held, consent in writing to the corporate action being taken. If the action which is consented to is such as would have required the filing of a certificate under any section of this chapter or of chapter 417 if the action had been voted upon by the stockholders or members at a meeting thereof, the certificate filed under such section shall state that written consent has been given in lieu of stating that

the stockholders or members have voted upon the corporate action in question if the last mentioned statement is required in the certificate."

SECTION 8. Section 416-95, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-95 Annual exhibit; inspection by whom; penalty.** Every corporation organized for profit under this chapter shall by March 31 of each year, file with the director of regulatory agencies an exhibit of its state of affairs as of December 31 of the preceding year. Such exhibit shall contain such information as the director shall prescribe.

Examination of books, etc., by director. The director may call for the production of the books and papers of the corporation, and examine its officers, members, and others touching its affairs, under oath. In case any corporation refuses to produce its books and papers upon the request of the director, or in case any of the officers or members of any corporation refuse to be examined on oath, touching the affairs of the corporation, then the director may apply to a circuit court for an order to compel the production of the books and papers or the examination of the officers or members of the corporation, obedience to which order may be enforced by the judge, in like manner with his ordinary decrees and orders.

Penalty. Any corporation violating or neglecting or failing in any particular to conform to or comply with any of the provisions of this section shall be subject to a forfeiture of an amount to be determined by the director not exceeding \$100 for every such violation, neglect or failure, to be recovered by action brought in the name of the State by the director. A continuance of a failure to file the required exhibit shall be a separate offense for each thirty days of the continuance. The director may, for good cause shown, waive the penalty imposed by this section."

SECTION 9. Section 416-96, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-96 Nonprofit corporations, exhibits of.** Every nonprofit corporation shall by March 31 of each year, file with the director of regulatory agencies an exhibit of its state of affairs as of December 31 of the preceding year. Such exhibit shall contain such information as the director shall prescribe."

SECTION 10. Section 416-97, Hawaii Revised Statutes, is amended to read:

**"Sec. 416-97 Fees; amount.** The following fees shall be paid to the director of regulatory agencies upon the filing of the corporate documents:

- (1) Articles of incorporation and affidavit of incorporation, 20 cents per \$1,000 authorized capital, \$50 minimum, \$1,000 maximum;
- (2) Certificate of increase of authorized capital stock, 20 cents per \$1,000 authorized capital increase, \$20 minimum, \$1,000 maximum;
- (3) Certificate of renewal or extension of corporate existence, same as the filing of articles of incorporation;
- (4) Certificate of reduction of capital stock, \$15;
- (5) Certificate of amendment of articles of incorporation, \$10;
- (6) Agreement of merger or consolidation, \$50;
- (7) Annual corporation exhibit of domestic and foreign corporations organized for profit, \$10;
- (8) Certificate of dissolution, \$5;

- (9) Resolution of issuance of preferred stock, \$10;
- (10) Certification, 10 cents per page or any portion thereof;
- (11) Petition and charter of incorporation of nonprofit corporation, \$10;
- (12) Certificate of amendment and renewal or extension of charter of nonprofit corporation, \$5;
- (13) Articles of incorporation of agricultural and fishing cooperatives without capital stock, \$15;
- (14) Restated articles of incorporation: corporations with an authorized capital of less than \$500,000, \$20; corporations with an authorized capital of \$500,000 or more, \$100;
- (15) Annual exhibit of nonprofit domestic and foreign corporations, \$1;
- (16) Agreement of merger or consolidation of nonprofit corporations, \$5."

SECTION 11. Section 417-53, Hawaii Revised Statutes, is amended to read:

**"Sec. 417-53 Merger; necessary statement.** If the agreement is for a merger, it shall state any matters in respect of which the charter of the incorporation of the surviving nonprofit corporation is proposed to be amended, and shall set forth or incorporate as part thereof the proposed charter of incorporation as amended, and the charter of incorporation shall be deemed to be the amended charter of incorporation of the surviving nonprofit corporation upon the allowance of the merger agreement by the director of regulatory agencies. The amended charter of incorporation of the surviving nonprofit corporation may provide for the extension of the term of its corporate existence, and may contain all the powers and privileges that could lawfully be conferred or obtained in an original charter of incorporation."

SECTION 12. Section 418-5, Hawaii Revised Statutes, is amended to read:

**"Sec. 418-5 Additional requirements in case of amendment of charter, merger, or consolidation.** Every foreign corporation qualified to do business in this State which shall amend its charter so as to change its corporate name or shall be a party to a merger or consolidation shall, within thirty days after the time the amendment or merger or consolidation becomes effective, file with the director of regulatory agencies a certificate by the official who has custody of the records pertaining to corporations in the jurisdiction in which the corporation shall have been incorporated, certifying as to the change of name, merger, or consolidation. If such certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto. A copy of the amendment or a copy of the articles of merger or consolidation, duly certified by the proper officer of the jurisdiction in which the corporation shall have been incorporated, shall be filed with the director of regulatory agencies if the director so requests."

SECTION 13. Section 418-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 418-9 Annual license mandatory, exceptions; fees.** No foreign corporation except foreign insurance companies and foreign nonprofit corporations shall do or carry on business in the State unless it shall first have obtained from the director of regulatory agencies an annual license to do so. Every corporation shall pay to the director of regulatory agencies an annual license fee of \$100. The license fee shall be assessed on the basis of the fiscal year from July 1 to June 30. The first license fee due

upon qualification shall be prorated according to the month of qualification and shall be as follows:

July—December \$100

January—June \$50.

The director may settle and collect an account against any corporation violating this section for the amount of the license fee together with a penalty of fifty per cent for failure to pay the same; provided, that no license shall be necessary for any corporation while solely employed by the government of the United States. The director may, for good cause shown, reduce or waive the penalty."

SECTION 14. Section 418-11, Hawaii Revised Statutes, is amended to read:

**"Sec. 418-11 Annual exhibit.** (a) Every corporation qualified under section 418-1 shall file by March 31 of each year, with the director of regulatory agencies an exhibit of its state of affairs, as of December 31 of the preceding year together with a remittance of \$10 to cover the filing fee. Such exhibit shall contain such information as the director shall prescribe.

(b) Every corporation qualifying under section 418-2 shall file by March 31 of each year, with the director of regulatory agencies an exhibit of its state of affairs as of December 31 of the preceding year together with a remittance of \$1 to cover the filing fee. Such exhibit shall contain such information as the director shall prescribe."

SECTION 15. Section 419-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 419-2 Application for charter; petition; contents.** Application to the director of regulatory agencies for a charter of incorporation under this chapter shall be made by a written petition, verified by the bishop, chief priest, presiding elder, or other presiding officer forming the corporation sole. The petition shall set forth:

- (1) The name of the corporation;
- (2) The name and address of the officer forming the corporation, the office which he holds in the church, and that he is duly authorized by the rules, regulations, or discipline of the church to take the action;
- (3) The boundaries of the district subject to the ecclesiastical jurisdiction of the officer forming the corporation sole, in accordance with the rules, regulations, or discipline of the church;
- (4) The place of the principal office of the corporation sole, which shall be in the State;
- (5) The term for which the corporation sole is organized, which may be perpetual;
- (6) The manner in which any vacancy occurring in the office of the bishop, chief priest, presiding elder, or other presiding officer forming the corporation sole is required to be filled by the rules, regulations, or constitution of the church;
- (7) Additional powers to be set forth in its charter, in accordance with section 416-27;
- (8) Any lawful provision for the regulation of the affairs of the corporation sole, including restrictions upon the power to amend all or any part of the charter;
- (9) That the corporation is not organized for profit.

If any petition for a charter of incorporation presented to the director under this chapter is not in conformity with the requirements of this section the director shall, within fifteen days, return the same to the petitioner specifying wherein the same fails to conform with this section and the petitioner may amend the petition and present it so amended. A proposed form of the charter of incorporation shall accompany the petition. The director may require additional proofs from the petitioner. If the petition or amended petition and the proposed charter are in conformity with law, the director shall grant to the applicant a charter of incorporation as a corporation sole."

**SECTION 16.** Section 419-4, Hawaii Revised Statutes, is amended to read:

**"Sec. 419-4 Amendment of charter.** Subject to the provisos set forth in this section, and subject to any lawful restrictions upon the power to amend the charter of a corporation sole, set forth in its petition filed under section 419-2, the incumbent of the corporation may at any time amend the charter of the corporation by changing its name, the term of its existence, the boundaries of the district subject to its jurisdiction, the place of its principal office, the manner of filling any vacancy in the incumbency thereof, its powers, or any provision of the charter for the regulation of the affairs of the corporation (except restrictions upon the power to amend the charter), and may, by amendment of the charter, make provision for any act or thing for which provision is authorized in original charters of corporations sole formed under this chapter.

The incumbent of the corporation sole shall subscribe and verify a certificate which shall set forth the amendment either by stating that the charter has been amended to read as set forth in the certificate in full or by stating that any provision or provisions of the charter, which shall be identified by the numerical or other designation or designations thereof in the charter or by stating the wording thereof, has or have been amended to read as set forth in the certificate. The certificate shall further state that the amendment has been duly authorized by the rules, regulations, or discipline of the church of which the incumbent is an officer; provided, that no amendment shall confer any other or greater powers or privileges than could lawfully be conferred or obtained in an original charter; provided, further, that no amendment shall become effective unless the same is allowed by the director of regulatory agencies."

**SECTION 17.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 18.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 1. Section 531-29, Hawaii Revised Statutes, is amended to read:

**"Sec. 531-29 Confirmation of sales of real property by personal representatives.** Any personal representative or guardian selling real property of the estate shall obtain from the court an order of confirmation of the sale before making conveyance of the real property sold. The order confirming the sale shall be given upon affirmative proof that the selling price was a fair and just price for the property sold and that the sale complied with the order of the court authorizing the sale.

If a sale being presented to the court for confirmation is a private sale, the court shall require a notice of the sale to be posted in an appropriate place in the courthouse of the circuit wherein the matter is pending and also of the circuit wherein the property is located, if they are different, at least fifteen days prior to considering the confirmation, the notice to set forth a description of the property, including the tax key number, the proposed sale price including the terms of payment, a description of any encumbrances thereon, the date of the confirmation hearing and a solicitation for sealed bids thereon or any other information required by the court. The court may also require that the notice be published at least twice in a newspaper in the circuit where the property is located, the last publication to be at least fifteen days prior to considering the confirmation. If a written offer in an amount at least ten per cent more on the first \$10,000 of the selling price and five percent more on the amount of the selling price in excess of \$10,000 is made to the court by a responsible person, who may be the original offeror, prior to the hour scheduled for the hearing of confirmation, the court upon the hearing of confirmation, shall permit the original and subsequent offerors to make a further offer, and if any new offer shall be in an amount at least five per cent more than the highest written offer made to the court, then the court shall, in such manner as it shall determine, permit the original and subsequent offerors to make additional higher offers and shall confirm the sale to the one making the highest offer acceptable to the estate finally received.

Upon the confirmation of any sale, the court may fix the compensation for the services to the estate of the personal representative or guardian, his attorney, or the real estate agent securing the original offeror. In case of a sale on an increased bid made at the time of confirmation to a purchaser other than the original offeror, the court shall also fix the compensation payable by the estate to the agent, if any, producing the successful bidder, but the total compensation payable by the estate in that case shall not exceed the amount of the commission payable on the amount for which the sale is confirmed."

SECTION 2. Chapter 531, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 531- Petition to sell real property.** In cases where the will of the decedent does not specifically authorize the personal representative to sell real property, a personal representative or guardian shall present to the court having jurisdiction of the estate a petition setting forth the condition of the estate, and the facts and circumstances tending to show the necessity or expediency of the sale of real property. If it appears to the court either that it is necessary or that it would be advisable and for the benefit of the estate that the real property or any part thereof be sold, and that sufficient notice of the proposed sale has been given to interested persons as

defined in section 560:1-201(24), the court may authorize the personal representative or guardian to sell the real property either at private sale or at public auction on such terms as the court shall order."

SECTION 3. Section 560:3-715, Hawaii Revised Statutes, is amended to read:

**"Sec. 560:3-715 Transactions authorized for personal representatives; exceptions.** Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to sections 531- and 531-29, and the priorities stated in section 560:3-902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

- (1) Retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;
- (2) Receive assets from fiduciaries, or other sources;
- (3) Perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as he may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other courses of action, may:
  - (i) Execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or
  - (ii) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;
- (4) Satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;
- (5) If funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements or other prudent investments which would be reasonable for use by trustees generally;
- (6) Acquire or, subject to sections 531- and 531-29, dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;
- (7) Make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;
- (8) Subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate

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- easements to public use without consideration;
- (9) Enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;
  - (10) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;
  - (11) Abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in a condition that it is of no benefit to the estate;
  - (12) Vote stocks or other securities in person or by general or limited proxy;
  - (13) Pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;
  - (14) Hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held;
  - (15) Insure the assets of the estate against damage, loss and liability and himself against liability as to third persons;
  - (16) Borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;
  - (17) Effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon property of another person, he may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;
  - (18) Pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate;
  - (19) Sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
  - (20) Allocate items of income or expense to either estate income or principal, as permitted or provided by law;
  - (21) Employ persons, including attorneys, auditors, appraisers, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of his administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;
  - (22) Prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of his duties;
  - (23) Subject to sections 531- and 531-29, sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit, and with or without security for unpaid balances;
  - (24) Continue any unincorporated business or venture in which the decedent was engaged at the time of his death (i) in the same business form for a

period of not more than four months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will; (ii) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;

- (25) Incorporate any business or venture in which the decedent was engaged at the time of his death;
- (26) Provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;
- (27) Satisfy and settle claims and distribute the estate as provided in this chapter."

SECTION 4. Section 560:3-704, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-704 Personal representative to proceed without court order; exceptions.** A personal representative shall proceed expeditiously with the settlement and distribution of a decedent's estate and, except as otherwise provided in section 560:3-504, in Part 10 hereof, or in sections 531- and 531-29, or as otherwise specified or ordered in regard to a supervised personal representative, do so without adjudication, order, or direction of the court, but he may invoke the jurisdiction of the court, in proceedings authorized by this chapter, to resolve questions concerning the estate or its administration."

SECTION 5. Section 560:3-719, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-719 Compensation of the personal representative.** (a) A personal representative is entitled to reasonable compensation for his services, as set forth in subsection (b) of this section, which compensation shall be set forth in his final accounts and shall be approved by the court as provided in section 560:3-1001 or 560:3-1003. If a will provides for compensation of the personal representative and there is no contract with the decedent regarding compensation, he may renounce the provision before qualifying and be entitled to reasonable compensation, as set forth in subsection (b) of this section. A personal representative also may renounce his right to all or any part of the compensation. A written renunciation of fee may be filed with the court.

(b) A personal representative is entitled to a reasonable fee for the ordinary services rendered by him to an estate at the following rates computed on the value of the probate assets as of the date of the death of the decedent as finally determined for federal estate tax purposes or, if none, for state inheritance tax purposes: four per cent of the first \$15,000, three per cent of the next \$85,000, two per cent of the next \$900,000, one and one-half per cent of the next \$2,000,000, one per cent of the excess over \$3,000,000. In addition, the personal representative shall be entitled to receive seven per cent of the first \$5,000 of income received by the estate each year,

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and five per cent of the income of the estate received each year in excess of \$5,000. In addition, the personal representative shall be entitled to such further allowances as the court deems just and reasonable for services performed in connection with sales, leases, or management of real estate; contested or litigated claims against the estate; the preparation, adjustment, and payment of estate, inheritance, and income taxes and the return therefor; the carrying on of the decedent's business; litigation or settlement of disputes in regard to the estate; and such other special services as may be necessary for the personal representative to perform, prosecute, or defend."

**SECTION 6.** Section 560:3-721, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-721 Compensation of employees of estate.** (a) Except as set forth in subsection (b) of this section, the propriety of employment of any person by a personal representative including any attorney, auditor, investment advisor or other specialized agent or assistant, the reasonableness of the compensation of any person so employed, or the reasonableness of the compensation determined by the personal representative for his own special services, may be reviewed by the court or the registrar at the time of its approval of the final account. Any person who has received excessive compensation from an estate for services rendered may be ordered to make appropriate refunds.

(b) The attorney employed by the personal representative shall be entitled to a fee for the attorney's ordinary services to the estate equal to that paid the personal representative under section 560:3-719 for the personal representative's ordinary services, except that the attorney shall not be allowed a fee based upon the income of the estate. The attorney shall be entitled to reasonable compensation for extraordinary services rendered to the estate."

**SECTION 7.** Section 560:3-901, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:3-901 Successors' rights.** The heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. Heirs and devisees may establish title by conveyance document executed by the personal representative or by the order of distribution which shall itself operate to pass title without the necessity of further action by the personal representative unless the court orders any such further action. Persons entitled to property by homestead allowance or exemption may establish title thereto by proof of the decedent's ownership, his death, and their relationship to the decedent. Successors take subject to all charges incident to administration, including the claims of creditors and allowances of surviving spouse and dependent children, and subject to the rights of others resulting from abatement, retainer, advancement, and ademption."

**SECTION 8.** Section 560:5-424, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 560:5-424 Powers of guardian of the property in administration.** Subject to the restrictions of sections 531-29, 560:5-408(4), and 560:5-422:

(a) A guardian of the property has all of the powers conferred herein and any additional powers conferred by law on trustees in this State. In addition, an individual

guardian of the property of an unmarried minor, as to whom no one has parental rights, has the duties and powers of a guardian of the person of a minor described in section 560:5-209 until the minor marries, but the parental rights so conferred on a guardian of the property do not preclude appointment of a guardian of the person as provided by Part 2.

(b) A guardian of the property has power without court authorization or confirmation, to invest and reinvest funds of the estate as would a trustee.

(c) A guardian of the property, acting reasonably in efforts to accomplish the purpose for which he was appointed, may act without court authorization or confirmation, to:

- (1) Collect, hold, and retain assets of the estate including land in another state, until, in his judgment, disposition of the assets should be made, and the assets may be retained even though they include an asset in which he is personally interested;
- (2) Receive additions to the estate;
- (3) Continue or participate in the operation of any business or other enterprise;
- (4) Acquire an undivided interest in an estate asset in which the guardian of the property, in any fiduciary capacity, holds an undivided interest;
- (5) Invest and reinvest estate assets in accordance with subsection (b);
- (6) Deposit estate funds in a bank including a bank operated by the guardian of the property;
- (7) Acquire or dispose of an estate asset including land in another state for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;
- (8) Make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;
- (9) Subdivide, develop, or dedicate land to public use; to make or obtain the vacation of plats and adjust boundaries; to adjust differences in valuation on exchange or to partition by giving or receiving considerations; and to dedicate easements to public use without consideration;
- (10) Enter for any purpose into a lease as lessor or lessee with or without option to purchase or renew for a term within or extending beyond the term of the guardianship;
- (11) Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;
- (12) Grant an option involving disposition of an estate asset, to take an option for the acquisition of any asset;
- (13) Vote a security, in person or by general or limited proxy;
- (14) Pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;
- (15) Sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
- (16) Hold a security in the name of a nominee or in other form without disclosure

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of the guardianship so that title to the security may pass by delivery, but the guardian of the person is liable for any act of the nominee in connection with the stock so held;

- (17) Insure the assets of the estate against damage or loss, and the guardian of the property against liability with respect to third persons;
- (18) Borrow money to be repaid from estate assets or otherwise; to advance money for the protection of the estate or the protected person, and for all expenses, losses, and liability sustained in the administration of the estate or because of the holding or ownership of any estate assets and the guardian of the property has a lien on the estate as against the protected person for advances so made;
- (19) Pay or contest any claim; to settle a claim by or against the estate or the protected person by compromise, arbitration, or otherwise; and to release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible;
- (20) Pay taxes, assessments, compensation of the guardian of the property, and other expenses incurred in the collection, care, administration, and protection of the estate;
- (21) Allocate items of income or expense to either estate income or principal, as provided by law, including creation of reserves out of income for depreciation, obsolescence, or amortization, or for depletion in mineral or timber properties;
- (22) Pay any sum distributable to a protected person or his dependent, without liability to the guardian of the property by paying the sum to the distributee or by paying the sum for the use of the distributee either to his guardian or if none, to a relative or other person with custody of his person;
- (23) Employ persons, including attorneys, auditors, investment advisors, or agents, even though they are associated with the guardian of the property to advise or assist him in the performance of his administrative duties; to act upon their recommendation without independent investigation; and instead of acting personally, to employ one or more agents to perform any act of administration, whether or not discretionary;
- (24) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of estate assets and of the guardian of the property in the performance of his duties; and
- (25) Execute and deliver all instruments which will accomplish or facilitate the exercise of the powers vested in the guardian of the property."

**SECTION 9.** Section 560:3-303, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) In an informal proceeding for original probate of a will, the registrar shall determine whether:

- (1) The application is complete;
- (2) The application states that the value of the estate is \$40,000 or less;
- (3) The applicant has made oath or affirmation that the statements contained in the application are accurate and complete to the best of his knowledge and belief;

- (4) The applicant appears from the application to be an interested person as defined in section 560:1-201(24);
- (5) Any requested statutory allowances or exempt property are proper;
- (6) The person nominated as personal representative has priority and is qualified to serve as such;
- (7) On the basis of the statements in the application, venue is proper;
- (8) An original, duly executed and apparently unrevoked will or a certified copy of one probated elsewhere is in the registrar's possession;
- (9) Notice required by sections 560:3-204 and 560:3-301 has been given;
- (10) The application is not within section 560:3-304; and
- (11) It appears from the application that the time limit contained in section 560:3-108 either has not expired or, in the case of an ancillary proceeding, is not applicable."

**SECTION 10.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 11.** This Act shall become effective upon its approval and shall apply to all pending probate proceedings in which an Order Approval Final Accounts or other order closing the administration of the estate has not been filed.

(Approved June 13, 1980.)

**ACT 261**

H.B. NO. 2071-80

A Bill for an Act Relating to Licensure of Independent Group Residences for Elderly, Handicapped or Disabled Persons.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** In January, 1979, the United States Department of Housing and Urban Development (HUD) adopted final regulations establishing an independent group residence as an eligible type of housing for elderly, handicapped, or disabled individuals residing in group residences where supportive services are provided, under the section 8 housing assistance payments program. As a result, elderly, handicapped, or disabled individuals, who otherwise satisfy the income requirement of the HUD program, were made eligible to receive housing supplements even if they lived in group living facilities where housing as well as services were provided.

Under the federal regulations allowing such persons to be certified as eligible to receive such federal supplements, the State must license, certify, or otherwise provide written approval of the group living facility. Such certification or licensure must include inspection and approval of the physical plant, as well as review and approval of the planned program and methods whereby supportive services will be provided.

Licensure of independent group residences as provided by this Act shall be solely for the purpose of facilitating the elderly, handicapped, or disabled individual's

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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receipt of federal housing supplements. The department of social services and housing's licensing function shall be independent of any state or county housing agency's functions under the HUD's section 8 housing assistance payments program; such state or county housing agencies shall continue to determine whether such individuals are otherwise eligible to receive the federal housing supplement and the amount of such assistance.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### **"PART LICENSURE OF INDEPENDENT GROUP RESIDENCES**

#### **Sec. 346- Definitions.** As used in this part:

"Independent group residence" means a residential space which contains a living room, dining area, kitchen area, appropriate social and recreational areas, and one or more bathrooms and bedrooms which is for the exclusive and private use of:

- (1) Two to twelve elderly, handicapped, or disabled individuals who are not capable of living completely independently and require a planned program of continued supportive services but who are not continuously confined to a bed, do not require continued medical or nursing care, and are capable of taking appropriate actions for their own safety under emergency conditions; and
- (2) One or more resident assistants, if any.

"Resident assistant" means a person or family who is unrelated to residents of an independent group residence by blood, marriage, or operation of law, does not contribute toward the expenses of such residents, and occupies no more than one bedroom in an independent group residence, who is essential to the care or well-being of such residents and provides some or all of the necessary supportive services which the residents require on a daily basis.

"Supportive services" include counseling; social services which promote physical activity, intellectual stimulation, or social motivation; training or assistance with activities of daily living including housekeeping, dressing, personal hygiene, and grooming; first aid skills in case of emergencies; supervision of self-administration of medications, diet, and nutrition; and assurance that residents obtain incidental medical care. Supportive services shall not include the provision of continual nursing, medical, or psychiatric care.

**Sec. 346- Licensure of independent group residences.** The department shall license independent group residences in accordance with federal requirements and standards established to ensure the quality of supportive services provided in independent group residences and that residents of such residences have a suitable living environment.

Licenses shall only be issued to public or private nonprofit organizations qualified to prepare and submit planned programs of supportive services suitable to the particular residence which the organization's members wish to establish.

Standards for licensure shall include minimal qualifications, quantity, and working hours of resident assistants or other persons providing continual supportive services as well as procedures and methods whereby the organization seeking licens-

sure plans to interface its activities into the section 8 housing assistance payments program of the United States Department of Housing and Urban Development. The "section 8 housing assistance payments program" means the program under section 8 of the United States Housing Act of 1927 (Chapter 396, 50 Stat. 888)†, as amended.

Nothing in this part shall be construed to include or affect facilities or homes licensed by the department, the department of health, or any other state agency which provides minimal assistance and supervision in living activities to adults.

**Sec. 346- Rules.** The department shall adopt such rules as are necessary to establish standards and procedures to carry out this part, in accordance with chapter 91.

**Sec. 346- Cooperation of other agencies.** The department of health, county building and fire protection agencies, and other appropriate state and county agencies shall cooperate with and assist the department in establishing standards and monitoring initial and on-going compliance with such standards by facilities seeking or obtaining a license for operation of an independent group residence."

**SECTION 3.** This Act shall take effect on July 1, 1980.

(Approved June 13, 1980.)

**ACT 262**

H.B. NO. 2091-80

A Bill for an Act Relating to Family Court Proceedings.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 571-41, Hawaii Revised Statutes, is amended to read:

**"Sec. 571-41 Procedure in children's cases.** Cases of children in proceedings under section 571-11(1) and (2) shall be heard by the court separate from hearings of adult cases and without a jury. Stenographic notes or mechanical recordings shall be required as in other civil cases in the circuit courts, unless the parties waive the right of such record or the court so orders. The hearings may be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded and only such persons admitted whose presence is requested by the parent or guardian or as the judge or district family judge finds to have a direct interest in the case or in the work of the court from the standpoint of the best interests of the child involved; provided that the victim of the alleged violation who is less than eighteen years of age, shall be entitled to have parents or guardians or one other adult present while testifying at or otherwise attending a hearing initiated pursuant to section 571-11(1) or 571-11(2). Prior to the start of a hearing, the parents, guardian, legal custodian, and, when appropriate, the child shall be notified of the right to be represented by counsel.

Findings of fact by the judge or district family judge of the validity of the allegations in the petition shall be based upon a preponderance of evidence admissible in the trial of civil cases except for petitions alleging the court's jurisdiction under section 571-11(1) which shall require proof beyond a reasonable doubt in accordance

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†So in original, but correct reference is "United States Housing Act of 1937 (Chapter 896, 50 Stat. 888)".

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with rules of evidence applicable to criminal cases, provided that no child who is before the court under section 571-11(1) shall have admitted against him any evidence in violation of his rights secured under the constitution of the United States or the State of Hawaii. In the discretion of the judge or district family judge the child may be excluded from the hearing at any time. When more than one child is alleged to have been involved in the same act, the hearing may be held jointly for the purpose of making a finding as to the allegations in the petition and then shall be heard separately for the purpose of disposition except in cases where the children involved have one common parent.

In the disposition part of the hearing any relevant and material information, including that contained in a written report, study, or examination, shall be admissible, and may be relied upon to the extent of its probative value; provided that the maker of the written report, study, or examination shall be subject to both direct and cross-examination upon demand and when he is reasonably available. The disposition shall be based only upon the admitted evidence, and findings adverse to the child as to disputed issues of fact shall be based upon a preponderance of such evidence.

Upon a final adverse disposition, if the parent or guardian is without counsel the court shall inform the parent or guardian of his right to appeal as provided for in section 571-54.

The judge, or the senior judge if there is more than one, may by order confer concurrent jurisdiction on a district court created under chapter 604 to hear and dispose of cases of violation of traffic laws or ordinances by children, provision to the contrary in section 571-11 or elsewhere notwithstanding. The exercise of jurisdiction over children by district courts shall, nevertheless, be considered non-criminal in procedure and result in the same manner as though the matter had been adjudicated and disposed of by a family court."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

## **ACT 263**

H.B. NO. 2166-80

A Bill for an Act Relating to the Judiciary.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 610, Hawaii Revised Statutes, is repealed.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 264

H.B. NO. 2167-80

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 11-1, Hawaii Revised Statutes, is amended by amending the definition of "special election" to read:

"Special election," any single election required by law when not preceded by an election to nominate those candidates whose names appear on the special election ballot."

(b) Section 11-12, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-12 Age; place of registering.** Every person who has reached the age of eighteen years or who is seventeen years of age and will be eighteen years of age by the date of the next election, and is otherwise qualified to register may do so for that election. He shall then be listed upon the appropriate county general register and precinct list. No person shall register or vote in any other precinct than that in which he resides except as provided in section 11-21."

(c) Section 11-26, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-26 Appeal from ruling on challenge; or failure of clerk to act.** In cases where the clerk or the precinct officials ruled on a challenge or the clerk refuses to register an applicant, or refuses to change the register under section 11-22, the person ruled against may appeal from the ruling to the board of registration of his county.

If the appeal is sustained, the board shall immediately certify that finding to the clerk, who shall thereupon alter the register to correspond to the findings of the board, and when necessary, the clerk shall notify the precinct officials of the change in the register."

(d) Section 11-41, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-41 Boards of registration, appointment, tenure.** There shall be four boards of registration: one for the island of Hawaii; one for the islands of Maui, Molokai, Lanai, and Kahoolawe; one for the island of Oahu; and one for the islands of Kauai and Niihau. The boards, which shall consist of three members each, shall be appointed by the governor by and with the advice and consent of the senate; and their terms of office shall be four years.

In no case shall any board consist entirely of members of one political party.

The several boards of registration shall sit in the county seats of their respective counties on election day. The boards shall also sit at such other times as the clerk determines within the various representative districts in their respective counties to hear appeals, provided there are any, from the voters registered within such districts. The boards shall continue their sittings until all appeals have been heard.

Reasonable notices of the sitting of the boards shall be given by publication in newspapers of general circulation in their respective districts or counties."

(e) Section 11-92, Hawaii Revised Statutes, is amended to read as follows:

**"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. 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 a county election determines that the number of candidates or issues on the ballot in a special, special primary, or special general election 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."

(f) Section 11-111, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-111 Official and facsimile ballots.** Ballots issued by the chief election officer in state elections and by the clerk in county elections are official ballots. In elections using the paper ballot and electronic voting systems, the chief election officer or clerk in the case of county elections shall have printed informational posters containing facsimile ballots which depict the official ballots to be used in the election. The precinct officials shall post the informational posters containing the facsimiles of the official ballots near the entrance to the polling place where they may be easily seen

by the voters prior to voting."

(g) Section 11-112, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-112 Contents of ballot.** A ballot shall contain the names of the candidates, their party affiliation or nonpartisanship, the offices for which they are running, and the district in which the election is being held. The chief election officer, at his discretion, may have a background design imprinted onto the ballot. When the electronic voting system is used, the ballot may have pre-punched codes and printed information which identify the voting districts, precincts, and ballot sets to facilitate the electronic data processing of these ballots. The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time his nomination papers are filed. Candidates' names, including the Hawaiian or English equivalent or nickname, shall be set on one line. In multirace districts the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where such number is less than the seats available.

A ballot shall bear no word, motto, device, sign, or symbol other than allowed in this title."

(h) Section 11-114, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-114 Order of offices on ballot.** The order of offices on a ballot shall be arranged substantially as follows: first, president and vice president of the United States; next, United States senators; next, United States house of representatives; next, governor and lieutenant governor; next, state senators; next, state representatives; and next, county offices."

(i) Section 11-119, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-119 Printing; quantity.** The ballots shall be printed by order of the chief election officer or the clerk in the case of county elections. In any state or county election the chief election officer on agreement with the clerk may consolidate the printing contracts for similar types of ballots where such consolidation will result in lower costs.

Based upon clarity and available space, the chief election officer or the clerk in the case of county elections shall determine the style and size of type to be used in printing the ballots. The color, size, weight, shape, and thickness of the ballot shall be determined by the chief election officer.

Each precinct shall receive a sufficient number of ballots based on the number of registered voters and the expected spoilage in the election concerned. A sufficient number of absentee ballots shall be delivered to each clerk not later than 4:30 p.m. on the fifteenth day prior to the date of any election."

(j) Section 11-132, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

**"Sec. 11-132 One thousand foot radius; admission within polling place.** (a) The precinct officials shall post in a conspicuous place, prior to the opening of the polls, a map designating an area of one thousand feet in radius around the polling place. Any person who remains or loiters within an area of one thousand feet in radius around the polling place for the purpose of campaigning shall be guilty of a misdemeanor."

(k) Section 11-134, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-134 Ballot transport containers; ballot boxes.** The seals of the ballot transport container's shall be broken and opened on election day only in the presence of at least two precinct officials not of the same political party.

The chief election officer shall provide suitable ballot boxes for each polling place needed. They shall have a hinged lid fastened securely by a nonreusable seal. In the center of the lid there shall be an aperture of the appropriate size for the voting system used. The ballot boxes shall be placed at a point convenient for the deposit of ballots and where they can be observed by the precinct officials.

At the opening of the polls for election, the chairman of the precinct officials shall publicly open the ballot boxes and expose them to all persons present to show that they are empty. The ballot boxes shall be closed and sealed; they shall remain sealed until the polls are closed; provided that, in precincts where the electronic voting system is used, the ballot boxes shall not be opened at the polling places except on the island of Niihau."

(l) Section 11-135, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-135 Early collection of ballots.** The chief election officer may authorize collection of voted ballots before the closing of the polls in order to facilitate the counting of ballots; provided that the voted ballots shall be returned to the counting center in sealed ballot boxes."

(m) Section 11-137, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-137 Secrecy; removal or exhibition of ballot.** No person shall look at or ask to see the contents of the ballot or the choice of party or nonpartisan ballot of any voter, except as provided in section 11-139, nor shall any person within the polling place attempt to influence a voter in regard to whom he shall vote for. When a voter is in the voting booth for the purpose of voting no other person shall, except as provided in section 11-139, be allowed to enter the booth or to be in a position from which he can observe how the voter votes.

No person shall take a ballot out of the polling place except as provided in sections 11-135 and 11-139. After voting the voter shall leave the voting booth and deliver his ballot to the precinct official in charge of the ballot boxes. The precinct official shall make certain that he has received the correct ballot and no other and then shall deposit the ballot into the ballot box. No person shall look at or ask to see the contents of the unvoted ballots. If any person having received a ballot leaves the polling place without first delivering the ballot to the precinct official as provided above, or wilfully exhibits his ballot or his unvoted ballots in a special primary or primary election, except as provided in section 11-139, after the ballot has been marked, such person shall forfeit his right to vote, and the chairman of the precinct officials shall cause a record to be made of the proceeding."

(n) Section 11-138, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-138 Time allowed voters.** A voter shall be allowed to remain in the voting booth for five minutes, and having voted the voter shall at once emerge and leave the voting booth. If he refuses to leave when so requested by a majority of precinct officials after the lapse of five minutes, he shall be removed by the precinct officials."

(o) Section 11-140, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-140 Spoiled ballots.** In elections using the paper ballot and electronic voting systems, if a voter spoils a ballot, he may obtain another upon returning the spoiled one. Before returning the spoiled ballot, the voter shall mark additional choices on the ballot to retain the secrecy of his vote. The returned ballot shall then be cancelled and signed by the precinct chairman, and the voter shall be issued a new ballot."

(p) Section 11-152, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) In those precincts using the electronic voting system, the ballots shall be taken in the sealed ballot boxes to the counting center according to the procedure and schedule promulgated by the chief election officer to promote the security of the ballots. In the presence of official observers, counting center employees may start to count the ballots prior to the closing of the polls provided there shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a question prior to the closing of the polls."

(q) Section 11-155, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-155 Certification of results of election.** On receipt of certified tabulations from the election officials concerned, the chief election officer or county clerk in county elections shall compile, certify, and release the election results after the expiration of the time for bringing an election contest. The number of persons to be elected receiving the highest number of votes in any election district shall be declared to be elected."

SECTION 2. Section 12-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 12-3 Nomination paper: format; limitations.** The name of no candidate shall be printed upon any official ballot to be used at any primary, special primary, or special election unless a nomination paper was filed in his behalf and in the name by which he is commonly known. The nomination paper shall be in a form prescribed by the chief election officer containing substantially the following information:

- (1) A statement by the registered voters of the district from which the candidate is running signing the form that they are eligible to vote for the candidate at the next election;
- (2) A statement by the registered voters signing the form that they nominate the candidate for the office on the nomination paper;
- (3) The residence address and county in which the candidate resides;
- (4) The name of the candidate and the office for which he is running, which name and office is to be placed on the nomination paper by the chief election officer or the clerk prior to releasing the form to the candidate;
- (5) Space for the names of the registered voters signing the form and their district or districts and precinct or precincts;
- (6) A certification by the candidate that he will qualify under the law for the office he is seeking;
- (7) A certification by a party candidate that he is a member of the party, that he

- believes in the principles and policies of that party, that if elected he will carry out the provisions and pledges of the political platform of the party and will abide by the party's rules and regulations;
- (8) A certification, where applicable, by the candidate that he has complied with the provisions of Article II, section 7, of the Constitution of the State of Hawaii.
- (9) The name the candidate wishes inserted on the ballot and the post office address of the candidate.

No signatures shall be counted, unless they are upon the nomination paper having the format set forth above, written or printed thereon, and if there are separate sheets to be attached to the nomination paper, the sheets shall have the name of the person and the office for which he is running placed thereon by the chief election officer or the clerk. The nomination paper and separate sheets shall be provided by the chief election officer or the clerk.

Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.

The office for which the candidate is running and his name may not be changed from that indicated on the nomination paper and separate sheets. If the candidate wishes to run for an office different from that for which the nomination paper states, he may request the appropriate nomination paper from the chief election officer or clerk and have it signed by the required number of voters."

**SECTION 3. Chapter 13, Hawaii Revised Statutes, is amended as follows:**

(a) Section 13-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Members of the board of education shall be elected at a special election held in conjunction with the general election. Except as otherwise provided by this chapter, the candidates for the board of education shall be elected in the manner prescribed by this title.

(1) Nomination papers, preparation of. The chief election officer shall prepare the nomination papers in such a manner that a candidate desiring to file for election to the board of education shall be able to specify whether he is seeking a seat requiring residency in a particular departmental school district or a seat without such residency requirement.

(2) Ballot. The school board ballot shall be prepared in such a manner as to afford every voter eligible to vote in a school board district race, the opportunity to vote for each and every candidate seeking election from such school board district.

The school board ballot shall contain the names of all board candidates arranged alphabetically in a nonpartisan manner; provided that the names of candidates seeking seats requiring residency in a particular departmental school district shall be grouped alphabetically according to departmental school districts.

Each voter in the general election shall be entitled to receive the school board ballot and to vote for the number of seats available in the respective school board districts."

(b) Section 13-4, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 13-4 Board members; term, vacancies.** The term of office of members of the board shall be for four years beginning on the day of the special election held in conjunction with the general election of the year in which they are elected and ending on the day of the special election held in conjunction with the second general election after their election. Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled in accordance with section 17-6.”

SECTION 4. Section 13D-5, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 13D-5 Term of office; vacancies.** The term of office of members of the board shall be four years beginning on the day of the special election held in conjunction with the general election of the year in which they are elected and ending on the day of the special election held in conjunction with the second general election after their election; except that the term of office of board members elected in 1980 shall be as follows: the four board members elected with the highest number of votes shall serve four years; the remaining members elected shall serve two years. Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled in accordance with section 17-7.”

SECTION 5. Chapter 16, Hawaii Revised Statutes, is amended as follows:

(a) Section 16-12, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 16-12 Voting machines; requirements.** No voting machine shall be installed for use in any election in the State unless it shall satisfy the following requirements:

- (1) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (2) It shall prevent the voter from voting for the same persons more than once for the same office;
- (3) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (4) In special primary and primary elections it shall be so equipped that it will lock out all rows except those of the party or nonpartisan candidates selected by the voter;
- (5) It shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be detected;
- (6) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (7) It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.”

(b) Chapter 16, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 16- Preparation of absentee ballots.** Counting center employees in

the presence of at least two official observers shall prepare absentee ballots for counting by automatic tabulating equipment in a manner that shall accurately reflect the votes cast by the absentee voters."

SECTION 6. Chapter 18, Hawaii Revised Statutes, is amended as follows:

Section 18-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 18-1 Congressional districts; reapportionment.** The congressional districts and the number of members to be elected from each shall be as follows:

First congressional district: the seventh through seventeenth representative districts and precincts one, and four through eight of the eighteenth representative district, one representative to the Congress of the United States.

Second congressional district: the first through the sixth and nineteenth through twenty-seventh representative districts and precincts two and three of the eighteenth representative districts, one representative to the Congress of the United States."

SECTION 7. Section 19-6, Hawaii Revised Statutes, is amended to read as follows:

**"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 visual aids or facsimile 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 the following:

- (A) Any distribution, circulation, carrying, holding, posting, or staking of campaign cards, pamphlets, posters, and other literature;
- (B) The use of public address systems and other public communication media;
- (C) The use of motor caravans or parades; and
- (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.

- (8) Any person who opens a return envelope containing an absentee ballot voted under chapter 15 other than those authorized to do so under chapter 15.
- (9) Any unauthorized person found in possession of any voting machine or keys thereof.
- (10) 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.
- (11) 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."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 9. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 265

H. B. NO. 2172-80

A Bill for an Act Relating to Plant and Nondomestic Animal Quarantine.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature is concerned about recent increased incidences of live snakes being found within the State. To prevent the presence of snakes in this State from becoming a problem, the legislature proposes amendments which will increase the penalty and term of imprisonment for importing live snakes and which will require affirmative steps to be taken to place persons coming into this State on

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

notice of the statutory prohibitions concerning importation of certain plants and animals and of the penalties for violation thereof.

SECTION 2. Section 150A-5, Hawaii Revised Statutes, is amended to read:

**"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 hereinafter 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, immediately upon arrival, 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, offshore, 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 held in captivity for a period of one year immediately prior to importation 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 therefore 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 judgement 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 regulation 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.] the provisions of section 150A-6(3) or any person who owns or intentionally transports or harbors any snake or other prohibited animal seized under section 150A-7(b) shall be fined not more than \$1,000 or imprisoned not more than one year, or both; provided that a person who voluntarily surrenders any prohibited snake or other prohibited animal prior to the initiation of seizure action by the department shall not be subject to this penalty. Any person who violates any other provision of this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 266

H.B. NO. 2241-80

A Bill for an Act Relating to Spouse Abuse.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 709, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 709- Offenses against the person of a spouse, petition, proceedings.** (1) Any spouse against whose person an offense, other than a felony, has been committed by the other spouse may petition the family court for a summons to issue forthwith.

(2) The petition shall include, or be accompanied by, an affidavit sworn to by the petitioning spouse which substantiates a finding by the court that an offense has been committed. A petitioning spouse who knowingly makes a false statement which he or she does not believe to be true in a proceeding pursuant to this section shall be guilty of false swearing. Before a summons may issue, there shall be good cause shown and a finding of probable cause that a nonfelonious offense has been committed against the person of the petitioning spouse.

(3) Service of the petition and summons on the respondent spouse shall be as provided by law or court rule for cases in the family court. If the respondent spouse fails to appear at the court hearing, the court may find the respondent spouse in contempt of court and may issue a bench warrant forthwith.

(4) If it is established beyond a reasonable doubt at the hearing that the respondent spouse committed the alleged offense against the petitioning spouse, the court may find the respondent spouse guilty of the offense.

(5) It shall be the duty of the family court to assist any petitioning spouse under this section in the preparation of the petition.

(6) This section shall not preclude any spouse against whose person an offense, other than a felony, has been committed by the other spouse from pursuing any other remedy under law or in equity.

(7) Upon dismissal of a respondent spouse and discharge of the proceeding against such spouse under this section, such spouse, if the offense is the only offense against the petitioning spouse for a period of not less than one year, may apply for an order to expunge from all official records all recordation relating to the arrest, trial, finding of guilt, and dismissal and discharges pursuant to this section. If the court determines, after hearing, that the respondent spouse was dismissed and the proceedings against such spouse were discharged and that no other similar offenses were charged against such spouse for a period not less than one year, it shall enter such order."

SECTION 2. Section 709-906, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 709-906 Spouse abuse, penalty.** (1) It shall be unlawful for any person, singly or in concert, to physically abuse his or her spouse, or to refuse compliance with the lawful order of a police officer under subsection (3).

(2) Any police officer may, with or without a warrant, arrest a person if he has reasonable grounds to believe that the person is physically abusing, or has physically abused, his or her spouse and that the person arrested is guilty thereof.

(3) Any police officer may, with or without a warrant, take the following course of action where he has reasonable grounds to believe that there was recent, substantial, physical harm inflicted by one spouse upon the other:

(a) He may make reasonable inquiry of the spouse upon whom he believes recent, substantial, physical harm has been inflicted and other witnesses as there may be, to ascertain whether there is probable danger of further substantial, physical harm being inflicted upon such injured spouse by the other spouse; and

(b) Where he has reasonable grounds to believe that there is such probable danger he may lawfully order such other spouse to voluntarily leave the

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premises for a cooling off period of three hours; and

(c) If such other spouse refuses to comply with such reasonable request or returns to the premises before the expiration of three hours, he may place such other spouse under arrest for the purpose of preventing further physical harm to the injured spouse.

(4) Spouse abuse, and refusal to comply with the lawful order of a police officer under subsection (3) are misdemeanors.

(5) The spouse who has been physically abused or harmed by his or her spouse may petition the family court for a bench warrant to issue forthwith.

(6) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may then dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

(7) If it is established beyond a reasonable doubt at the hearing that the respondent physically abused his or her spouse, then the court may find the spouse guilty of a misdemeanor.

(8) It shall be the duty of the family court to assist any petitioner under this section in the preparation of the petition.

(9) This section shall not preclude the physically abused spouse from pursuing any other remedy under law or in equity.

(10) Upon dismissal of such person and discharge of the proceeding against him or her under this section, such person, if the offense is the only offense against the other spouse for a period of not less than one year, may apply for an order to expunge from all official records all recordation relating to his or her arrest, trial, finding of guilt, and dismissal and discharges pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him or her were discharged and that no other similar offenses were charged against him or her for a period not less than one year, it shall enter such order."

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 13, 1980.)

## **ACT 267**

H. B. NO. 2259-80

A Bill for an Act Relating to Crimes.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 710-1031, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) "Threat" as used in this section means any threat proscribed by section 707-764(1)."

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 2. Section 710-1071, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) "Threat" as used in this section means any threat proscribed by section 707-764(1)."

SECTION 3. Section 710-1074, Hawaii Revised Statutes, is amended by amending subsection (2) to read as follows:

"(2) "Threat" as used in this section means any threat proscribed by section 707-764(1)."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 268

H. B. NO. 2324-80

A Bill for an Act Relating to Restraining Orders.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 585-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 585-1 Application and order.** Upon application to a family court judge, a temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other, notwithstanding that a complaint for annulment, divorce, or separation has not been filed. The family court shall designate an employee to assist a person in completing the application which shall be in writing upon forms provided by the court. The order issuing therefrom may be granted to any person who, at the time such order is granted, was actually residing, or has previously resided, with the person or persons to whom such order is directed. The family court judge may issue the ex parte temporary restraining order orally, but shall reduce the order to writing by the close of the next court day following the application. The order shall state that there is probable cause to believe that a recent past act or acts of violence have occurred, or that threats of violence make it probable that acts of violence may be imminent. The order shall further state that the temporary restraining order is necessary for the purpose of preventing acts of violence, or a recurrence of actual domestic violence, and assuring a period of separation of the parties involved. The order shall describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order, and may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the children or other relatives of the applicant residing with the applicant at the time of the granting of the order. The order shall not only be binding

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them."

SECTION 2. Section 585-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 585-2 Period of order; hearing.** A temporary restraining order granted pursuant to this chapter shall remain in effect, at the discretion of the court, not to exceed thirty days, unless otherwise continued or terminated by the court. On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court shall, after giving due notice to all parties, hold a hearing on the application requiring cause to be shown why the order should not continue. All parties shall be present at the hearing and may be represented by counsel. If after hearing all relevant evidence, the court finds that a further period of separation of the parties is necessary to prevent domestic violence or a recurrence of violence, the court may order extensions of the order for additional thirty-day periods from the final day of the order, or extended order; provided that a hearing shall be held prior to any extension of the order beyond sixty days from the date the temporary restraining order was first granted."

SECTION 3. Section 585-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 585-4 Remedies for enforcement of order.** Any wilful disobedience of a temporary restraining order granted under this chapter shall be a misdemeanor, and any other disobedience of a restraining order may be treated by the court as a civil contempt. All remedies for the enforcement of judgments shall apply to this chapter."

SECTION [4].<sup>†</sup> Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION [5].<sup>†</sup> This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 269

H. B. NO. 2357-80

A Bill for an Act Relating to Criminal History Record Information.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 846, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 846- Purpose of the criminal justice information data center.** (a) The Hawaii criminal justice information data center, hereinafter referred to as the "data center", shall be responsible for the collection, storage, dissemination, and analysis of all pertinent criminal history record information from all criminal justice

<sup>†</sup>Bracketed "4" and "5" substituted for "3" and "4" to correct obvious clerical error.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

agencies and to provide for the collection, storage, and dissemination of criminal history record information by criminal justice agencies in such a manner as to balance the right of the public and press to be informed, the right of privacy of individual citizens, and the necessity for law enforcement agencies to utilize the tools needed to prevent crimes and detect criminals in support of the right of the public to be free from crime and the fear of crime.

(b) In order to accomplish this purpose, the data center shall publish periodic reports which shall provide the public with a clear view of the criminal justice systems."

SECTION 2. Section 846-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 846-2 Establishment of the data center.** There shall be a data center which shall be attached to the judiciary for administrative purposes until July 1, 1981, at which time the data center shall be attached to the department of the attorney general for administrative purposes. The data center shall be directed and managed by an interim director to be appointed by the governor until July 1, 1981, and thereafter, by a director appointed by the attorney general. There shall also be a committee, appointed by the attorney general, composed of selected criminal justice user-agency personnel, to act in an advisory capacity to the data center in matters related to interagency coordination and user needs."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1980.)

ACT 270

H.B. NO. 2359-80

A Bill for an Act Relating to Partnerships.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 425-1, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-1 Registration and annual statements.** Whenever any general partnership is formed under the laws of the State to do business in the State, or any general partnership formed under the laws of any other jurisdiction shall do business in the State, such partnership shall file in the office of the director of regulatory agencies the registration and annual statements hereinafter provided. A registration statement shall be filed by a partnership formed under the laws of the State within thirty days after the partnership is formed and by a partnership formed under the laws of any other jurisdiction within thirty days after the commencement of business in the State. An annual statement shall be filed on or before March 31 of each year, as of

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

December 31 of the preceding year. Every such registration statement shall contain the following information:

- (1) The name of the partnership;
- (2) The name and residence of each partner;
- (3) The nature of the partnership business;
- (4) The location of the principal place of business of the partnership in the State and, if the partnership is one formed under the laws of any other jurisdiction, the name of the jurisdiction and the location of the principal place of business of the partnership;
- (5) The date the partnership was formed and, if the partnership is one formed under the laws of any other jurisdiction, the date the partnership commenced business in the State;
- (6) The fact that none of the partners is either a minor or an incompetent person;
- (7) In the case of a foreign general partnership, the designation of a person residing within the State as agent for service of process and notice.

Every such annual statement shall contain the information specified in paragraphs (1), (2), (3), (4), (6) and (7) above and a listing of the names of any partner admitted, withdrawn, or who has died during the year.

The registration statement of a domestic partnership shall be certified by each partner, and the registration statement of a foreign partnership shall be certified by at least one partner. Each annual statement shall be certified as correct by any partner."

SECTION 2. Section 425-2, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-2 Forms to be furnished by director.** The registration, annual and other statements required by this part shall be filed on forms to be furnished by the director of regulatory agencies."

SECTION 3. Section 425-8, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-8 Reservation of partnership name.** The exclusive right to the use of a partnership name may be reserved by any person intending to organize a domestic partnership, by any domestic partnership intending to change its name, by any foreign partnership intending to do or carry on any business in the State or to take, hold, sell, demise, or convey real estate or other property therein, by any foreign partnership authorized to do or carry on any business in the State or to take, hold, sell, demise, or convey real estate or other property therein and intending to change its name, or by any person intending to organize a foreign partnership and intending to have the partnership to do or carry on any business in the State or to take, hold, sell, demise, or convey real estate or other property therein. Reservations shall be made by filing with the director of regulatory agencies an application in such form as the director may prescribe to reserve a specified partnership name, and payment to the director of a fee equivalent to that paid by a corporation for the same service. If he finds that the name is available for partnership use, he shall reserve the name for the exclusive use of the applicant for a period of sixty days. The right to the exclusive use of a specified partnership name so reserved may be transferred to any other person or partnership by filing in the office of the director a notice of a transfer executed by the applicant for whom the name is reserved specifying the name and address of the transferee."

SECTION 4. Section 425-9, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-9 Statement of dissolution.** Whenever a domestic general partnership is dissolved, and the business is not continued within the meaning of section 425-141(1), (3), (5), or (6), a statement thereof showing the cause of dissolution shall be filed in the office of the director of regulatory agencies within thirty days after dissolution. The statement shall be certified by all partners except in such cases as the circumstances make it obviously impossible to secure the signature of one or more partners, which circumstances shall be set forth in the statement."

SECTION 5. Section 425-13, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-13 Personal liability and penalty.** (a) If a partner neglects or fails to comply with any provision of this part, all partners shall be liable jointly and severally for all the debts and liabilities of the partnership, and may be severally sued therefor, without the necessity of joining the other partners in any action or suit, and shall also severally forfeit to the State \$25 for each and every month while the default shall continue, to be recovered by action brought in the name of the State by the director of regulatory agencies; provided, that as to the forfeiture penalty, the director may, for good cause shown, reduce or waive the same.

(b) Any person who signs or certifies as correct any statement or certificate filed pursuant to this part, knowing the same to be false in any material particular, shall be fined not more than \$5,000.

(c) Any person who negligently but without intent to defraud signs or certifies as correct any statement or certificate filed pursuant to this part, which statement or certificate is false in any material particular, shall be punished by a fine not exceeding \$500."

SECTION 6. Section 425-17, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-17 Withdrawal procedure for foreign general partnership.** Any foreign general partnership which has qualified to transact business in this State may withdraw and surrender its right to engage in business within this State by securing from the director of regulatory agencies a certificate of withdrawal in the manner hereinafter provided. Any such general partnership shall file in the office of the director:

- (1) A certificate executed and certified by at least one partner setting forth:
  - (A) That it surrenders its authority to transact intrastate business in this State,
  - (B) That it irrevocably consents that process against it in any action or suit upon any liability or obligation incurred within this State prior to the issuance of the certificate of withdrawal may be served upon the director of regulatory agencies and that service of such process upon the director shall be deemed sufficient service upon it,
  - (C) A post office address to which the director may mail a copy of any process against such general partnership that may be so served upon him, and
  - (D) A list of the names and resident addresses of all general partners;
- (2) Satisfactory proof showing that, within sixty days last past, it has advertised in a daily newspaper of general circulation in the State, once in each of four successive weeks (four publications), a notice in English to all credi-

tors of the general partnership that it intends to apply, within sixty days from the first publication of the notice, to the director of regulatory agencies for a certificate of withdrawal and intends to withdraw and surrender its rights to engage in business within this State and notifying all creditors of the general partnership to present their claims;

- (3) Satisfactory proof that not less than fifteen days have elapsed since the last publication of the notice;
- (4) Satisfactory proof showing that all creditors, resident or located within the State, have been paid; and
- (5) A valid certificate or certificates showing that all of the taxes, imposts, license fees and assessments theretofore levied upon, due or payable by the general partnership to the State or any of its municipal subdivisions have been fully paid and discharged.

Upon filing with and the approval by the director of the aforesaid certificate and proofs and after payment of a fee of \$3 for such certificate, the director shall issue to such general partnership a certificate stating that it has withdrawn and surrendered its right to engage in business within this State. No such general partnership may withdraw from this State without complying with the aforesaid conditions and until such compliance service of legal notices and processes may be made on any agent of the general partnership within the State, or if none can be found, service of such notices and processes upon the director of regulatory agencies shall be deemed sufficient service of such notices and processes upon it."

SECTION 7. Section 425-22, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-22 Formation.** Two or more persons (as defined in section 425-102), any of whom may be acting in a fiduciary capacity, desirous of forming a limited partnership, shall sign and file a certificate, as follows:

- (1) The certificate shall state:
  - (A) The name of the partnership;
  - (B) The character of the business;
  - (C) The location of the principal place of business;
  - (D) The name and place of residence of each member; general and limited partners being respectively designated;
  - (E) The term for which the partnership is to exist;
  - (F) The amount of cash and a description of and the agreed value of the other property contributed by each limited partner;
  - (G) The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they are to be made;
  - (H) The time, if agreed upon, when the contribution of each limited partner is to be returned;
  - (I) The share of the profits or the other compensation by way of income which each limited partner is to receive by reason of his contribution;
  - (J) The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution;
  - (K) The right, if given, of the partners to admit additional limited partners;

- (L) The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income and the nature of the priority;
  - (M) The right, if given, of the remaining general partners or partners to continue the business on the death, retirement, or insanity of a general partner; and
  - (N) The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution.
- (2) The certificate shall be certified by each of the persons and shall be filed in the office of the director of regulatory agencies.

A limited partnership is formed if there has been a substantial compliance in good faith with the foregoing requirements.

The director shall preserve the certificate and keep a record of the same, which shall be duly indexed. The certificate, record, and index shall, during all business hours, be open to the inspection of the public, free of charge. A fee of \$1.50 shall be charged for each name signed to any certificate."

SECTION 8. Section 425-40, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-40 Effect of retirement, death, or insanity of a general partner.**

The retirement, death, or insanity of a general partner dissolves the partnership, unless the business is continued by the remaining general partners under a right so to do stated in the certificate, or with the consent of all members. However, the retirement, death, or insanity of the sole remaining general partner dissolves the partnership."

SECTION 9. Section 425-45, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-45 Requirements for amendment and for cancellation of certificate.**

(a) The writing to amend a certificate shall conform to the requirements of section 425-22 as far as necessary to set forth clearly the change in the certificate which it desires to make; and be signed and certified by all the general partners and at least five per cent of the limited partners, but not to exceed ten limited partners unless the certificate requires no limited partner's signature or such other number of limited partners' signatures in which event the signatures of the limited partners as provided for in the certificate shall be required. Notwithstanding the previous sentence, in case of an amendment substituting a limited partner, or admitting a limited partner or general partner or permitting a general or limited partner to withdraw from the partnership, the amendment shall be signed and certified also by the member to be substituted or added or who withdraws, and when a limited partner is to be substituted, the amendment shall also be signed and certified by the assigning limited partner.

(b) The writing to cancel a certificate shall be signed and certified by all members; provided that if the partnership has fifteen or more limited partners and the certificate does not require the signatures of all limited partners then the cancellation may be signed by all the general partners and such percentage of limited partners required by subsection (a) or such number of limited partners as required by the certificate.

(c) If any person designated above as a person who must execute the writing refuses to do so, a person desiring the cancellation or amendment of a certificate, may

bring an action in the circuit court of the circuit in which the principal place of business of the limited partnership is situated, for an order directing the cancellation or amendment thereof.

(d) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so, it shall order the director of regulatory agencies to record the cancellation or amendment of the certificate; and where the certificate is to be amended, the court shall also cause to be filed in the office of the director a certified copy of its order setting forth the amendment.

(e) A certificate is amended or cancelled when there is filed in the office of the director of regulatory agencies a writing in accordance with the provisions of paragraph (a) or (b), a certified copy of the order of court in accordance with the provisions of paragraph (d).

(f) After the certificate is duly amended in accordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by this part."

SECTION 10. Section 425-51, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-51 Personal liability and penalty.** (a) Every general partner who neglects or fails to comply with any provision of this part shall be liable severally and individually for all debts and liabilities of the limited partnership, and may be severally sued therefor, without the necessity of joining the other members in any action and shall also severally forfeit to the State \$25 for each and every month while the default shall continue, to be recovered by action brought in the name of the State by the director of regulatory agencies; provided that as to the forfeiture penalty, the director may, for good cause shown, reduce or waive the same.

(b) Any person who signs or certifies as correct any statement or certificate filed pursuant to this part, knowing the same to be false in any material particular, shall be fined not more than \$5,000.

(c) Any person who negligently but without intent to defraud signs or certifies as correct any statement or certificate filed pursuant to this part, which statement or certificate is false in any material particular, shall be punished by a fine not exceeding \$500."

SECTION 11. Section 425-71, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-71 Registration and annual statements.** Every limited partnership formed under the laws of any other territory, possession or state of the United States or of any foreign state or country which undertakes to do or carry on business in the State, shall file in the office of the director of regulatory agencies a registration statement within thirty days after it commences to do business in the State. An annual statement shall be filed on or before March 31 of each year as of December 31 of the preceding year. Every such registration statement shall contain the following information:

- (1) The name of the limited partnership;
- (2) The name and residence of each partner, whether general or limited;
- (3) The nature of the limited partnership business;
- (4) The location of the principal place of business of the limited partnership in the State and the name of the jurisdiction where the limited partnership was

formed and the location of the principal place of business of the limited partnership;

- (5) The date the limited partnership was formed and the date the limited partnership commenced business in the State;
- (6) The fact that none of the partners is either a minor or an incompetent person;
- (7) The designation of a person residing within the State as agent for service of process and notice;
- (8) An attached certified copy of the certificate of limited partnership and a certificate of good standing, certified to in each case by the secretary of state or other appropriate official of the state in which the limited partnership was formed.

Every such annual statement shall contain the information specified in paragraphs (1), (2), (3), (4), and (6), above. The registration statement shall be signed by at least one general partner, and the annual statement shall be certified as correct by any general partner."

SECTION 12. Section 425-76, Hawaii Revised Statutes, is amended to read:

**"Sec. 425-76 Personal liability and penalty.** (a) If any general partner neglects or fails to comply with any provision of this part, all general partners shall be liable jointly and severally for all debts and liabilities of the limited partnership, and may be severally sued therefor without the necessity of joining the other members in any action and shall also severally forfeit to the State \$25 for each and every month while a default shall continue, to be recovered by action brought in the name of the State by the director of regulatory agencies; provided that as to the forfeiture penalty, the director may, for good cause shown, reduce or waive the same.

(b) Any person who signs or certifies as correct any statement or certificate filed pursuant to this part, knowing the same to be false in any material particular, shall be fined not more than \$5,000.

(c) Any person who negligently but without intent to defraud signs or certifies as correct any statement or certificate filed pursuant to this part, which statement or certificate is false in any material particular, shall be punished by a fine not exceeding \$500."

SECTION 13. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 14. This Act shall take effect upon approval.

(Approved June 13, 1980.)

ACT 271

S. B. NO. 1960-80

A Bill for an Act Relating to No-fault Insurance.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 294-13, Hawaii Revised Statutes, is amended to read as follows:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**"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 expense 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 commis-

- sioner 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 September 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 policyholders any excessive profit realized by insurers from their operations.
- (c) Except to the extent necessary to meet the provisions of paragraph (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 may accept from an advisory organization basic standards, manuals of classification, territories, endorsements, forms, and other materials, not dealing with rates, for reference filings by insurers. 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 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 pro-

ceed 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 findings of fact 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 eight years from September 1, 1975, and terminating on August 31, 1983, 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 eight-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 eight-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, 1983, 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, 1983.

In the establishment of their individual rate schedules, each insurer shall conform fully to subsections (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. This subsection shall not apply to advisory organizations referred to in section 431-700 which are not involved in rate making under this chapter.

(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 an 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) all insurers of any motorcycle, motor scooter, or vehicle with less than four wheels shall provide a ten per cent reduction off the regular premium each insurer assesses for such policy, to the operator purchasing a no-fault policy who has successfully completed a safe driving course approved by the director of transportation.

(n) Notwithstanding subsection (j) at the option of each insurer all premium rates on a no-fault policy for any motorcycle, motor scooter, or vehicle with less than four wheels may provide a discount of not more than ten per cent to the operator purchasing a no-fault policy when the operator submits an affidavit to the insurer that he will wear a safety helmet that is approved by the director of transportation during the operation of the insured vehicle; provided that if the insurer provides for a discount the insurer may provide for a surcharge of an amount equal to the discount for those operators who do not submit an affidavit that they will wear an approved safety helmet during the operation of the insured vehicle.

No insured shall operate a vehicle insured under a no-fault policy under this section which provides for a discount for the use of a safety helmet, unless the insured is wearing an approved safety helmet."

SECTION 2. Section 294-35.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The commissioner shall deposit these underwriters' fees into a special drivers' education fund account which shall be allocated as follows:

- (1) For the fiscal year 1975-76, seventy per cent to the commissioner which shall be expended for the operation of the driver education program provided for in section 286-128(m) and thirty per cent to the superintendent of the department of education to support the driver education program administered by the department for high school students;
- (2) For the fiscal year 1976-77, sixty per cent to the commissioner which shall be expended for the operation of the driver education program provided for in section 286-128(m) and forth per cent to the superintendent of the department of education to support the driver education program administered by the department for high school students; and
- (3) For the fiscal year 1977-78 and the fiscal years thereafter, fifty per cent to the commissioner which shall be expended for the operation of the driver education program provided for in section 286-128(m) and fifty per cent to the superintendent of the department of education to support the driver

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education program administered by the department for high school students; provided that all fees received, under 294-35.5(a), which are derived from motorcycles, motor scooters, or similar vehicles, shall be expended by the director of transportation for the operation of a driver education program for operators of motorcycles, motor scooters, or similar vehicles."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1980.)

## ACT 272

S.B. NO. 2927-80

A Bill for an Act Relating to Mental Health.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **"CHAPTER**

### **RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES**

Sec. **-1 Informed consent.** (a) Before any non-emergency treatment for mental illness can commence, informed consent, as required by section 671-3, Hawaii Revised Statutes, and as defined by the Board of Medical Examiners pursuant to the authority vested in it by that section, shall be obtained from the patient, or the patient's guardian, if the patient is not competent to give informed consent.

(b) A signed consent form reflecting the proceeding shall be obtained and maintained as part of the patient's record.

Sec. **-2 Rights of in-patients.** Any patient in a licensed psychiatric facility may be afforded the following rights, as provided by the institution. All such rights of in-patients are to be qualified by reasonableness, in view of the circumstances and the availability of resources and are to include but not be limited to the following:

- (1) Access to written rules and regulations with which the patient is expected to comply;
- (2) Access to the facility's grievance procedure;
- (3) Privacy, respect, and personal dignity;
- (4) A humane environment;
- (5) Freedom from discriminatory treatment based on race, color, creed, national origin, age, and sex;
- (6) Uncensored communication;
- (7) The choice of physician if the physician chosen agrees;
- (8) Appropriate treatment and care;

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (9) A qualified, competent staff;
- (10) A medical examination before initiation of non-emergency treatment;
- (11) Participation in the treatment plan;
- (12) Knowledge of rights withheld or removed by a court or by law;
- (13) Physical exercise and recreation;
- (14) Adequate diet;
- (15) Knowledge of the names and titles of staff members with whom the patient has frequent contact;
- (16) The right to work and fair compensation for work done;
- (17) Notice of and reasons for an impending transfer;
- (18) Freedom from seclusion or restraint, except:
  - (A) When necessary to prevent injury to self or others; or
  - (B) When part of the treatment plan; or
  - (C) When necessary to preserve the rights of other patients or staff;
- (19) Disclosure to a court, at an involuntary civil commitment hearing, of all treatment procedures which have been administered prior to the hearing;
- (20) Receipt by the patient and his guardian, if he has one, of this enunciation of rights."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 16, 1980.)

## ACT 273

H.B. NO. 1853-80

A Bill for an Act Relating to the Office of Hawaiian Affairs.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 10 of the Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 10.** Twenty per cent of all funds derived from the public land trust, described in section 10-3, shall be expended by the office of Hawaiian affairs, as defined in section 10-2, for the purposes of this chapter."

**SECTION 2.** There is hereby appropriated from the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary, for defraying any and all costs of establishment and operations of the Office of Hawaiian Affairs and the operations which pertain to section 10-3(2) Hawaii Revised Statutes. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1981 shall lapse into the general fund.

**SECTION 3.** This Act shall take effect upon its approval.\*

(Approved June 16, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Gasohol.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide the incentives to encourage the purchase of gasohol by the consumer.

SECTION 2. Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 237- Exemption of sale of gasohol.** (a) There shall be exempted from and excluded from the measure of the taxes imposed by this chapter all of the gross proceeds arising from the sale of gasohol by retail dealers from July 1, 1980 to July 1, 1985, or sooner if the director of taxation determines by rule under chapter 91 that the exemption granted by this section is no longer needed as an incentive and terminates the exemption.

(b) As used in this section:

(1) "Gasohol" means a gasoline and alcohol liquid fuel mixture consisting of at least ten per cent ethanol (biomass derived) commercially usable as a fuel to power automobiles or other motorized vehicles.

(2) "Retail dealer" means and includes a person who sells the gasohol at retail. Only sales of gasohol for consumption or used by the purchaser, and not for resale, are sales at retail.

(c) The director of taxation shall annually submit a written report to the governor and legislature prior to the regular session of the legislature indicating a comparison of the number of gallons and average price per gallon of gasohol and gasoline sold in the State at the retail level and the director's recommendations as to whether the exemption under this section should continue at the current or at a lesser amount when the total exemption is no longer needed as an incentive to retailers and consumers for the marketing and use of gasohol.

(d) The director of taxation shall adopt rules pursuant to chapter 91 necessary to administer this section."

SECTION 3. New statutory material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1980.)

A Bill for an Act Relating to the State Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 128 of part V, Act 214, Session Laws of Hawaii 1979, is repealed.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**SECTION 2.** Statutory material to be repealed is bracketed.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 16, 1980.)

**ACT 276**

S.B. NO. 2536-80

A Bill for an Act Relating to Social Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that there are hundreds of aged, indigent resident aliens and naturalized citizens in the State who desire to return to their homelands. After working long years in this State these persons are now retired and many live alone. Returnees would benefit by being reunited with families, relatives, and friends, and from reintegration into the extended family culture from which they came.

The public assistance payments paid to aged, indigent resident aliens and naturalized citizens are not always sufficient to pay for safe and sanitary living conditions. The problems of survival for the aged are compounded by a weakening of their resistance to diseases and limitations on physical mobility. Transportation and medical care costs in relation to income are significantly higher than for other age groups.

Aged, indigent resident aliens and naturalized citizens willing to return to their homelands are likely to find that their income from social security or pension benefits is more than sufficient to support themselves and contribute to the economic well-being of an extended family and a village economy.

Except for certain social security and pension benefits, all other forms of government assistance to returnees would cease.

The purpose of this Act is to permit the State to assist aged, indigent resident aliens and naturalized citizens to return to their homelands.

**SECTION 2.** Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**"PART . RESIDENT ALIEN AND NATURALIZED CITIZEN PROGRAM**

**Sec. 346- Purpose.** The purpose of this part is to assist a qualified person to return to the person's homeland.

**Sec. 346- Definitions.** As used in this part:

- (1) "Alien" means any person not a citizen or national of the United States but who is allowed, under federal law, to reside in the United States;
- (2) "Homeland" means the country in which a person was born;
- (3) "Naturalized citizen" means a person who was not born in the United States, but who has the rights and privileges of a citizen bestowed upon the person by law;

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (4) "Qualified person" means an alien or naturalized citizen of the United States who:
  - (A) Is a resident of the State of Hawaii;
  - (B) Is sixty years of age or older;
  - (C) Is eligible to receive or receives financial assistance under this chapter on the date of the application for transportation assistance under this part; and
- (5) "Transportation assistance" means the amount determined by the director under section 346-

**Sec. 346- Administration.** The director may enter into contracts with private, nonprofit organizations for the purpose of providing transportation assistance to a qualified person who desires to return to the qualified person's homeland in order to establish and maintain a permanent residence there.

**Sec 346- Application; approval; statement; return.** (a) A person desiring to return to the person's homeland may make application to the director. The application shall include evidence from a recognized agency or other acceptable means to ensure that the person's health and welfare will be protected upon return to the person's homeland. The director shall examine the application and determine whether the person is a qualified person and the person's health and welfare will be protected. If the director determines that the person is a qualified person, the person's health and welfare will be protected, and funds are available, the director shall approve the application. Upon approval, the qualified person shall be required to sign a statement of intent to take up permanent residence in the qualified person's homeland. Upon signing the statement, the director shall enter into a contract as provided under section 346- to provide transportation assistance for the qualified person.

(b) A person who has used the transportation assistance under this part and returns to and reestablishes residency in Hawaii shall repay to the State the amount of the transportation assistance used in returning to the person's homeland with interest. The rate of interest shall be established by the director by rule under chapter 91.

(c) The statement of intent under subsection (a) shall explain the requirements for reestablishing residency in Hawaii and indicate that the qualified person understands these requirements.

(d) A person shall not be eligible to use the transportation assistance under this chapter more than once in the person's lifetime.

**Sec. 346- Transportation assistance.** The director shall adopt rules under chapter 91 to determine the transportation and administrative costs which are required for the return of a qualified person to the qualified person's homeland. The amount of such costs shall be considered the transportation assistance.

**Sec. 346- Penalty.** Any person who uses the transportation assistance under this chapter for any purpose other than that for which approved by the director shall be guilty of a misdemeanor and required to return the full amount of the transportation assistance used."

**SECTION 3.** Section 346-1, Hawaii Revised Statutes, is amended by amending the definition of "financial assistance" to read as follows:

"Financial assistance" means public assistance, except for payments for med-

ical care, social service payments, and transportation assistance, including funds received from the federal government."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 16, 1980.)

## ACT 277

S.B. NO. 2795-80

A Bill for an Act Relating to the Budgetary Process.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to implement the provisions of the constitutional amendments enacted by the 1978 Constitutional Convention which require that the legislature establish a general fund expenditure ceiling which shall limit the rate of growth of general fund appropriations to the estimated rate of growth of the State's economy. These constitutional amendments were overwhelmingly ratified by the electorate in the 1978 general elections and the public thereby expressed its mandate that limits be placed on government spending.

More than a year has elapsed since the constitutional provisions were ratified and it is therefore incumbent upon the legislature to enact legislation which would establish the expenditure ceiling in this session.

This Act would establish the general fund appropriations made by the legislature for the fiscal year 1978-79, the fiscal year during which the constitutional amendments were ratified, as the base appropriation amount. Thus, it would be from this amount that the expenditure ceiling for future years shall be calculated.

The expenditure ceiling proposed by this Act will require that the legislature exercise prudence in making appropriations from the general fund and will require that the legislature be accountable to the public for any appropriations authorized which would be in excess of the expenditure ceiling. Furthermore, this Act would impose a similar requirement upon the governor and the chief justice, by requiring them to disclose and explain any proposed expenditures for their respective branch of government which would be in excess of a similar general fund appropriation ceiling.

SECTION 2. Chapter 37, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### "PART . GENERAL FUND EXPENDITURE CEILING

**Sec. 37- Definitions.** As used in sections 37- to 37- :

- (1) "State growth" means the estimated rate of growth of the State's economy and shall be established by averaging the annual percentage change in total state personal income for the three calendar years immediately preceding

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

the session of the legislature making appropriations from the state general fund.

- (2) "Total state personal income" means the total state personal income as defined by the state personal income series published by the United States Department of Commerce, Social and Economic Statistics Administration, Bureau of Economic Analysis, or its successor, for each year for which such income has been determined and published; for any year for which such income has not been determined or published, it shall mean the total state personal income for such year as estimated by the council on revenues.
- (3) "General fund" means the fund used to account for all transactions which are not accounted for in another fund, but excluding federal funds received by that fund.
- (4) "Expenditure ceiling" means the maximum general fund appropriations allowed in any year. The expenditure ceiling shall be determined by considering the fiscal year 1978-79 general fund appropriations as the expenditure ceiling. The expenditure ceiling for succeeding fiscal years shall be computed by adjusting the immediate prior fiscal year expenditure ceiling by the applicable state growth.

**Sec. 37- Proposed general fund appropriations; executive branch; judicial branch.** (a) The governor shall submit a plan of proposed appropriations for the State to the legislature which shall accompany the state budget in odd-numbered years and the supplemental budget in even-numbered years. The plan of proposed appropriations shall include the executive budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the executive branch and estimates of the aggregate proposed appropriations of the judicial and legislative branches of government. In any year in which the plan of proposed appropriations from the general fund exceeds the expenditure ceiling, the governor shall set forth the dollar amount, the rate by which the expenditure ceiling would be exceeded, and the reasons for proposing appropriations in excess of those allowed under the expenditure ceiling.

(b) The proposed appropriations from the general fund for each year of the biennium or each supplementary budget fiscal year for the executive and judicial branches shall not be increased over the appropriations from the general fund for the preceding fiscal year for each branch, respectively, by more than the state growth, except as provided in this section. For purposes of this subsection, the appropriations from the general fund for the executive and judicial branches shall not include any appropriations representing amounts authorized by the legislature under section 37-

(b).

(c) The governor shall submit a plan of proposed appropriations for the executive branch to the legislature which shall accompany the state budget in odd-numbered years and the supplemental budget in even-numbered years. The plan of proposed appropriations shall include the executive budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the executive branch.

(d) The budget documents presented by the governor to the legislature shall

include a statement or summary showing (1) the total state personal income for each of the four calendar years immediately preceding the session of the legislature making appropriations from the state general fund, (2) the appropriations from the general fund for the previous fiscal year, (3) the appropriations from the general fund for the fiscal year in progress, and (4) the general fund expenditure ceiling for the ensuing fiscal year and for the fiscal year in progress.

(e) The governor shall also include a statement or summary showing (1) recommended appropriations from the general fund for the executive branch for the ensuing fiscal year, (2) actual appropriations from the general fund for the executive branch plus any recommended appropriations from the general fund for the executive branch for the fiscal year in progress, (3) the appropriations from the general fund for the executive branch for the previous fiscal year, and (4) the general fund appropriation ceiling for the executive branch as established by subsection (b) for the ensuing fiscal year and for the fiscal year in progress.

(f) The chief justice shall submit a plan of proposed appropriations of the judicial branch to the legislature which shall accompany the judiciary biennial budget in odd-numbered years and the supplemental budget in even-numbered years. The plan of proposed appropriations shall include the judiciary budget, proposed grants to private entities, and any specific appropriation measures to be proposed by the judicial branch.

(g) The budget documents presented by the chief justice to the legislature shall include a statement or summary showing (1) recommended appropriations from the general fund for the judicial branch for the ensuing fiscal year, (2) actual appropriations from the general fund for the judicial branch plus any recommended appropriations from the general fund for the judicial branch for the fiscal year in progress, (3) the appropriations from the general fund for the judicial branch for the previous fiscal year, and (4) the general fund appropriation ceiling for the judicial branch as established by subsection (b) for the ensuing fiscal year and for the fiscal year in progress.

(h) The governor or the chief justice may propose appropriations from the general fund for the executive or judicial branches, respectively, in excess of those allowed by subsection (b) if the governor or the chief justice sets forth the dollar amount and the percentage change in excess of the appropriations allowed by subsection (b), and the reasons for proposing appropriations in excess of those allowed by subsection (b).

**Sec. 37- Legislature.** (a) The legislature shall not make appropriations from the general fund for each fiscal year of the biennium or each supplementary budget fiscal year which will exceed the expenditure ceiling for that fiscal year.

(b) The legislature may make appropriations from the general fund in excess of those allowed by subsection (a) by:

- (1) A two-thirds vote of the members to which each house of the legislature is entitled;
- (2) Setting forth the dollar amount and the rate by which the appropriations allowed by the change in the state growth will be exceeded; and
- (3) Setting forth the reasons for exceeding the appropriations allowed by the percentage change in the state growth;

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in each act which will cause appropriations from the state general fund to exceed those allowed by the change in state growth.

**Sec. 37- Director of finance; duties.** A preliminary estimate of the state growth and expenditure ceiling shall be determined by the director of finance as of August 1 of each year. The final estimate of the state growth and expenditure ceiling to be used by the legislature to make appropriations from the general fund in each year shall be determined by the director of finance as of November 1 of each year. Upon the determination of both the preliminary estimate and the final estimate of the state growth and expenditure ceiling, the director shall inform the governor, chief justice and the legislature and shall give public notice of such state growth and expenditure ceiling and the maximum dollar amount that may be appropriated from the general fund by publication twice in successive weeks in a newspaper of general circulation in the State."

SECTION 3. Chapter 37, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 37- Council on revenues; estimate of total personal income.** The council on revenues shall prepare an estimate of the total state personal income for the calendar year in progress and shall report the estimate and any revision thereto to the director of finance, the governor, the chief justice, and the legislature each July 15 and October 15."

SECTION 4. The Legislative Auditor is hereby directed to study and analyze alternative indicators of the rate of growth of the State's economy and the appropriateness of the use of each as a basis for estimating the rate of growth of the state economy and the establishment of a general fund expenditure ceiling as required by Article VII, Section 9 of the State Constitution.

SECTION 5. This Act shall take effect on July 1, 1980 and shall be repealed as of June 30, 1984.\*

(Approved June 16, 1980.)

## ACT 278

H.B. NO. 18

A Bill for an Act Relating to a Council on Revenues.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**"Sec. 37- Council on revenues.** (a) There shall be a council on revenues which shall prepare revenue estimates of the state government for the fiscal year in progress and for each of the ensuing fiscal years of the six-year state program and financial plan. The council shall report the estimates and revisions thereto to the governor and the legislature each June 1, September 10, January 10, and March 15.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

The council shall revise and update such estimates if it determines that such revisions are necessary or upon request of the governor or the legislature.

(b) The council on revenues shall consist of seven members. Three members shall be appointed by the governor to serve for four year terms. Two members each shall be appointed by the president of the senate and the speaker of the house of representatives to serve for two year terms. The members shall appoint from their own membership the person who shall serve as chairman of the council. Any vacancy shall be filled by the respective appointing authority. Members shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(c) The council shall meet as often as necessary to perform its duties. Section 92-3 shall not apply to meetings of the council where confidential tax information is discussed.

(d) The council shall be in the department of taxation for administrative purposes. The departments of budget and finance and taxation shall provide the council with such staff assistance and technical support as it may require and all departments and agencies of the executive branch shall furnish the council with such information as deemed necessary by the council to prepare revenue estimates.

**Sec. 37. Use of estimates.** The estimates prepared by the council shall be considered by the governor in preparing the budget, recommending appropriations and revenue measures, projecting revenues and controlling expenditures. The legislature shall consider these estimates in appropriating funds and enacting revenue measures. The governor and legislature shall use the latest council estimate as the base estimate against which their revenue estimates shall be compared.

(b) All estimates submitted by the council shall be made public. If the legislature in appropriating funds, or if the governor in preparing the budget uses a revenue estimate which differs from the estimate prepared by the council, then the governor or the legislature shall make that fact public together with reasons for using the differing revenue estimates."

## SECTION 2. New statutory material is underscored.\*

## SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1980.)

**ACT 279**

H.B. NO. 2193-80

A Bill for an Act Relating to the Transfer of all Functions, Powers and Duties Involving the Taxation of Real Property to the Counties.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** The legislature finds that section 3 of Article VIII of the Constitution of the State of Hawaii has been amended to provide that all functions, powers, and duties relating to the taxation of real property heretofore reserved to the

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

State shall be exercised exclusively by the counties with the exception of the County of Kalawao. It is the purpose of this Act to provide for the orderly transfer of these functions, powers, and duties, including the transfer of personnel, records, and equipment to the counties.

**SECTION 2. Transfer of functions.** Effective July 1, 1981, the functions, powers, duties, and authority heretofore exercised by the department of taxation relating to the taxation of real property shall be exercised by the respective counties, except the County of Kalawao as provided by Article VIII, Section 3, of the State Constitution.

- (1) For a period of eleven years commencing November 7, 1978, the counties shall by majority agreement of the counties, provide for uniform policies and methods of assessment for the taxation of all real property throughout the State. Such policies and methods shall include but not be limited to the assessment, levy, and collection of real property taxes. Upon agreement of the uniform policies and methods to be used for the taxation of all real property each county shall thereafter adopt by ordinance such uniform policy and method of assessment as the real property tax law of the county. In the event the counties cannot agree as to what shall be the uniform policy and method of assessment or should any or all of the counties fail to enact such ordinance the legislature shall by general law provide for a uniform method of assessment of real property taxes throughout the State. Amendments to such uniform policies and methods adopted by the counties may be made by majority agreement of the counties and subsequent enactment thereof by ordinance.
- (2) Each county shall enact by ordinance and adopt as law for the county all of the real property tax exemptions and the provisions for the dedication of lands for specific use and the assessment of such lands at its value in such use as now provided by law. These exemptions and dedications shall continue undiminished for a period of eleven years commencing November 7, 1978. The counties may by majority agreement of the counties and subsequent enactment by ordinance enlarge, add to, increase, or provide for new exemptions or dedications of lands. The enlargement, addition to, or creation of new exemptions or dedications may be amended by majority agreement of all the counties and subsequent enactment thereof by ordinance; provided any such amendment shall not in any way diminish the exemption or dedication that was in force on November 7, 1978.
- (3) Each of the counties, with the exception of the County of Kalawao, shall succeed to all of the rights and powers previously exercised, and all of the duties and obligations incurred by the department of taxation in the exercise of the functions, powers, duties, and authority transferred, whether such functions, powers, duties, and authority are mentioned in or granted by any law, contract, or other document. The powers included herein shall include the authority to place liens on property with delinquent taxes, provide for the issuance of subpoenas to enforce the real property tax law, and pursue the enforcement of the real property tax law through the tax appeal court or any court of competent jurisdiction. Each county shall have the power to

determine real property tax rates by resolution under procedures defined in the real property tax ordinance of the county. All references in any such law, contract, or document to the department of taxation such as dedication agreements, collection and payment agreements, or exemptions, shall apply to the respective counties, as if each of the respective counties, with the exception of the County of Kalawao, were specifically named in such law, contract, or document in place of the department of taxation.

**SECTION 3. Transfer of personnel.** Effective July 1, 1981, all personnel employed by the department of taxation whose functions, duties, responsibilities, and activities involve the assessment, levy, and collection of real property taxes, and those personnel whose functions, duties, and responsibilities directly relate to the taxation of real property, such as but not limited to those personnel in the tax maps branch, real property program office, data processing, administrative services, and the like, shall be transferred to the counties pursuant to a plan approved by the State and the counties. The transfer shall be effected so that affected personnel assigned to the First Taxation District shall be transferred to the City and County of Honolulu; affected employees assigned to the Second Taxation District shall be transferred to the County of Maui; affected employees assigned to the Third Taxation District shall be transferred to the County of Hawaii; and affected employees assigned to the Fourth Taxation District shall be transferred to the County of Kauai.

The transfer of personnel whose functions, duties, powers, and authority are performed on a statewide basis and not at the district level, such as but not limited to the tax maps branch, real property program office, data processing, administrative services, and the like, shall be made pursuant to a plan to be developed between the governor and the mayors of the respective counties.

All such personnel transferred shall acquire county civil service status without loss of salary, seniority, prior service credits, vacation, sick leave, or other employee benefits or privileges as a consequence of such transfer; provided that subsequent changes in status may be made pursuant to personnel laws of the respective counties.

In the event that an office or position held by any employee having tenure is affected by workload changes or is abolished, such employee shall not thereby be separated from public employment but shall remain in the employment of the State in accordance with the civil service law, the applicable bargaining unit contract, or the state personnel rules and regulations, whichever is applicable.

**SECTION 4. Transfer of records, equipment, appropriations, and other property.** All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, and other property theretofore made, used, acquired, or held by the department of taxation in the exercise of the functions to be transferred by this Act shall be transferred under the direction of the governor to the respective counties.

**SECTION 5. Pending proceedings.** No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of the director of taxation to institute proceedings for prosecution for an offense or an action to recover a penalty or forfeiture shall henceforth be vested in such person or persons as may be directed by ordinance to be adopted by each of the respective counties.

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**SECTION 6. Appeals.** The right of appeal from administrative actions or determinations as now provided by law shall not be impaired by this Act.

Each of the counties shall by ordinance provide for appeals from assessments, denial of an exemption, or the denial of a dedication to the same extent and in accordance with the procedures prescribed in chapter 232, Hawaii Revised Statutes.

**SECTION 7. Amendment of conflicting laws.** All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith.

**SECTION 8. Construction; separability.** This Act shall be liberally construed in order to accomplish the purposes set forth in section 1. Any portion of this Act judicially declared to be invalid shall not affect the remaining portions.

**SECTION 9. Costs.** The costs associated with the transfer of personnel, records, equipment, appropriations, and other property and all other costs involved to effectuate the purposes of this Act shall be borne by each of the several counties as the total assessed valuation for that county proportionately bears to the total assessed valuation for the entire State for the tax year 1980–81. The director of taxation shall, no later than December 31, 1981, furnish each county council with a calculation, certified by the director as being as nearly accurate as may be, of the pro rata share of the costs of the transfer to be borne by each of the several counties.

The director of finance shall withhold from payment to the several counties out of the real property taxes collected for the second installment of the 1980–81 tax year due on February 20, 1981, an amount estimated by the director to be sufficient to reimburse the State for the costs associated with the transfer. Should the amount so withheld from any county be insufficient to reimburse the State for the cost of the transfer, each such county shall first pay to the State the amount of the deficiency from the amount of real property taxes collected for the second installment of the 1981–82 tax year due on February 20, 1982. Any excess of the amounts withheld shall be paid to the respective counties.

**SECTION 10. Effective date.** This Act shall take effect upon its approval.

(Approved June 16, 1980.)

**ACT 280**

H.B. NO. 2368-80

A Bill for an Act Relating to Discriminatory Pricing in Supply Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 281, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

### **“PART . PRICE DISCRIMINATION IN SUPPLYING LIQUOR**

**Sec. 281- Definitions.** Whenever used in this part, unless otherwise apparent from the context:

(1) “Supplier” means any person engaged in business as a manufacturer, dis-

tiller, rectifier, importer, broker or agent which distributes any or all of its liquors through wholesalers licensed pursuant to this chapter.

- (2) "Hawaii wholesaler" means any person licensed under this chapter to sell liquors at wholesale to retail licensees or to others who are by law authorized to resell but are not by law required to hold a license.
- (3) "Liquor" has the meaning defined by section 281-1, except it shall not include beer and wine, as defined by that section.

**Sec. 281- Price discrimination.** No supplier shall sell or offer to sell to any Hawaii wholesaler any item of liquor at a price which is higher than the lowest price at which such item is currently being sold or offered for sale by such supplier to any wholesaler in any other state of the United States or the District of Columbia or to any state (or state agency) which owns and operates retail liquor outlets. In determining the lowest price for which any item of liquor is or was sold by such supplier in any other state or in the District of Columbia, or to any state (or state agency) which owns and operates retail liquor outlets, appropriate reductions shall be made for all discounts, rebates, free goods, allowances and other inducements of any kind whatsoever offered or given by such supplier to any such wholesaler in another state or in the District of Columbia or to any state (or state agency) which owns and operates retail liquor outlets; provided that differentials in price which make only due allowance for differences in state taxes and fees and for the actual cost of delivery are permissible. As used in this section, the term "state taxes and fees" means the excise taxes imposed or the fees required by any state or the District of Columbia upon, or based upon, a gallon or liter of liquor, and the term "gallon" means one hundred twenty-eight fluid ounces and the term "liter" means one thousand milliliters.

**Sec. 281- Price affirmation; schedule, etc.** Within sixty days after the effective date of this part, every supplier desiring to distribute liquor to a Hawaii wholesaler shall first file with the commission:

- (1) An affirmation, duly verified, certifying that such supplier will not sell or offer to sell any item of liquor in any state or the District of Columbia at a price lower than the price for which the same item is sold or offered for sale by such supplier to a Hawaii wholesaler, and
- (2) A current schedule of prices, duly verified and filed in the number of copies and form as required by the commission, for each brand and each size of liquor sold or offered for sale in Hawaii by such supplier, which prices are not higher than the lowest price at which the brand and size are offered for sale by such supplier to any wholesaler, distributor, jobber or retailer in any other state or the District of Columbia or to any state (or state agency) which owns and operates retail liquor outlets. On July 1 of each year after the initial filing hereunder, there shall be filed with the commission either a revised schedule or a statement that no revision is being made. In addition, any supplier may file a revised schedule at any time to reflect changed or modified prices, provided that any price increase shall not be effective until thirty days from the date of such filing.

**Sec. 281- Violation; penalty.** (a) It shall be unlawful for any supplier distributing liquor in this State to:

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- (1) Fail to file the affirmation required by section 281- (a) (1) or to file a false affirmation;
- (2) Fail to file the schedule of prices or revision thereof required by section 281- (a) (2) or to file a false schedule or revision;
- (3) Sell or offer to sell any item of liquor to a Hawaii wholesaler in violation of section 281- or section 281- , or both, unless prior written permission of the commission is granted for such sale or offer, which permission shall be given only upon good cause shown and for reasons not inconsistent with the purposes of this part.

(b) Each violation of this part shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not more than \$1,000 or imprisonment for a term of not more than one year, or both. In addition, the commission may bring proceedings to enjoin the violation of any of the provisions of this part.

(c) Any wholesaler injured in its business or property by reason of anything forbidden in this part may (1) bring proceedings to enjoin the violation of any of the provisions of this part, and if the decree is for the plaintiff, it shall be awarded reasonable attorney's fees together with the cost of suit, and (2) sue for damages sustained by it, and, if the judgment is for the plaintiff, it shall be awarded three-fold the damages by it sustained and reasonable attorney's fees together with the cost of suit."

SECTION 2. This Act shall take effect upon its approval and shall expire June 30, 1982.

(Approved June 16, 1980.)

## ACT 281

H.B. NO. 2647-80

A Bill for an Act Relating to Motor Vehicles.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 291-35, Hawaii Revised Statutes, is amended to read:

**"Sec. 291-35 Gross weight, axle, and wheel loads.** No motor vehicle or other power vehicle or combination of such vehicles equipped wholly with pneumatic tires, which has a total gross weight, including vehicle and load, an axle load, or a wheel load in excess of the limits set forth in this section shall be operated or moved upon any public road, street, or highway within the State; provided that the maximum gross weight, axle loads, and wheel loads allowed under this section shall be inapplicable when its application would adversely affect the receipt of federal funds for highway purposes; and provided further that no vehicle or combination of vehicles shall be operated on or moved over any bridge or other highway structure if the total gross weight, including vehicle and load, exceeds the posted maximum gross load limitation for the bridge or other highway structure.

(1) The total gross weight, in pounds, imposed on any public road, street, or highway within the State by any group of two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed the following when

the distance between the first and last axles of the group under consideration is:

- (A) Less than forty-two inches, the weight imposed shall not exceed twenty-four thousand pounds.
- (B) At least forty-two inches but less than six feet, the weight imposed shall not exceed thirty-four thousand pounds. This grouping of two consecutive axles shall be known as tandem axle.
- (2) The total gross weight, in pounds, imposed on interstate highways within the State by any group of two or more consecutive axles, on a vehicle or combination of vehicles shall not exceed that resulting from application of the formula:

$$W = 500 \left( \frac{LN}{N-1} + 12N + 36 \right)$$

when the distance between the first and last axles of the group under consideration is at least six feet and over and where W = maximum weight in pounds carried on any group of two or more axles computed to the nearest 500 pounds.

L = Distance in feet between the extremes of any group of two or more consecutive axles, to the nearest foot.

N = Number of axles in group under consideration.

Provided that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more. Provided also that the overall gross weight does not exceed 80,800 pounds.

- (3) The total gross weight, in pounds, imposed on any public road, street, or highway, other than interstate highways, within the State by a vehicle or combination of vehicles shall not exceed that determined by the formula:

$$W = 880(L + 40)$$

when the distance between the first and last axle is at least six feet and over and where W = maximum weight in pounds rounded to the nearest 500 pounds.

L = Distance in feet between first and last axles of the vehicle or combination of vehicles.

- (4) No vehicle or combination of vehicles shall be used or operated on any public road, street, or highway within the State (A) with a load upon any single or tandem axle or combination of axles which exceeds the carrying capacity of the axles specified by the manufacturer, or (B) with a total weight in excess of its designed capacity as indicated by its designed gross vehicle weights or gross combination weights.
- (5) The total gross weight imposed upon the public road, street, or highway by any single axle shall not exceed twenty-four thousand pounds. For the purpose of this section, axles placed in the same transverse plane which are closer than forty-two inches shall be considered as one axle.
- (6) The total gross weight imposed upon the public road, street, or highway by any one wheel, either single or dual mounting, shall not exceed twelve thousand pounds.

(7) The director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may place and maintain signs to limit the gross weight of a vehicle or combination of vehicles traveling over a bridge or other highway structure in the interest of public safety when it is determined through engineering investigation and analysis that the theoretical load carrying capacity of the bridge or structure is less than the maximum gross vehicular weight allowed by this chapter. In determining the weight limits and in posting the weight limit signs, the director or the county engineer need not comply with rule-making provisions of chapter 91; provided that if any person objects to the weight limits, the person may object to the rule as provided in chapter 91."

**SECTION 2.** Section 291-36, Hawaii Revised Statutes, is amended by amending subsection (j) to read:

"(j) A fee shall be charged for each permit issued by the director of transportation as follows:

- |  |       |
|--|-------|
| (1) Single trip permit for loads less than 1.35 times the allowable load or less than 14 feet in width .....     | \$ 5. |
| (2) Continuous trip permit for loads less than 1.35 times the allowable load or less than 14 feet in width ..... | \$10. |
| (3) Overweight permit in excess of 1.35 times the allowable load .....   | \$25. |
| (4) Oversize permit for width in excess of 14 feet.....  | \$25. |

Such fee shall be deposited in the State's account for special funds for highways."

**SECTION 3.** Section 291-37, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Any person guilty of omitting any of the required acts, or committing any of the prohibited acts of this chapter, or the rules adopted shall be guilty of a violation of this chapter and may be fined not less than \$25 nor more than \$500. Any person guilty of omitting any of the required acts, or committing any of the prohibited acts of sections 291-34 to 291-36 may be fined not more than \$500 for each offense and not less than the fine which is set forth in the following tables:

If the excess weight is:

The minimum fine shall be:

100 to 1,500 pounds	\$ 25
1,501 to 2,000 pounds	30
2,001 to 2,500 pounds	40
2,501 to 3,000 pounds	60
3,001 to 3,500 pounds	80
3,501 to 4,000 pounds	100
4,001 to 4,500 pounds	125
4,501 to 5,000 pounds	150
5,001 to 5,500 pounds	175
5,501 to 6,000 pounds	200
6,001 to 6,500 pounds	230
6,501 to 7,000 pounds	260
7,001 to 7,500 pounds	290

7,501 to 8,000 pounds	320
8,001 to 8,500 pounds	355
8,501 to 9,000 pounds	390
9,001 to 9,500 pounds	425
9,501 to 10,000 pounds	460
10,001 pounds and over	480
If the excess dimension is:	The minimum fine shall be:
Up to 5 feet	\$ 25
Over 5 feet and up to 10 feet	50
Over 10 feet and up to 15 feet	75
Over 15 feet	100

For the purpose of the imposition of a fine or penalty herein, evidence of prior offenses shall be admissible.

All penalties imposed and collected under sections 291-33 to 291-36 shall be paid into the state highway fund.

The department of transportation is authorized to institute a system where the minimum fine, based on the tables in this subsection, may be mailed in when the citation or penalty is not to be contested. This system shall include an ability for the owner of the vehicle or combination of vehicles to request the operator be held harmless and the citation be transferred to that owner of the vehicle or combination of vehicles."

SECTION 4. Section 291-39, Hawaii Revised Statutes, is amended to read:

**"Sec. 291-39 Enforcement.** (a) For the purpose of the enforcement of sections 291-33 to 291-36, the powers of police officers are conferred upon the director of transportation and any motor carrier safety officer. Every police officer and motor carrier safety officer shall enforce compliance with sections 291-33 to 291-36, with the technical assistance of the department of transportation. In the enforcement of sections 291-34 to 291-36 such officers may require the driver of a vehicle to stop and submit to:

- (1) The measurement of the dimensions of the vehicle and load;
- (2) The examination of the certificate of weight; and
- (3) The weighing of vehicles and load by means of either wheel load weighers, axle load scales, or vehicle scales, if such scales are within two miles of the place where the vehicle is stopped.

(b) The department of transportation is authorized to provide the necessary technical assistance to police officers and motor carrier safety officers to determine compliance or noncompliance with sections 291-34 to 291-36. Whenever the department of transportation determines that the size or weight of a vehicle does not comply with sections 291-34 to 291-36, the police officers or motor carrier safety officers may require the driver to move the vehicle to a suitable place and to remain there until the vehicle and load are brought into compliance with the limits prescribed by this chapter. If any of the load must be removed from the vehicle in order to comply with sections 291-34 to 291-36, the removal and all risks caused by or resulting from the removal shall be the responsibility of the owner or operator of the vehicle.

(c) Notwithstanding any other provisions of this chapter, no enforcing officer shall issue a citation for violation of the provisions set forth in section 291-35 unless

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the violator exceeds the applicable maximum weight by more than five per cent.

(d) Police officers and motor carrier safety officers shall issue citations to any person violating sections 291-33 to 291-36, except as specified in subsection (c).

(e) The driver of any vehicle who fails or refuses to stop and submit the vehicle and load to measuring or weighing when directed by a police officer or motor carrier safety officer or who fails or refuses to otherwise comply with this section, shall be fined as provided in section 291-37."

**SECTION [5].†** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION [6].†** This Act shall take effect upon its approval.

(Approved June 16, 1980.)

## **ACT 282**

**H.B. NO. 2729-80**

A Bill for an Act Relating to the Establishment of the Hawaii Fisheries Coordinating Council.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **“CHAPTER HAWAII FISHERIES COORDINATING COUNCIL**

**Sec. -1 Establishment of the Hawaii fisheries coordinating council; membership.** There is established within the department of land and natural resources the Hawaii fisheries coordinating council, hereinafter referred to as the council, for the purpose of advising the board of land and natural resources on matters relating to fisheries and the coordination of fisheries activities among the various federal, state, and county agencies and private industry. The council shall be composed of eleven voting members, and no more than ten nonvoting members, as follows:

- (1) Four shall be voting ex-officio members to consist of the chairperson of the board of land and natural resources, the director of planning and economic development, the director of transportation, and the marine affairs coordinator.
- (2) Six shall be voting members representing the fishing industry appointed by the governor pursuant to section 26-34; provided that at least one member shall represent and be selected from each of the several counties of the State.
- (3) One shall be a voting member appointed by the governor pursuant to section 26-34 selected from the State's recreational fishing population.

<sup>†</sup>Bracketed "5" and "6" substituted for "4" and "5" to correct obvious clerical error.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (4) There shall be no more than ten nonvoting ex-officio members to consist of the respective economic development directors of the city and county of Honolulu, the county of Hawaii, the county of Maui, and the county of Kauai, and may include the director of the University of Hawaii's sea grant program, the chairperson of the Pacific tuna development foundation, and the chairperson of the Western Pacific Fisheries Management Council, and such other members as deemed appropriate by the chairperson of the Hawaii fisheries coordinating council.

The chairperson of the board of land and natural resources shall serve as the chairperson of the council. All members of the council shall serve without compensation but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities of the council.

**Sec. -2 Powers and duties of the council.** The council shall advise the board of land and natural resources on matters relating to fisheries development including:

- (1) Proposing and preparing programmatic fisheries development plans and policies;
- (2) Coordinating all state fisheries activities as they relate to the federal and county governments, public and private organizations, and commercial enterprises;
- (3) Coordinating state agency requests for federal grants and technical assistance;
- (4) Promoting communication between industry and government sectors, including the consideration of problems, requirements, and available financial and technical assistance;
- (5) Performing such services as may be required by the governor and legislature; and
- (6) Preparing and submitting an annual report on the implementation of this chapter to the governor and the legislature prior to each regular session.

**Sec. -3 Personnel.** The department of land and natural resources shall provide staff support for the council to perform its duties and responsibilities.

**Sec. -4 State agency cooperation.** The council may request and shall receive from any department, division, board, bureau, commission, or agency of the State or any political subdivision thereof such assistance and data as it deems necessary or desirable to carry out its powers and duties."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 16, 1980.)

A Bill for an Act Relating to Liability of Dog Owners.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The Legislature finds that there has been an increase in the

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number of attacks upon humans by dogs. Present statutes contain provisions which penalize persons whose dogs injure or destroy other animals or property, and which encompass other remedial measures to remove the dog which has caused the injury or damage. However, the statutes are silent as to a remedy short of civil suit when a person is injured by a dog. Because of the harm caused by dogs who attack persons, it is apparent that statutory remedies should be provided for victims of dog bites.

SECTION 2. Part III of Chapter 142, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 142- Human bitten by dog; duty of dog owners; action against owner.** (a) The owner of any dog which has bitten a human being shall have the duty to take such reasonable steps as are necessary to prevent the recurrence of such incident.

(b) Whenever a dog has bitten a human being on at least two separate occasions for which none of the exceptions specified in section 663- apply, any person may bring an action against the owner of such dog in the district court of the judicial circuit in which such owner resides, to determine whether conditions of the treatment or confinement of the dog or other circumstances existing at the time of the bites have been changed so as to remove the danger to other persons presented by such animal. The court, after hearing, may make any order it deems appropriate to prevent the recurrence of such an incident, including, but not limited to, the removal of the animal from the area or its destruction by its owner. In making its decision, the court may consider (1) the vicious or dangerous propensities of the animal, (2) the ability of the owner to adequately confine or remove the animal, and (3) the necessity of any destruction of an animal in light of the health, safety and welfare of the community. This section shall not preclude any existing common law remedies."

SECTION 3. New statutory material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1980.)

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H. B. NO. 2929-80

A Bill for an Act Relating to Disposition of Defendants.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 706-606.5, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 706-606.5 Sentencing of repeat offenders.** (a) Notwithstanding section 706-669 and any other law to the contrary, any person convicted under section 707-701 relating to murder, 707-710 relating to assault in the first degree, 707-720 relating to kidnapping, 707-724 relating to criminal coercion involving dangerous weapons, 707-730 relating to rape in the first degree, 707-733 relating to sodomy in the first

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

degree, 707-768 relating to extortion involving dangerous weapons, 708-810 relating to burglary in the first degree, 708-840 relating to robbery in the first degree, 712-1241 relating to the promoting of a dangerous drug in the first degree, 712-1242 relating to the promoting of a dangerous drug in the second degree, or 712-1244 relating to the promoting of a harmful drug in the first degree, who has a prior conviction for any of the above enumerated offenses or of any one of those enumerated in subsection (b) in this or another jurisdiction, within the time of the maximum sentence of the prior conviction, shall be sentenced for each conviction after the first conviction to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (1) Second conviction-5 years;
- (2) Third conviction-10 years.

(b) Notwithstanding section 706-669 and any other law to the contrary, any person convicted under section 708-811 relating to burglary in the second degree; 708-831 relating to theft in the first degree; 134-7 relating to ownership or possession of firearms or ammunition by persons convicted of certain crimes; 134-8 relating to ownership, etc., of prohibited weapons; 134-9 relating to permits to carry; 707-702 relating to manslaughter; 707-703 relating to negligent homicide in the first degree; 707-711 relating to assault in the second degree; 707-714 relating to reckless endangering in the second degree; 707-715 relating to terroristic threatening in the first degree; 707-721 unlawful imprisonment in the first degree; 707-724 relating to criminal coercion; 707-731 relating to rape in the second degree; 707-732 relating to rape in the third degree; 707-734 relating to sodomy in the second degree; 707-735 relating to sodomy in the third degree; 707-736 relating to sexual abuse in the first degree; 707-741 relating to incest; 707-750 relating to promoting child abuse in the first degree; 707-751 relating to promoting child abuse in the second degree; 707-765 relating to extortion in the first degree; 707-766 relating to extortion in the second degree; 708-820 relating to criminal property damage in the first degree; 708-841 relating to robbery in the second degree; 710-1020 relating to escape in the first degree; 710-1031 relating to intimidation of a correctional worker; 710-1071 relating to intimidating a witness; 710-1074 relating to intimidating a juror; 712-1202 relating to promoting prostitution in the first degree; who has a prior conviction or prior convictions for one or more offenses enumerated in subsection (a) or this subsection in this or another jurisdiction, within the time of the maximum sentence of any prior conviction, shall be sentenced to a mandatory minimum period of imprisonment without possibility of parole during such period as follows:

- (1) One prior conviction-3 years;
- (2) Two prior convictions-5 years.

(c) The sentencing court may impose the above sentences consecutive to any other sentence then or previously imposed on the defendant or may impose a lesser mandatory minimum sentence without possibility of parole than that mandated by this section where the court finds that strong mitigating circumstances warrant such action. Strong mitigating circumstances shall include, but will not be limited to, the provisions of section 706-621. The court shall provide a written opinion or its reasons for imposing the lesser sentence."

SECTION 2. Statutory material to be repealed is bracketed. New material is

## ACT 285

underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1980.)

**ACT 285**

H. B. NO. 2944-80

A Bill for an Act Relating to Emergency Medical Services.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 321-222, Hawaii Revised Statutes, is amended by amending the definition of "State system" to read:

"(4) "State system" means the state comprehensive prehospitalization emergency medical services system."

SECTION 2. Section 321-228, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-228 Emergency medical services; counties.** The department of health shall determine, in consultation with the advisory committee under section 321-225, the levels of emergency medical services which shall be implemented in each county. The department of health may contract to provide emergency medical services or any necessary component of a county emergency services system in conformance with the state system. In the event any county shall apply to the department to operate emergency medical ambulance services within the respective county, the department of health may contract with the county for the provision of such services. The department shall operate emergency medical ambulance services or contract with a private agency in those counties which do not apply to it under this section. Any county or private agency contracting to provide emergency medical ambulance services under this section shall be required by the department to implement such services in a manner and at a level consistent with the levels determined under this section.

The department of health shall be responsible for providing for the training of first responders and basic life support personnel within counties not applying to provide emergency medical services under this section. The department of health shall adopt rules subject to chapter 91 for the implementation of this section."

SECTION 3. Section 321-229, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-229 Emergency medical services personnel, training programs.** The department of health and the counties in the fulfillment of their responsibilities under this part shall be responsible for the training of basic life support personnel, shall negotiate and enter into contract for the provision of such training with community colleges or other organization or institutions with expertise in such training. The department of health shall negotiate and enter into contract for the training of advance

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

life support personnel with a professional medical organization which has experience in such training; provided that such training shall be conducted in the State to the extent that such training is available within the State, to minimize costs and more importantly, to familiarize and instruct personnel in conjunction with the state system and the environs in which they will be working. The department of health and the counties in consultation with the advisory committee shall select a contractor who shall provide such services."

SECTION 4. Section 321-230, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 321-230 Technical assistance, data collection, evaluation.** The department of health shall negotiate and enter into contract with appropriate professional medical organizations with expertise in emergency medical services for technical assistance and consultation, including but not limited to categorization, data collection, and evaluation appropriate to the needs of the state system. The department of health in consultation with the advisory committee shall select a contractor who shall provide such services.

For the purposes of this section, "categorization" means systematic identification of the readiness and capabilities of hospitals and their staffs to adequately, expeditiously, and efficiently receive and treat emergency patients. The department of health in consultation with the advisory committee shall determine the parameters of any contract services under this section."

SECTION 5. New statutory material is underscored. Statutory material to be repealed is bracketed.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 16, 1980.)

ACT 286

S. B. NO. 1161

A Bill for an Act Relating to Attorneys' Fees and Costs and Expenses of Litigation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 607, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 607- Attorneys' fees in civil actions.** (a) In any civil action in this State where a party seeks money damages or injunctive relief, or both, against another party, and the case is subsequently decided, the court may, as it deems just, assess against either party, and enter as part of its order, for which execution may issue, a reasonable sum for attorneys' fees, in an amount to be determined by the court upon a specific finding that the party's claim was completely frivolous; provided the amount shall not exceed twenty-five per cent of any amount originally prayed for by the party assessed.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **ACT 287**

(b) In determining the award of attorneys' fees and the amounts to be awarded, the court must find in writing that all claims made by the party are completely frivolous and are totally unsupported by the facts and the law in the civil action."

**SECTION 2.** New statutory material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 17, 1980.)

## **ACT 287**

H. B. NO. 2026-80

A Bill for an Act Relating to Employment Agencies Fees.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 373-10, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 373-10 Fees.** (a) Each employment agency shall file with the director a schedule, which may not be changed more than once during each calendar year, of its placement fees to be charged to applicants.

(b) The schedule, or change of schedule shall become effective upon approval of the director; provided that the director shall approve or disapprove within sixty days after the schedule, or change of schedule, is filed.

(c) Any contract between an applicant and the employment agency shall be in writing and shall contain in bold print enclosed within a conspicuous border the gross amount of the estimated fee charged and the time period on which the fee is based. A copy of the contract shall be provided to the applicant. The director may adopt rules pursuant to chapter 91 to prescribe the form and content of the contract.

(d) No employment agency shall charge or collect any registration fee or advance payment for services to be rendered in finding employment.

(e) It shall be a violation of this chapter for an employment agency to charge, demand, or collect any registration fee or advance payment for services, or any fee which is greater than the applicable fee listed in the schedule which it has filed with the director."

**SECTION 2.** Statutory material to repealed is bracketed. New material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 17, 1980.)

## **ACT 288**

H. B. NO. 2029-80

A Bill for an Act Relating to the Hawaii Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 1. Chapter 356-201, Hawaii Revised Statutes, is amended by amending the definition of "eligible borrower" to read:

"Eligible borrower" means any person or family, irrespective of race, creed, national origin, or sex, who:

- (1) Is a citizen of the United States or a declarant alien;
- (2) Is a bona fide resident of the State;
- (3) Is at least of legal age;
- (4) Does not himself or herself, or whose spouse if the person is married, own any interest in any residential property within or without the State and who has not owned such property within the three years immediately prior to the application for an eligible loan under this chapter;
- (5) Has never before obtained a loan under this part; and
- (6) Meets other qualifications as established by rules adopted by the authority."

SECTION 2. Section 356-206, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 356-206 Rules; eligible borrower.** (a) The authority shall establish the qualifications of an eligible borrower, and may consider, but not be limited to, the following:

- (1) The proportion of income spent for shelter;
  - (2) Size of the family;
  - (3) Cost and condition of housing available to the total housing market; and
  - (4) Ability of the person to compete successfully in the normal housing market and to pay the amounts on which private enterprise is providing loans for safe, decent, and sanitary housing in the State.
- (b) The adjusted household income of an eligible borrower shall not exceed one hundred twenty-five per cent of the median annual income for households of four persons in the State as most recently published by the United States Department of Health, Education and Welfare except that the adjusted household income of a family of one shall not exceed one hundred per cent of such median income. As used in this subsection, "adjusted household income" means the total income, before taxes and personal deductions, received by all members of the eligible borrower's household, including, but not limited to, wages, social security payments, retirement benefits, unemployment benefits, welfare benefits, interest and dividend payments, and such other income as provided by rules adopted by the authority under chapter 91, but not including business deductions.

(c) The assets of an eligible borrower shall not exceed an amount equal to the adjusted household income for an eligible borrower as set forth in subsection (b). As used herein, assets include, but is not limited to, all cash, securities, and real and personal property, less any outstanding liabilities secured by such assets and less twenty-five per cent of a down payment required for the purchase of property financed by an eligible loan."

SECTION 3. Act 50, Session Laws of Hawaii 1979, is amended by amending section 7 to read as follows:

**"SECTION 7. Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the authority pursuant to part III, chapter 39 and part II,

## ACT 289

chapter 356, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$225,000,000 at such times and in such amounts as it deems advisable for the purpose of undertaking and maintaining any of the housing loan programs in part II of chapter 356, Hawaii Revised Statutes, relating to the funding or purchasing of eligible loans."

SECTION 4. Section 5, Act 50, Session Laws of Hawaii 1979, is repealed.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 17, 1980.)

## ACT 289

H. B. NO. 2151-80

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 by adding a new section to be appropriately designated and to read as follows:

**"Sec. 444- Roofing contractors guarantee bond.** (a) Every contract executed for the purpose of constructing, repairing or improving a roof covering, which contract states a guarantee for workmanship for a period in excess of seven years, shall be accompanied by a bond, executed by the licensee as principal and by a surety company authorized to do business in the State as a surety, for the replacement value of such roof covering; provided that no surety company shall be compelled to issue a bond for any guarantee pursuant to a contract under this section which it would not ordinarily bond or consider to be a bondable project.

(b) Such bond shall be for the exclusive benefit of, and be limited to, an owner or lessee of a private residence, including a condominium or cooperative unit, who has contracted with a duly licensed contractor for the construction of a roof covering to his own private residence and who has filed an appropriate claim for the replacement value of a roof covering which has become faulty or defective within the stated guarantee period.

(c) The surety bond shall be continuous in form and the total aggregate liability of the surety for all claims shall be limited to the face amount of the bond irrespective of the number of years the bond is in force.

(d) Any claim or subsequent action to make a claim against the bond shall be brought not later than one year after the expiration of the guarantee period for which the bond has been provided. Claims against the bond, as provided in this section, shall not in any way supersede or prevent claims made under [section]† 444-26 or any other appropriate statute or law.

(e) Every contractor licensed to perform under this chapter shall, prior to entering into a contract covered by this section, provide to the owner appropriate

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

†"Section" substituted for "chapter" to correct manifest clerical error.

information to evidence the existence of the bond and its conditions in writing.

(f) Bonds required under this section shall be in addition to any other bond required by this chapter or any other bond required or executed between a contractor and an owner or other contracting agency.

(g) Any violation by any contractor of any provision of this section or failure to maintain in full force and effect any bond required by this section, shall be deemed to be an unfair and deceptive act or practice."

**SECTION 2.** New statutory material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 17, 1980.)

**ACT 290**

H. B. NO. 2321-80

A Bill for an Act Relating to Travel Agencies.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The Hawaii Revised Statutes are amended by adding a new chapter to be appropriately designated and to read as follows:

## **“CHAPTER TRAVEL AGENCIES**

**Sec. -1 Definitions.** As used in this chapter:

- (1) “Department” means the department of regulatory agencies.
- (2) “Director” means the director of regulatory agencies.
- (3) “Travel agency” means any sole proprietorship, organization, trust, group, association, partnership, corporation, society, or combination of such, which for compensation or other consideration, acts or attempts to act as an intermediary between a person seeking to purchase travel services and any person seeking to sell travel services. Travel agency does not include an air or ocean carrier.
- (4) “Sales representative” means any employee or agent of a travel agency who arranges for the purchase or sale of travel services but does not include a salaried employee of a licensed travel agency.

**Sec. -2 Registration required.** Travel agencies and sales representatives shall register with the director prior to engaging in the business of selling travel services.

**Sec. -3 Travel agency recovery fund; use of fund; fees.** The director shall establish and maintain a travel agency recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a travel agency or sales representative, that is in violation of this chapter, may recover by order of the circuit

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

court or district court of the county where the violation occurred, an amount of not more than \$10,000 for damages sustained as a result of the act, representation, transaction, or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant, including court costs and fees as set by law, and reasonable attorney fees as determined by the court.

Every travel agency shall pay on a biennial basis a non-refundable fee of \$50 for deposit in the travel agency recovery fund.

Every sales representative shall pay on a biennial basis a non-refundable fee of \$25 for deposit in the travel agency recovery fund.

**Sec. -4 Additional payments to fund.** If, on December 31 of any year, the balance remaining in the travel agency recovery fund is less than \$30,000, every travel agency and sales representative shall be assessed the appropriate fee for deposit in the travel agency recovery fund.

**Sec. -5 Statute of limitations; recovery from fund.** (a) No action for a judgment which may subsequently result in an order for collection from the travel agency recovery fund shall be commenced later than six years from the accrual of the cause of action thereon. When any aggrieved person commences action for a judgment which may result in collection from the travel agency recovery fund, the aggrieved person shall notify the director in writing to this effect at the time of the commencement of such action. The director shall have the right to intervene in and defend any such action.

(b) When any aggrieved person recovers a valid judgment in any circuit court or district court of the county where the violation occurred against any travel agency or sales representative for such act, representation, transaction, or conduct which is in violation of this chapter or its adopted rules which occurred after the effective date of this Act, the aggrieved person may, upon the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon ten days' written notice to the director, may apply to the court for an order directing payment out of the travel agency recovery fund, of the amount unpaid upon the judgment, subject to the limitations stated in this section.

(c) The court shall proceed upon such application in a summary manner, and, upon the hearing thereof, the aggrieved person shall be required to show:

- (1) He or she is not a spouse of debtor, or the personal representative of such spouse.
- (2) He or she has complied with all the requirements of this section.
- (3) He or she has obtained a judgment as set out in subsection (b) of this section, stating the amount thereof and the amount owing thereon at the date of the application.
- (4) He or she has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.
- (5) That by such search he or she has discovered no personal or real property or other assets liable to be sold or applied, or that he or she has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he or she has taken all necessary action and

proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(d) The court shall make an order directed to the director requiring payment from the travel agency recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing of the truth of all matters required to be shown by the aggrieved person by subsection (c) of this section and that the aggrieved person has fully pursued and exhausted all remedies available to the aggrieved person for recovering the amount awarded by the judgment of the court.

(e) Should the director pay from the travel agency recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a registered travel agency or sales representative, registration shall be automatically terminated upon the issuance of a court order authorizing payment from the travel agency recovery fund. No such travel agency or sales representative shall be eligible to re-register to do business until the fund is repaid in full, plus interest at the rate of six per cent a year, the amount paid from the travel agency recovery fund on the account of the travel agency or sales representative. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(f) If, at any time, the money deposited in the travel agency recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the director shall, when sufficient money has been deposited in the travel agency recovery fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed.

**Sec. -6 Management of fund.** The sums received by the director for deposit in the travel agency recovery fund shall be held by the director in trust for carrying out the purposes of the travel agency recovery fund. The director, as trustee of the recovery fund, may retain private legal counsel to represent the director in any action which may result in collection from the travel agency recovery fund. These funds may be invested and reinvested in the same manner as funds of the state employees' retirement system, and the interest from these investments shall be deposited to the credit of the travel agency education fund, which is hereby created, and which shall be available to the director for educational purposes.

**Sec. -7 False statement.** It shall constitute a misdemeanor for any person or his or her agent to file with the director any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement of fact.

**Sec. -8 The director has standing in court.** When the director receives notice, as provided in section -5, the director may enter an appearance, file an answer, appear at the court hearing, defend the action or take whatever other action it may deem appropriate. The director or the legal representative of the director shall be served with all pleadings in an action which may result in a recovery from the travel agency recovery fund.

## **ACT 291**

Settlement of any claim against the travel agency recovery fund shall be made only by agreement of the director and attorney general that settlement is in the best interest of the travel agency recovery fund.

**Sec. -9 Subrogation to rights of creditor.** When, upon the order of the court, the director has paid from the travel agency recovery fund any sum to the judgment creditor, the director shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all his or her right, title, and interest in the judgment to the director and any amount and interest so recovered by the director on the judgment shall be deposited to the credit of the travel agency recovery fund.

**Sec. -10 Waiver of rights.** The failure of an aggrieved person to comply with this chapter relating to the travel agency recovery fund shall constitute a waiver of any right hereunder.

**Sec. -11 Maximum liability.** Notwithstanding any other provision, the liability of the travel agency recovery fund shall not exceed \$10,000 for any travel agency or sales representative.

**Sec. -12 Disciplinary action against licensee.** Nothing contained herein shall limit the authority of the director to take disciplinary action against any person for a violation of this chapter, or of its rules; nor shall the repayment in full of all obligations to the travel agency recovery fund by any travel agency or sales representative nullify or modify the effect of any other disciplinary proceeding brought pursuant to this chapter or its rules.

**Sec. -13 Records and reports.** Every travel agency shall keep accurate and up-to-date records on all travel arrangements made for customers. The records required by law or rules shall be preserved by the agency for a period of at least two years.

**Sec. -14 Restitution.** Any person who engages in an unlawful act or practice which violates any provision of this chapter or rules promulgated pursuant thereto may be ordered by court of proper jurisdiction to make restitution to all individual consumers injured by the act or practice.

**Sec. -15 Penalties.** Any person who engages in an unlawful act or practice which violates any provision of this chapter or rules promulgated pursuant thereto shall be fined a sum of not less than \$500 nor more than \$2,500 for each unlawful act or practice, which sum shall be collected in a civil suit brought by the office of consumer protection."

**SECTION 2.** This Act shall take effect on January 1, 1981.

(Approved June 17, 1980.)

**ACT 291**

H. B. NO. 2723-80

A Bill for an Act Relating to the Hawaii Housing Authority.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 359G-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 359G-7 Bond financing.** The director of finance may issue general obligation bonds and short term project notes of the State in the aggregate amount not to exceed \$105,000,000 for the dwelling unit revolving fund under this chapter.

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 and the amounts in either fund may be used for any of the purposes set forth in this chapter."

SECTION 2. Section 359G-7.5, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 356-201, Hawaii Revised Statutes, is amended by adding the following definitions to be appropriately inserted and to read as follows:

- “Qualified sponsor” means any person or entity determined by the authority:
- (1) To be qualified by experience, financial responsibility, and support to construct a housing project of the type and magnitude described;
- (2) To have submitted plans for a project adequately meeting the objectives of this chapter, the maintenance of aesthetic values in the locale of the project, and the requirements of all applicable environmental statutes and rules; and
- (3) To meet other qualifications as established by rules adopted by the authority pursuant to chapter 91.

“Eligible project loan” means a federally insured or guaranteed interim or permanent loan, made to a qualified sponsor for the financing of a rental housing project, and which meets other requirements as established by rules adopted by the authority pursuant to chapter 91.”

SECTION 4. Chapter 356, Hawaii Revised Statutes, is amended by adding a new section to be designated as section 356-208, and to read as follows:

**“Sec. 356-208 Rules; eligible project loans.** (a) The authority shall establish requirements for projects to be financed by an eligible project loan, and may consider, but not be limited to the location, age, condition, and other characteristics of the project.

(b) The authority shall establish restrictions on the terms, maturities, interest rates, and other requirements for eligible project loans.

(c) The authority shall, consistent with requirements of federal insuring or guaranteeing agencies, establish restrictions on the prepayment of eligible project loans, and on the transfer of ownership of the project secured by the eligible project loan.

(d) All eligible project loans shall comply with applicable state and federal laws.”

SECTION 5. Section 356-211, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The revenue bonds shall be issued in the name of the authority, and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding forty years from the date of issuance; except that the final maturity date of the revenue bonds issued to finance eligible project loans may be any date not exceeding fifty years from the date of issuance.”

SECTION 6. Section 356-212, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The revenue bonds shall be payable from and secured by the revenues derived from the benefits of the housing loan programs for which the revenue bonds are issued, including:

- (1) Any payment made for eligible loans or eligible project loans or other agreements entered into for the housing loan programs;
- (2) Revenues derived from insurance proceeds;
- (3) Reserve accounts and earnings thereon; and
- (4) Revenues resulting from loans to mortgage lenders or from the payment on account of principal of and interest on loans purchased from mortgage lenders.”

SECTION 7. Section 356-231, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The authority shall establish procedures for:

- (1) The submission of requests or the invitation of proposals for loans to mortgage lenders;
- (2) The purchase of existing loans by auction, invitation of tenders, or negotiation;
- (3) The making of advance commitments to purchase and the purchasing of eligible loans or eligible project loans to be made by mortgage lenders by auction, invitation of tenders, or negotiation; and
- (4) Loan applications made through mortgage lenders to eligible borrowers or qualified sponsors.

“(b) The authority shall establish standards and requirements for:

- (1) The allocation of loans to mortgage lenders;
- (2) The allocation of funds to purchase existing loans from mortgage lenders;
- (3) The making of advance commitments and allocation of funds to purchase eligible loans or eligible project loans from mortgage lenders; and
- (4) The participation by mortgage lenders as originators and processors of eligible loans or eligible project loans on behalf of the authority.”

SECTION 8. Section 356-235, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 356-235 Housing loan programs; evidence of eligible loan or eligible project loan.** (a) Each mortgage lender who participates in any housing loan program shall submit evidence, as deemed satisfactory by the authority, that eligible loans or eligible project loans have been made from the proceeds of the revenue bonds.

(b) The authority may inspect the books and records of the mortgage lenders as may be necessary for this section.”

SECTION 9. Section 356-261, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 356-261 Advance commitments program.** (a) The authority may contract with a mortgage lender for the advance commitment to purchase eligible loans or eligible project loans.

(b) The contract may contain provisions as determined by the authority to be

necessary or appropriate to provide security for its revenue bonds."

SECTION 10. Section 356-271, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 356-271 Eligible loan and eligible project loan funding program.** (a) The authority may contract with mortgage lenders to fund eligible loans or eligible project loans.

(b) The contract may contain provisions as determined by the authority to be necessary or appropriate to provide security for its revenue bonds."

SECTION 11. **Issuance of revenue bond; amount authorized.** Revenue bonds may be issued by the authority pursuant to part III, chapter 39 and part II, chapter 356, Hawaii Revised Statutes, in an aggregate principal amount not to exceed \$122,500,000 at such times and in such amounts as the authority deems advisable for the purpose of undertaking and maintaining any of the housing loan programs under part II of chapter 356, Hawaii Revised Statutes, relating to the funding or purchasing of eligible project loans.

SECTION 12. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 13. This Act shall take effect upon its approval.

(Approved June 17, 1980.)

## ACT 292

S. B. NO. 2329-80

A Bill for an Act Relating to Deferred Acceptance of Guilty Plea.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to correct obsolete wording and expand upon the exclusions from deferred acceptance of guilty pleas (DAG), particularly in view of the proliferation of DAG pleas being granted by judges. The use of a firearm, distribution of illicit drugs, and involvement in specific crimes would be excluded from DAGs. Repeat DAG offenders would no longer be able to receive DAGs after having been granted a previous DAG. Certain serious crimes not presently qualifying for exclusion from the granting of DAGs are added to the class A and violent crimes exclusions because of their seriousness and the failure of DAGs for such crimes to serve a valid public purpose.

SECTION 2. Section 853-4, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 853-4 Chapter not applicable; when.** This chapter shall not apply when:

- (1) The offense charged involves the intentional, knowing, reckless, or negligent killing of another person;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (2) The offense charged involves the intentional, knowing, or reckless bodily injury or serious bodily injury of another person;
- (3) The offense charged involves a conspiracy or solicitation to intentionally, knowingly, or recklessly kill another person or to cause serious bodily injury to another person;
- (4) The offense charged is a class A felony;
- (5) The offense charged is nonprobationable;
- (6) The defendant has been convicted of any offense defined as a felony by the Hawaii Penal Code or has been convicted for any conduct which if perpetrated in this State would be punishable as a felony;
- (7) The defendant is found to be a law violator or delinquent child for the commission of any offense defined as a felony by the Hawaii Penal Code or for any conduct which if perpetrated in this State would constitute a felony;
- (8) The defendant has a prior conviction for a felony committed in any state, federal, or foreign jurisdiction;
- (9) A firearm was used in the commission of the offense charged;
- (10) The defendant is charged with the distribution of a dangerous, harmful, or detrimental drug to a minor;
- (11) The defendant has been charged with a felony offense and has been previously granted deferred acceptance of guilty plea status for a prior offense, whether or not the period of deferral has already expired;
- (12) The defendant has been charged with a misdemeanor offense and has been previously granted deferred acceptance of guilty plea status for a prior felony, misdemeanor, or petty misdemeanor for which the period of deferral has not yet expired;
- (13) The offense charged is:
  - (A) Escape in the first degree;
  - (B) Escape in the second degree;
  - (C) Promoting prison contraband in the first degree;
  - (D) Promoting prison contraband in the second degree;
  - (E) Bail jumping in the first degree;
  - (F) Bail jumping in the second degree;
  - (G) Bribery;
  - (H) Bribery of a witness;
  - (I) Intimidating a witness;
  - (J) Bribery of or by a juror;
  - (K) Intimidating a juror;
  - (L) Jury tampering.

The court may by rule adopt other criteria in this area."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 17, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Historical Objects and Sites; Culture and Arts; and History and the Humanities.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to dissolve the Hawaii foundation for history and the humanities, to transfer the functional responsibilities for ethnohistorical and cultural program activities to the state foundation on culture and the arts, and to transfer the functional responsibilities for the Hawaii historic places review board activities to the department of land and natural resources.

SECTION 2. Section 9-1, Hawaii Revised Statutes, is amended to read as follows:

**“Section 9-1 Definitions.** The following terms, whenever used and referred to in this chapter, shall have the following respective meanings unless a different meaning clearly appears in context.

- (1) “Arts” includes music, dance, painting, drawing, sculpture, architecture, drama, poetry, prose, crafts, industrial design, interior design, fashion design, photography, television, motion picture art, unique or decorative plants, landscaping, and all other creative activity of imagination and beauty.
- (2) “Culture” includes the arts, customs, traditions, mores, and history of all of the various ethnic groups of Hawaii.
- (3) “Humanities” includes fields of study or learning activities which deal with human thoughts, attitudes, and values, and encourages the understanding of ideas, values, and experiences which have or will have formative effects upon our culture.”

SECTION 3. Section 9-3, Hawaii Revised Statutes, is amended to read as follows:

**“Section 9-3 Duties.** The foundation shall:

- (1) Assist in coordinating the plans, programs, and activities of individuals, associations, corporations, and agencies concerned with the preservation and furtherance of culture and the arts and history and the humanities;
- (2) Appraise the availability, adequacy, and accessibility of culture and the arts and history and the humanities to all persons throughout the State and devise programs whereby culture and the arts and history and the humanities can be brought to those who would otherwise not have the opportunity to participate;
- (3) Stimulate, guide, and promote culture and the arts and history and the humanities throughout the State;
- (4) Devise and recommend legislative and administrative action for the preservation and furtherance of culture and the arts and history and the humanities;
- (5) Study the availability of private and governmental grants for the promotion and furtherance of culture and the arts and history and the humanities;

- (6) Through its chairman administer funds allocated by grant, gift, or bequest to the foundation; accept, hold, 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 designation, such funds shall be disbursed or allocated for the promotion and furtherance of culture and the arts and history and the humanities;
- (7) Select and employ a director to serve on a part-time or full-time basis who shall be a person who by reason of education or extensive experience is generally recognized as being professionally qualified in the administration of programs in the fields of culture and the arts and history and the humanities, who is familiar with the peoples and cultures of Hawaii, and who shall be exempt from the provisions of chapters 76 and 77 and select necessary additional staff subject to chapters 76 and 77, within available appropriations;
- (8) Submit an annual report with recommendations to the governor and legislature, prior to February 1, of each year; provided that the second annual report thereof shall include recommendations as to the responsibility and role which the State should assume in the long-run with respect to preservation and furtherance of culture and the arts and history and the humanities in Hawaii and as to organization and administrative arrangements which should be provided for in law and otherwise. Annual reports shall include the total number and amount of gifts received, payroll disbursements, contracts entered into, and progress and accomplishments made during the year;
- (9) Display student art works in public buildings, sponsor student art displays, and in other ways encourage the development of creative talent among the young people of Hawaii;
- (10) In cooperation with qualified organizations conduct research, studies, and investigations in the fields of ethnohistory and the humanities; make, publish, and distribute works documenting the contributions of individual ethnic groups in their relationship to one another and to the whole population of Hawaii; place ethnohistorical and cultural materials developed by the foundation or received by the foundation as gifts and donations in public archives, libraries, and other suitable institutions accessible to the public; and maintain a register of the location of such materials; and
- (11) Cooperate with and assist the department of land and natural resources and other state agencies in developing and implementing programs relating to historic preservation, research, restoration and presentation, as well as museum activities."

**SECTION 4.** The Hawaii foundation for history and the humanities, an educational, nonprofit public corporation, is hereby dissolved and all title to the properties of the Hawaii foundation for history and the humanities shall, insofar as consistent with existing contractual obligations and subject to all legally enforceable claims or demands by or against the Hawaii foundation, pass to and become vested in the State of Hawaii.

SECTION 5. All rights, powers, functions, and duties of the Hawaii foundation for history and the humanities granted under sections 6-16, 6-16.1 through 6-16.9, Hawaii Revised Statutes, which do not relate to the review board for the Hawaii register of historic places of the Hawaii foundation for history and the humanities, are transferred to the state foundation on culture and the arts.

All appropriations, records, equipment, machines, files and supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the Hawaii foundation for history and the humanities shall be transferred with the functions to which they relate.

SECTION 6. Sections 6-16, 6-16.1 through 6-16.9, Hawaii Revised Statutes, are repealed.

SECTION 7. Chapter 6, Hawaii Revised Statutes, is amended by amending its title to read:

### **“MEMORIALS”**

SECTION 8. Section 58-5, Hawaii Revised Statutes, is amended to read as follows:

**“Section 58-5 State assistance.** The department of land and natural resources and the University of Hawaii shall cooperate with and to the fullest extent possible assist the counties and their respective committees in carrying out this chapter.”

SECTION 9. Chapter 6E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 6E- The Hawaii historic places review board; creation; powers; appointments; composition.** (a) There is created a review board, to be designated the Hawaii historic places review board, for the Hawaii register of historic places and the national register of historic places which shall meet the requirements of federal law. The board shall be placed within the department of land and natural resources for administrative purposes and shall consist of ten members to be appointed and removed by the governor as provided in section 26-34. The board shall include one professionally qualified member of each of the following disciplines: archeology, architecture, history, and sociology. In addition, there shall be one person knowledgeable in traditional Hawaiian society and culture.

(b) The review board shall:

- (1) Order and enter historic properties into the Hawaii register of historic places on the basis of their value to Hawaii's heritage;
- (2) Evaluate and, when appropriate, recommend the nomination of historic properties to the national register of historic places;
- (3) Review the state survey of historic properties undertaken in accordance with this chapter;
- (4) Review the content of the state historic preservation plan developed in accordance with this chapter;
- (5) Elect a chairman and a vice-chairman and adopt such rules as are necessary for the purposes of this section;
- (6) Maintain the Hawaii register of historic places, including all those listed on

## ACT 294

the national register of historic places, and a program of notification and publication regarding properties on the registers."

SECTION 10. Notwithstanding section 26-34, Hawaii Revised Statutes, the terms of the present members of the Hawaii historic places review board first appointed before January 1, 1974 shall expire on January 1, 1982. The terms of present members of the review board first appointed after January 1, 1974 shall expire on January 1, 1984. The members of the review board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 12. This Act shall take effect upon its approval.

(Approved June 17, 1980.)

## ACT 294

H.B. NO. 1918-80

A Bill for an Act Relating to the Penal Code.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"Sec. 706- Sentence of imprisonment for class A felony.** Notwithstanding sections 706-620 to 706-631, suspension of sentence and probation, and sections 706-605, 706-606, 706-606.5, 706-660.1, 706-661, 706-662, and any other law to the contrary, a person who has been convicted of a class A felony shall be sentenced to an indeterminate term of imprisonment of twenty years without possibility of suspension of sentence or probation. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

SECTION 2. Section 706-660, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 706-660 Sentence of imprisonment for class B and C felonies; ordinary terms.** A person who has been convicted of a class B or class C felony may be sentenced to an indeterminate term of imprisonment except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be as follows:

- (1) For a class B felony—10 years; and
- (2) For a class C felony—5 years.

The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669."

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**SECTION [3].†** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION [4].†** This Act shall take effect upon its approval.

(Approved June 17, 1980.)

**ACT 295**

H.B. NO. 1919-80

A Bill for an Act Relating to Young Adult Defendants.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Under present law, a young adult defendant is subject to a four-year penalty regardless of the class of the offense. A convicted rapist and a convicted auto thief are therefore subject to an identical maximum term of four years. This Act would distinguish by class of offense, i.e., A, B, or C felonies, the maximum term for a young adult defendant who is deemed qualified for such a reduced term.

**SECTION 2.** Section 706-667, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) **Defined.** A young adult defendant is a person convicted of a crime who, at the time of sentencing, is sixteen years of age or older but less than twenty-two years of age, and who has not been previously convicted of a felony as an adult or adjudicated as a juvenile for an offense committed at age sixteen or older which would have been a felony had he been an adult.”

**SECTION 3.** Section 706-667, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

“(3) **Special term.** A young adult defendant convicted of a felony may, in lieu of any other sentence of imprisonment authorized by this chapter, be sentenced to a special indeterminate term of imprisonment if the court is of the opinion that such special term is adequate for his correction and rehabilitation and will not jeopardize the protection of the public. When ordering a special indeterminate term of imprisonment, the court shall impose the maximum length of imprisonment which shall be eight years for a class A felony, five years for a class B felony, and four years for a class C felony. The minimum length of imprisonment shall be set by the Hawaii paroling authority in accordance with section 706-669. During this special indeterminate term, the young adult will be incarcerated separately from career criminals, when practicable.

This section shall not apply to the offense of murder.”

**SECTION 4.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 5.** This Act shall take effect upon its approval.

(Approved June 17, 1980.)

†Bracketed “3” and “4” substituted for “2” and “3” to correct manifest clerical error.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, material, and underscoring.

## ACT 296

### ACT 296

H.B. NO. 2815-80

A Bill for an Act Relating to Environmental Quality.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 342-3 Powers, rule-making, appointment of hearings officers.** (a) The director may make, amend, and repeal state rules and regulations controlling and prohibiting air pollution, water pollution, noise pollution, solid waste pollution, and any other form of pollution found in this State. All rules and regulations shall be adopted pursuant to chapter 91. Any person heard at the public hearing shall be given written notice of the action taken by the department with respect to the rules or regulations.

(b) In addition to other specific powers provided in this chapter, the director may appoint without regard to chapters 76 and 77, hearings officers to conduct public participation activities including public hearings and public informational meetings."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 17, 1980.)

### ACT 297

H.B. NO. 3006-80

A Bill for an Act Relating to the Office of Children and Youth.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 581-2, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 581-2 General functions, duties, and powers of the director.** The director shall have the following principal functions, duties, and powers:

- (1) Serve as the principal official in state government responsible for promoting the coordination of programs and services in behalf of children and youth.
- (2) Oversee, supervise, and direct the performance by his or her subordinates of activities in such areas as planning, evaluation, and coordination of children and youth programs and development of a statewide service delivery network.
- (3) Conduct selected assessment of the policies and practices of other agencies impacting on children and youth and conduct advocacy efforts in their behalf.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (4) Advise the governor and the legislature on new legislation, programs, and policy initiatives and conduct such liaison as would be required to implement them.
- (5) Serve as a member of advisory boards and regulatory panels of state agencies in such areas as child development programs, social services programs, and health and medical assistance programs.
- (6) Administer funds allocated for the office of children and youth; and apply for, receive, and disburse grants and donations as may otherwise fall within the authority of the office of children and youth; reimburse volunteers for expenses incurred in the conduct of business or on tasks related to information, coordination, and problem resolution for the office of children and youth and the advisory council.
- (7) Serve as a referral agency for complaints of persons regarding services to children and youth, or operations of state and county agencies affecting children and youth, and investigate complaints.
- (8) Adopt, amend, and repeal rules pursuant to chapter 91 for purposes of this chapter.
- (9) Retain such staff as may be necessary for the purposes of this chapter, in conformity with chapters 76 and 77, except for the heads of the three divisions referred to in section 581-4 who shall not be subject to chapters 76 and 77.
- (10) Contract for such services as may be necessary for the purposes of this chapter.
- (11) On a continuing basis, provide initial and continuing orientation as to the goals, functions, and programs of the office to members of the council.
- (12) On a continuing basis, actively and enthusiastically seek the input of council members on all matters pertaining to the functions of the office.
- (13) On a continuing basis, transmit minutes of the council to the governor and to the chairpersons of the legislative committees responsible for children and youth programs."

SECTION 2. Section 581-3, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 581-3 General duties of the office of children and youth.** The office of children and youth shall:

- (1) Establish statewide goals and objectives relating to children and youth in the State.
- (2) Study the facts concerning the needs of children and youth in the State through adequate research studies, such research to be carried on whenever possible through the departments or agencies of the state and county governments responsible for providing services in the fields of health, education, social welfare, employment, and related services. Where such research cannot be done within such established agencies, it may be carried out by this office. The office may develop pilot programs when no other public or private agency is able to develop such programs to fill a particular gap or critical need area.
- (3) Review legislation pertaining to children and youth and appropriations

- made for services in their behalf in such fields as health, child guidance, social service, education, recreation, child labor, and juvenile delinquency and its prevention, and consider and present revisions and additions needed and report to the governor and to the legislature regarding such legislation.
- (4) Evaluate the availability, adequacy, and accessibility of all services for children and youth within the State.
  - (5) Conduct selected monitoring and promote the coordination of the operations and the operating policies affecting children and youth of all state departments and agencies responsible for providing services for children and youth, including, without limitation to the generality of the foregoing, the department of health, the department of social services and housing, the department of education, and the department of labor and industrial relations, and report such facts and the office's recommendations to the governor and to the legislature. The executive heads of all such departments and agencies shall make available to the office of children and youth such information as the office deems necessary for the effective discharge of its duties under this chapter. The county departments and agencies shall provide access to information which the office deems necessary for the effective discharge of its duties under this chapter.
  - (6) Maintain a data and information storage and retrieval system with respect to children and youth and related family information and maintain contacts with local, state and federal officials and agencies concerned with planning for children and youth.
  - (7) Encourage and foster local community action in behalf of children through the local committees on children and youth.
  - (8) Assist in promoting plans and programs for the prevention and control of juvenile delinquency."

SECTION 3. Section 581-12, Hawaii Revised Statutes, is hereby amended to read as follows:

**"Sec. 581-12 Council, composition, chairperson.** The council shall be composed of twenty-one members appointed by the governor subject to section 26-34, except as provided in this section. Members shall have had training, experience, or special knowledge concerning programs for children and youth.

Of the twenty-one members:

- (1) Six shall be ex officio voting members to consist of the director of social services, the chairperson of the board of education, the director of labor and industrial relations, the director of health, the senior judge of the family court of the first circuit and the chairperson of the board of regents, University of Hawaii.
- (2) Fifteen shall be regular members:
  - (A) One public officer from each of the counties of Hawaii, Maui, Oahu, and Kauai to be appointed from a list of four such officials submitted by the mayor of each county.
  - (B) Four members shall be representatives of private organizations which are engaged in the planning or delivery of services to children or youth.

(C) Seven members shall be citizens, four of whom shall be under the age of thirty at the time of appointment. Of such members, there shall be one representative from each county who shall be nominated by the mayor for gubernatorial appointment.

Appointments to the council shall be on a staggered basis.”

SECTION 4. Section 581-14, Hawaii Revised Statutes, is hereby amended to read as follows:

**“Sec. 581-14 Ex officio members and regular members, attendance by, substitute for.** If for any reason any ex officio member or regular member is not able to attend meetings of the council, the ex officio or regular member shall designate a substitute authorized to act in his or her place to attend in the stead of the ex officio or regular member. For ex officio members the substitute shall be at a deputy director level or an equivalent position which reports directly to the ex officio member cited in section 581-12. The substitute individual shall be entitled to participate in all actions and business of the council with all rights, authority, and privileges of the appointed member, including full voting rights.”

SECTION 5. Section 2, Act 187, Session Laws of Hawaii 1976, is amended to read as follows:

“SECTION 2. If House Bill No. 2016 or Senate Bill No. 1889† relating to the establishment and operation of an office of children and youth is enacted during the regular session of 1976:

- (1) Those functions relating to children and youth in chapter 27C, Hawaii Revised Statutes, except for section 27C-2 (c) (4);
- (2) All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the youth affairs component; and
- (3) The sum of \$8,200 appropriated for the office of information and youth affairs,

shall be transferred to the office of children and youth to coincide with the effective date of the creation of the office of children and youth.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved June 17, 1980.)

A Bill for an Act Relating to Workers' Compensation.

*Be It Enacted by the Legislature of the State of Hawaii:*

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

†So in original. Probably should read “1899”.

SECTION 1. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 386- Benefit adjustment.** (a) Commencing with the effective date of this Act, the employer shall pay, without application, to any employee who before July 1, 1980 was awarded compensation pursuant to section 386-86 for permanent and total disability, a supplemental allowance calculated in accordance with the following provisions:

- (1) In any case where that employee is receiving the maximum weekly income benefit applicable at the time such award was made, the supplemental allowance shall be an amount which when added to such award will equal the maximum weekly benefit as of the effective date of this Act.
  - (2) In any case where that employee is receiving less than the maximum weekly income benefit applicable at the time such award was made, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of the effective date of this Act multiplied by the ratio of that employee's current weekly income benefit to the maximum weekly income benefit applicable at the time such award was made, minus that employee's current weekly income benefit.
- (b) The employer shall be entitled to reimbursement from the special compensation fund for the additional amount paid under subsection (a).

(c) Commencing with the effective date of this Act, the special compensation fund shall pay, without application, to any employee who before July 1, 1980 was awarded compensation pursuant to section 386-86 for permanent and total disability, a supplemental allowance calculated in accordance with the following provisions:

- (1) In any case where that employee is receiving the maximum weekly income benefit applicable at the time such award was made, the supplemental allowance shall be an amount which when added to such award will equal the maximum weekly benefit as of the effective date of this Act.
- (2) In any case where that employee is receiving less than the maximum weekly income benefit applicable at the time such award was made, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of the effective date of this Act multiplied by the ratio of that employee's current weekly income benefit to the maximum weekly income benefit applicable at the time such award was made, minus that employee's current weekly income benefit.
- (3) In any case where that employee is receiving weekly benefits at a fifty per cent rate, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of the effective date of this Act multiplied by twice the ratio of that employee's current weekly income benefit to the maximum weekly income benefit applicable at the time such award was made, minus that employee's current weekly income benefit.
- (4) In any case where that employee is no longer receiving weekly benefits, the supplemental allowance shall be an amount equal to the maximum weekly income benefit as of the effective date of this Act multiplied by the ratio of that employee's last weekly income benefit to the maximum weekly income benefit applicable at the time such award was made, minus that employee's

last weekly income benefit."

**SECTION 2.** New statutory material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 18, 1980.)

**ACT 299**

H.B. NO. 2035-80

A Bill for an Act Relating to Pensioners Bonus.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 88-11, Hawaii Revised Statutes, is amended to read:

**"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, 1976, \$77.82 per month to those retirants and pensioners who had, before July 1, 1966, ten or more years of service; provided that any member who is retired because of physical or mental disability due to any injury or disease incurred while in the performance of his duty as a public employee shall be entitled to receive the bonus payment without meeting the minimum service requirement;
- (2) Effective July 1, 1976, \$31.12 per month additional to the above bonus to those retirants or pensioners who retired before July 1, 1945;
- (3) Effective July 1, 1976, \$31.12 per month additional to the above bonus or bonuses to those retirants or pensioners who have had twenty-one or more years of service;
- (4) Effective July 1, 1976, if the pension as increased by the bonus or bonuses does not equal \$202.32 per month, the bonus shall be further increased by such sum, not in excess of \$31.12, as will bring the total of the pension and bonus to \$202.32 per month; provided that where the dependents of a deceased pensioner are receiving pension by reasons of 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 paragraph (1) or (3) of section 88-74, the only bonus payable shall be in the amount by which the benefit payable under the paragraphs is less than the bonus as set forth above, provided that in no case shall a person who retires after June 30, 1965, receive less under the service and ordinary disability retirement system benefits, plus the bonus payable under this section than he would have received if paragraph (5) had not been enacted;

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

- (6) Any provisions of this section to the contrary notwithstanding, there shall be paid to every person who on June 30, 1965, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) On January 1, 1966, seven and one-half per cent of the retirement allowance or pension;
  - (B) On July 1, 1969, an additional ten per cent of the retirement allowance or pension;
  - (C) On July 1, 1970, an additional ten per cent of the retirement allowance or pension;
  - (D) On July 1, 1973, an additional five and one-half per cent of the retirement allowance or pension;
  - (E) On July 1, 1976, an additional eight per cent of the retirement allowance or pension;
- (7) Any provision of this section to the contrary notwithstanding, there shall be paid to every person who retired between July 1, 1965 and June 30, 1970, and who, on June 30, 1974, was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) On July 1, 1974, five and one-half per cent of the retirement allowance or pension;
  - (B) On July 1, 1976, an additional eight per cent of the retirement allowance or pension;
- (8) Any other provision to the contrary notwithstanding, effective July 1, 1980, there shall be paid to every person who retired prior to July 1, 1975 and who on June 30, 1980 was receiving a retirement allowance from the system or other pension payable under or pursuant to the law of the State or by any county or independent board or commission, a special cost of living bonus which shall be paid in the following manner:
- (A) \$4.50 a month for each year of the retirant's or pensioner's credited service, if the person retired prior to July 1, 1965;
  - (B) \$2.50 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1965 but prior to July 1, 1970; and
  - (C) \$1.00 a month for each year of the retirant's or pensioner's credited service if the person retired after June 30, 1970 but prior to July 1, 1975;
- provided that if the retirant or pensioner had retired, returned to service, and again retired, the person's latest retirement date shall be considered as the person's date of retirement; provided further that no special cost of living bonus as provided for in this paragraph (8) shall be paid to those retirants or pensioners who have eight or less years of credited service."

**SECTION 2.** There is appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance the sum of \$3,800,000, or so much thereof as may be necessary for fiscal year 1980-1981, for

the purposes of this Act. Of the sum appropriated, \$3,765,000 shall be expended by the department of budget and finance and \$35,000 shall be expended by the department of health. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 1981 shall lapse into the general fund.

**SECTION 3.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 4.** This Act shall take effect on July 1, 1980.

(Approved June 18, 1980.)

**ACT 300**

H.B. NO. 1912-80

A Bill for an Act Making Appropriations for the Fiscal Biennium July 1, 1979 to June 30, 1981.

*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 1980.

**SECTION 2.** This Act amends Act 214, Session Laws of Hawaii, 1979.

**SECTION 3.** The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in Section 4 of Act 214, Session Laws of Hawaii, 1979, for the following programs are amended to read:

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

ACT 300

Item No.	Program No.	Program ID	Exp. Agy.	APPROPRIATIONS			Total Biennium M 1979-81 F
				FY 1979-80 F	M 1980 F	FY 1980-81 F	
<b>A. ECONOMIC DEVELOPMENT</b>							
1. COMMERCIAL AND INDUSTRY		PED 102					
Operating		PED		17.00*		17.00*	
Investment: Capital		PED		1,558,408A	1,880,037A	3,438,445A	
		PED		1,202,975W	1,485,375W	2,688,350W	
				130,000C	20,000C	150,000C	
2. TRANSPORTATION, COMMUNICATIONS AND UTILI		BUF 901					
Operating		BUF		17.00*		17.00*	
				515,811A	522,557A	1,038,368A	
<b>TRADE AND FINANCE</b>							
3. International Trade & Economic Cooperati		PED 105					
Operating		PED		6.00*		6.00*	
Investment: Capital		PED		264,758A	170,606A	435,364A	
				200,000C	C	200,000C	
4. Foreign Trade Zone Services		PED 107					
Operating		PED		24.00*		24.00*	
Investment: Capital		PED		649,844B	759,587B	1,409,431B	
		PED		1,520,000D	D	1,520,000D	
5. TOURISM		PED 113					
Operating		PED		3.00*		3.00*	
		PED		2,168,818A	2,144,978A	4,313,796A	
		PED		800,000R	868,346R	1,668,346R	
		PED		167,300X	186,350X	353,650X	
<b>AGRICULTURE</b>							
Economic Assistance for Agriculture		AGR 101					
Financial Assistance for Agriculture		AGR		12.00*		12.00*	
Operating		AGR		348,523B	353,962B	702,485B	
		AGR		1,830,524W	1,876,127W	3,706,651W	

7.	Agricultural Loans for Hawaiian Home Lan Operating	HHL 101		3.92*	3.92*
	Price & Production Controls for Dairy Pr	AGR 103	HHL	74,879B	77,063B
8.	Operating	AGR	AGR	8.00*	8.00*
	Productv Imprmnt & Mgt Assnse for Agr Farms & Ranches—Prodcm & Mgt Improvem	HHL 111	HHL HHL	158,560A 1,395,000C	159,430A 2,435,000C
9.	Operating Investment: Capital			19.85*	19.85*
10.	Plant Pest and Disease Control Plant Quarantine Operating	AGR 121	AGR AGR	397,474B 462,162U	411,106B 500,715U
11.	Plant Pest Control Operating	AGR 122	AGR AGR	40.15*	41.15*
12.	Animal Pest and Disease Control Animal Quarantine Operating	AGR 131	AGR AGR	726,967A 610,593A	733,226A 642,943A
13.	Animal Disease Control Operating	AGR 132	AGR AGR	25.35*	25.35*
14.	Product Development and Marketing for Ag Forestry—Products Development Operating Investment: Capital	LNR 172	LNR LNR LNR	6,000N 28,000T	12,000N 29,600T
				36.00*	36.00*
				772,789A 58,820U	772,789A 58,820U
				21.00*	22.00*
				539,724A 538,398A	539,724A 538,398A
				30.00*	30.00*
				619,532A 96,000N	834,548A 96,000N
				C	C

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Item No.	Program	Program ID	APPROPRIATIONS				Total Biennium 1979-81
			Exp. Agy.	FY 1979-80	FY 1980-81	FY 1980-81	
15.	Distribution Systems Improvement for Agr	AGR 151		35.00*	35.00*		
	Operating		AGR	638,736A	669,332A	1,328,068A	
			AGR	137,267B	142,558B	279,825B	
	Investment: Capital		AGR	15,720N	15,720N	31,440N	
			AGS	227,000C	C	227,000C	
16.	General Support for Agr	AGR 189		12.00*	12.00*		
	Data Collection for Agr		AGR	264,846A	275,671A	540,517A	
17.	General Administration for Agr	AGR 192		31.00*	31.00*		
	Operating		AGR	574,740A	584,944A	1,159,684A	
			AGS	4,555,000C	4,410,000C	8,965,000C	
18.	FISHERIES & AQUACULTURE	AGR 102		44,000W	57,000W	101,000W	
	Financial Assistance for Aquaculture						
	Operating						
19.	Commercial Fishery and Aquaculture	LNR 153		13.00*	13.00*		
	Operating		LNR	636,056A	923,202A	1,579,258A	
			LNR	25,000B	25,000B	50,000B	
	Investment: Capital		LNR	150,000N	630,000N	780,000N	
			LNR	50,000C	47,000C	97,000C	
20.	ENERGY DEVELOPMENT AND MANAGEMENT	PED 120		300,000A	300,000A	600,000A	
	Research and Development		PED	4,00*	4,00*		
	Operating		PED	571,651A	375,743A	947,394A	
			PED	345,000N	180,000N	525,000N	
	Investment: Capital		PED	1,000,000C	2,175,000C	3,175,000C	
			PED	1,000,000N	1,600,000N	2,600,000N	
			PED	R	725,000R	725,000R	



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Item No.	Program No.	Program Name	Program ID	APPROPRIATIONS				Total Biennium 1979-81 F
				Exp. Agy.	FY 1979-80 F	FY M 1980-81 F	FY M 1980-81 F	
4.	OCCUPATIONAL SAFETY & HEALTH		LBR 143		49.50*	49.50*	49.50*	
	Operating			LBR	936,976A	968,614A	968,614A	1,905,590A
				LBR	29.50*	29.50*	29.50*	
				LBR	674,958N	698,007N	698,007N	1,372,965N
5.	FAIR AND JUST EMPLOYMENT PRACTICES		LBR 152		27.00*	27.00*	27.00*	
	Wage Standards & Fair Employment Practice			LBR	498,180A	509,633A	509,633A	1,007,813A
	Operating			LBR	N	34,935N	34,935N	
6.	Labor-Management Relations		LBR 161		3.00*	3.00*	3.00*	
	Public Employment			LBR	368,846A	374,652A	374,652A	743,498A
	Operating							
7.	Private Employment		LBR 162		1.50*	1.50*	1.50*	
	Operating			LBR	45,058A	45,167A	45,167A	90,225A
ASSISTANCE IN WORK RELATED DIFFICULTIES								
8.	Unemployment Compensation		LBR 171	LBR	98,340,000B	A	2,200,000A	2,200,000A
	Operating			LBR	272,35*		100,306,800B	198,646,800B
				LBR	5,641,253N		5,814,292N	11,455,545N
9.	Disability Compensation		LBR 183		79.00*		79.00*	
	Operating			LBR	1,314,646A		1,469,813A	2,784,459A
				LBR	2,379,000B		3,429,000B	5,808,000B

10.	Vocational Rehabilitation	SOC	802		28.40*	33.70*	
	Operating	SOC		1,245,089A	1,438,919A	2,684,008A	
		SOC		250,000B	300,000B	550,000B	
		SOC		95.60*	93.30*		
		SOC		3,555,020N	4,119,291N	7,674,311N	
		AGS		75,000C	214,000C	289,000C	
	Investment: Capital						
11.	OVERALL PROGRAM SUPPORT DLIR—Data Gathering, Research and Analysis	LBR	901		8.40*	8.40*	
	Operating	LBR		142,768A	145,071A	287,839A	
		LBR		30.60*	30.60*		
12.	Policy Development and Coordination	GOV	803		11.00*	12.00*	
	Operating	GOV		344,608A	380,600A	725,208A	
		GOV		68,750N	68,750N	137,500N	
13.	General Administration	LBR	902		22.20*	24.20*	
	Operating	LBR		393,048A	412,228A	805,276A	
		LBR		38.30*	38.30*		
		LBR		1,057,600N	1,085,255N	2,142,855N	
14.	Labor & Industrial Relations Appeals Board	LBR	812		8.00*	8.00*	
	Operating	LBR		249,054A	251,391A	500,445A	
	C. TRANSPORTATION FACILITIES						
	AIR TRANSPORTATION FACILITIES AND SVCS	TRN	102				
1.	HIA Facilities & Svcs	TRN		429.00*	429.00*		
	Operating	TRN		13,513,244B	13,367,022B	26,880,266B	
		TRN		4,760,000B	14,040,000B	18,800,000B	
		TRN		C	135,000C	135,000C	
		TRN		7,500,000E	19,900,000E	27,400,000E	
		TRN		3,500,000N	N	3,500,000N	

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium M 1979-81 F
			Exp. Agy.	FY 1979-80 F	FY 1980-81 F	
2.	General Lyman Field Facilities and Svcs	TRN 111		75.00*	76.00*	
	Operating			2,620,274B	2,754,484B	5,374,758B
	Investment: Capital			650,000B	170,000B	820,000B
3.	Ke-Ahole Airport Facilities and Services	TRN 114		49.00*	49.00*	
	Operating			1,380,336B	1,517,601B	2,897,937B
	Investment: Capital			2,062,000E	959,000E	3,021,000E
				1,500,000N	N	1,500,000N
4.	Waimea-Kohala Airport Facilities and Svcs	TRN 116		4.00*	4.00*	
	Operating			84,605B	161,927B	246,532B
	Investment: Capital			306,000E	240,000E	546,000E
5.	Upolu Airport Facilities and Services	TRN 118				
	Operating			22,690B	2,893B	25,583B
	Investment: Capital			108,000E	E	108,000E
6.	Kahului Airport Facilities and Services	TRN 131		67.00*	68.00*	
	Operating			1,763,644B	1,835,740B	3,599,384B
	Investment: Capital			14,625,000E	850,000E	15,475,000E
				2,600,000N	150,000N	2,750,000N
7.	Hana Airport Facilities and Services	TRN 133		1.00*	1.00*	
	Operating			60,010B	27,659B	87,669B
8.	Molokai Airport Facilities and Services	TRN 141				
	Operating			7.00*	7.00*	
	Investment: Capital			395,620B	331,351B	726,971B
				4,650,000E	E	4,650,000E
				1,000,000N	N	1,000,000N

9.	Lanai Airport Facilities and Services	TRN 151		4.00*	4.00*	
	Operating	TRN	201,647B	105,739B	307,386B	
	Investment: Capital	TRN	250,000E	E	250,000E	
10.	Lihue Airport Facilities and Services	TRN 161		56.00*	57.00*	
	Operating	TRN	1,576,087B	1,659,194B	3,235,281B	
	Investment: Capital	TRN	4,000,000E	12,600,000E	16,600,000E	
		TRN	1,000,000N	1,000,000N	2,000,000N	
11.	Dillingham Field Facilities and Services	TRN 172		1.00*	1.00*	
	Operating	TRN	152,956B	68,549B	221,505B	
12.	Kalaupapa Airport Facilities and Service	TRN 181		1.00*	1.00*	
	Operating	TRN	22,456B	22,095B	44,551B	
	Investment: Capital	TRN	40,000E	E	40,000E	
13.	Port Allen Airport Facilities and Service	TRN 191				
	Operating	TRN	15,805B	15,860B	31,665B	
14.	Air Transportation Facilities & Svcs Sup	TRN 195		52.00*	52.00*	
	Operating	TRN	37,717,828B	40,022,388B	77,740,216B	
	Investment: Capital	TRN	5,170,000B	5,450,000B	10,620,000B	
WATER TRANSPORTATION FACILITIES AND SERV						
15.	Honolulu Harbor Facilities and Services	TRN 301		127.00*	127.00*	
	Operating	TRN	4,282,443B	4,286,859B	8,569,302B	
	Investment: Capital	TRN	2,919,000B	280,000B	3,199,000B	
		TRN	C	160,000C	160,000C	
		TRN	D	4,125,000D	4,125,000D	
		TRN	E	2,245,000E	2,245,000E	
16.	Barbers Point Harbor Facilities and Serv	TRN 303		TRN	E	5,040,000E
	Investment: Capital					5,040,000E

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				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium M 1979-81 F	
17.	Hilo Harbor Facilities and Services		TRN 311		11.00*	11.00*		
	Operating			TRN	452,501B	465,503B	918,004B	
	Investment: Capital			TRN	1,488,000B	60,000B	1,548,000B	
				TRN	2,280,000D	D	2,280,000D	
18.	Kawaihae Harbor Facilities and Services		TRN 313		5.00*	5.00*		
	Operating			TRN	157,572B	154,568B	312,140B	
	Investment: Capital			TRN	125,000B	20,000B	145,000B	
19.	Kahului Harbor Facilities and Services		TRN 331		12.00*	12.00*		
	Operating			TRN	461,345B	453,579B	914,924B	
	Investment: Capital			TRN	E	265,000E	265,000E	
20.	Kaunakakai Harbor Facilities and Service		TRN 341		1.00*	1.00*		
	Operating			TRN	44,691B	47,479B	92,170B	
	Investment: Capital			TRN	E	250,000E	250,000E	
21.	Nawiliwili Harbor Facilities and Service		TRN 361		11.00*	11.00*		
	Operating			TRN	353,630B	346,220B	699,850B	
	Investment: Capital			TRN	625,000B	200,000B	825,000B	
22.	Port Allen Harbor Facilities and Service		TRN 363		1.00*	1.00*		
	Operating			TRN	44,577B	56,573B	101,150B	
23.	Kewalo Basin Facilities and Services		TRN 371		2.00*	2.00*		
	Operating			TRN	199,763B	186,958B	386,721B	

24.	Water Transportation Fac & Svcs Support	TRN 395		42.00*	9,129,544B	9,129,544B	42.00*	17,700,198B
	Operating				25,000B	25,000B	50,000B	50,000B
<b>INVESTMENT: CAPITAL</b>								
25.	Land Transportation Facilities and Services	TRN 501		209.00*	8,645,871B	9,406,866B	18,052,737B	
	Operating				100,000B	1,217,000B	1,317,000B	
	Investment: Capital				2,036,000C	1,010,000C	3,046,000C	
	Oahu Highways and Services				2,331,000D	19,282,000D	21,613,000D	
					2,914,000J	30,328,000J	33,242,000J	
					180,000K	12,001,000K	12,181,000K	
					1,284,000M	6,665,000M	7,949,000M	
					TRN S	260,000S	260,000S	
26.	Hawaii Highways and Services	TRN 511		106.00*	3,206,313B	3,448,912B	6,655,225B	
	Operating				210,000C	C	210,000C	
	Investment: Capital				3,573,000D	1,635,000D	5,208,000D	
					TRN K	1,000,000K	1,000,000K	
					247,000L	45,000L	292,000L	
27.	Maui Highways and Services	TRN 531		53.00*	1,671,787B	2,025,036B	3,696,823B	
	Operating				55,000C	C	55,000C	
	Investment: Capital				2,642,000D	4,697,000D	7,339,000D	
					2,605,000K	2,968,000K	5,573,000K	
28.	Molokai Highways and Services	TRN 541		12.00*	438,350B	607,303B	1,045,653B	
	Operating				B	300,000B	300,000B	
	Investment: Capital				150,000C	250,000C	400,000C	
					120,000D	200,000D	320,000D	
					L	65,000L	65,000L	

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Item No.	Program Name	Program ID	APPROPRIATIONS				Total Biennium 1979-81 M Q F
			Exp. Agy.	FY 1979-80 M Q F	FY 1980-81 M Q F		
29.	Lanai Highways and Services	TRN 551		3.00*	3.00*		
	Operating	TRN	105,913B	165,000D	162,737B	D	268,650B 165,000D
	Investment: Capital	TRN					
30.	Kauai Highways and Services	TRN 561		41.00*	41.00*		
	Operating	TRN	1,601,776B		2,078,247B		3,680,023B
	Investment: Capital	TRN	35,000C		60,000C		95,000C
		TRN	618,000D		1,582,000D		2,200,000D
		TRN		K	637,000K		637,000K
		TRN		L	60,000L		60,000L
31.	Land Transportation Fac & Svcs Support	TRN 595		39.00*	39.00*		
	Operating	TRN	17,969,847B		18,383,540B		36,353,387B
	Investment: Capital	TRN		B	865,000B		865,000B
		TRN	2,002,000D		1,348,000D		3,350,000D
		TRN	2,125,000N		2,460,000N		4,555,000N
32.	Safety Administration of Land Transporta	TRN 597		14.00*	14.00*		
	Operating	TRN	364,431B		341,664B		706,095B
		TRN	4.00*		4.00*		
		TRN	89,950N		84,617N		
33.	OVERALL PROGRAM SUPPORT FOR TRANS FAC &	TRN 995					
	Operating	TRN	72.00*		73.00*		
		TRN	2,692,762B		2,837,087B		
							5,529,849B

**D. ENVIRONMENTAL PROTECTION****POLLUTION CONTROL**

1.	Solids, Liquids, Gases, and Noise Operating	HTH 840	HTH	44.50*	44.50*	1,500,869A
			HTH	737,557A	763,312A	
				10.00*	10.00*	
			HTH	877,670N	862,860N	1,740,530N
			HTH	3,000,000C	2,253,000C	5,253,000C
2.	Pesticides Operating	AGR 846	AGR	8.50*	8.50*	
				141,985A	144,347A	286,332A
3.	PRESERVATION AND ENHANCEMENT Aquatic Resources Operating	LNR 401	LNR	2.00*	2.00*	
			LNR	13,542A	13,173A	26,715A
			LNR	17,651N	19,501N	37,152N
4.	Forests and Wildlife Resources Operating	LNR 402	LNR	49.00*	49.00*	
			LNR	1,087,451A	989,411A	2,076,862A
			LNR	297,716N	301,140N	598,856N
			LNR	50,000A	A	50,000A
			LNR	140,000C	15,000C	155,000C
			LNR	N	45,000N	45,000N
5.	Mineral Resources Operating	LNR 403	LNR	2.00*	2.00*	
			LNR	40,224A	41,284A	81,508A
6.	Water Resources Operating	LNR 404	LNR	11.00*	12.00*	
			LNR	828,111A	914,660A	1,742,771A
			LNR	536,044N	162,881N	698,925N
			LNR	12,900R	12,900R	25,800R
			LNR	30,000C	220,000C	250,000C
7.	Conservation & Resources Enforcement Operating	LNR 405	LNR	51.00*	51.00*	
				1,039,423A	1,093,625A	2,133,048A

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				Exp. Agy.	FY 1979-80 F	FY 1980-81 F		
8.	Coastal Areas Operating		TRN 903	TRN	A	10,000A	10,000A	10,000A
				TRN	B	100,000B	100,000B	100,000B
	Investment: Capital		TRN	341,000C	C	100,000C	441,000C	441,000C
<b>GENERAL SUPPORT FOR NAT PHYS ENVIRONMENT</b>								
9.	Policy Devlpmt, Coord & Analys for Nat P Operating	GOV 401	GOV	214,175A	A	218,600A	432,775A	
10.	LNR—Natural Physical Environment Operating	LNR 906	LNR	816,840A	A	725,615A	1,542,455A	
11.	HTH—Natural Physical Environment Operating	HTH 849	HTH	409,065A	A	427,276A	836,341A	
			HTH	4.00*	A	4.00*		
			HTH	295,621N	N	311,392N	607,013N	
<b>E. HEALTH</b>								
<b>PHYSICAL HEALTH</b>								
<b>Communicable Diseases</b>								
1.	Tuberculosis Operating	HTH 101	HTH	792,908A	A	806,829A	39,00*	1,599,737A
			HTH	10.00*	A	6.00*		
			HTH	196,780N	N	148,791N		345,571N
2.	Leprosy Operating	HTH 111	HTH	1,997,006A	A	2,137,468A	80,00*	4,134,474A
			HTH	96,000B	B	96,000B		192,000B
	Investment: Capital		AGS	3,000C	C	100,000C		103,000C

3.	Venereal Disease Operating	HTH 121	HTH	10.00*	10.00*	509,314A
				248,343A 4,00*	260,971A 4,00*	
			HTH	144,906N	149,826N	294,732N
4.	Other Communicable Diseases Operating	HTH 131	HTH	10.00*	10.00*	
				203,866A 2,00*	270,091A 2,00*	473,957A
			HTH	65,444N	68,317N	133,761N
5.	Supporting Services for Commun Diseases Operating	HTH 139	HTH	5.00*	5.00*	
				93,998A	93,953A	187,951A
6.	Dental Diseases Operating	HTH 141	HTH	49.00*	49.00*	
				716,363A 1,20*	735,781A 1,20*	1,452,144A
			HTH	26,300N	27,536N	53,836N
7.	Chronic Diseases Operating	HTH 151	HTH	3.00*	4.00*	
				417,020A 2,00*	453,658A 1,00*	870,678A
			HTH	88,427N	71,796N	160,223N
8.	Nutrition Services Operating	HTH 160	HTH	6.75*	6.75*	
				107,130A 8,25*	112,758A 8,25*	219,888A
			HTH	2,132,122N	2,255,543N	4,387,665N
9.	Emergency Medical Services Operating	HTH 170	HTH	9.00*	9.00*	
				6,156,312A 423,378N	7,642,593A N	13,798,905A 423,378N
10.	Sensory Deficiencies Operating	HTH 180	HTH	33.00*	33.00*	
				857,098A 366,960N	1,209,573A N	2,066,671A 366,960N

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				FY 1979-80 Agy.	FY 1979-80 F	FY 1980-81 O	FY 1980-81 F	
11.	Family Planning Operating		HTH 185		2,00*	2,00*	2,00*	263,579A
			HTH	129,074A	134,505A	14,00*	14,00*	
12.	School Health Services Operating		HTH 191		1,537,298N	1,619,618N	3,156,916N	3,993,627A
			HTH	1,941,335A	2,052,292A	183,20*	183,20*	
13.	Health Care Services Operating		HTH 801		43,00*	43,00*	43,00*	1,587,438A
			HTH	788,617A	798,821A	59,00*	59,00*	
14.	Investment: Capital Hospital Care Hilo Hospital Operating		HTH 211		1,751,183N	2,053,316N	826,480P	3,804,499N
			HTH	782,847P	C	15,000C	15,000C	
15.	Honokaa Hospital Operating		HTH 212		2,154,738A	2,430,969A	518,20*	4,585,707A
			HTH	511,20*	518,20*	9,185,572B	9,185,572B	
16.	Investment: Capital Kau Hospital Operating		HTH 213		9,099,000B	15,000,000C	15,000,000C	18,284,572B 30,000,000C
			HTH	497,140B	509,145B	C	C	
								1,006,285B 25,000C
								661,937A
								580,037B 105,000C
								C

17.	Kohala Hospital Operating	HTH 214	HTH	247,735A 36.00*	268,413A 36.00*	516,148A
			HTH AGS	397,867B 10,000C	469,867B C	867,734B 10,000C
18.	Kona Hospital Operating	HTH 215	HTH	767,150A 174.00*	173,888A 178.00*	941,038A
			HTH AGS	2,590,759B 156,000C	3,323,793B 250,000C	5,914,552B 406,000C
19.	Maui Memorial Hospital Operating	HTH 221	HTH	1,158,163A 362.00*	1,844,073A 411.00*	3,002,236A
			HTH	6,422,000B	7,047,468B	13,469,468B
20.	Hana Medical Center Operating	HTH 222	HTH	169,502A 7.00*	176,650A 7.00*	346,152A
			HTH AGS	66,000B 40,000C	66,000B C	132,000B 40,000C
21.	Kula Hospital Operating	HTH 223	HTH	941,220A 179.00*	999,667A 177.00*	1,940,887A
			HTH AGS	2,121,040B C	2,121,040B 8,024,000C	4,242,080B 8,024,000C
22.	Lanai Hospital Operating	HTH 224	HTH	280,119A 19.50*	287,789A 19.50*	567,908A
			HTH	170,000B	180,000B	350,000B
23.	Kauai Veterans Memorial Hospital Operating	HTH 231	HTH	1,051,948A 131.00*	1,117,346A 134.00*	2,169,294A
			HTH AGS	1,666,000B 26,000C	1,763,327B C	3,429,327B 26,000C
	Investment: Capital					

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## APPROPRIATIONS

Item No.	Program No.	Program ID	APPROPRIATIONS				Total Biennium M 1979-81 F
			FY 1979-80 F	FY 1980-81 F	FY 1980-81 F	FY 1980-81 F	
24.	Samuel Mahelona Memorial Hospital Operating	HTH 232	Exp. Agy.	1,115,650A 143,00*	1,159,978A 143,00*	2,275,628A 2,738,024B 385,000C	2,275,628A 2,738,024B 385,000C
25.	Maluhia Hospital Operating	HTH 241	HTH	379,823A 177,00*	491,191A 177,00*	871,014A	871,014A
	Investment: Capital		HTH	2,900,000B 42,000C	2,900,000B C	5,800,000B 42,000C	5,800,000B 42,000C
26.	Leahi Hospital Operating	HTH 242	HTH	2,768,265A 310,00*	2,720,441A 310,00*	5,488,706A	5,488,706A
	Investment: Capital		HTH	3,288,300B C	3,326,700B 1,308,000C	6,615,000B 1,308,000C	6,615,000B 1,308,000C
27.	MENTAL HEALTH Community Based Services for MH	HTH 401	HTH	362,00*	366,00*	13,397,322A	13,397,322A
	Operating		HTH	6,541,159A 11,00*	6,836,163A 6,00*		
			HTH	2,329,648N 1,553,476P	1,730,206N 1,475,306P	4,059,854N 3,028,782P	4,059,854N 3,028,782P
28.	Hawaii State Hospital	HTH 430	HTH	348,00*	348,00*		
	Operating		HTH	5,668,273A 10,000C	5,993,055A 3,511,900C	11,661,328A 3,521,000C	11,661,328A 3,521,000C
29.	General Support for MH	HTH 495	HTH	40,50*	40,50*	1,660,759A	1,660,759A
	Operating		HTH	829,976A 4,00*	830,783A 4,00*	260,258N	260,258N

30.	MENTAL RETARDATION Early Identification & Treatment for MR	HTH	500	56.85*	57.35*	
	Operating	HTH	779,540A	798,892A	1,578,432A	
		HTH	27.05*	27.05*		
		HTH	766,526N	792,491N	1,561,017N	
		HTH	937,677P	972,214P	1,909,891P	
31.	Community Based Services for MR	HTH	501	37.00*	44.00*	
	Operating	HTH	1,430,704A	1,491,508A	2,922,212A	
		HTH	14.00*	11.00*		
		HTH	197,510N	152,498N	350,008N	
32.	Waimano Training School and Hospital	HTH	511	581.00*	574.00*	
	Operating	HTH	8,677,727A	8,773,202A	17,450,922A	
		HTH	85,000N	85,000N	170,000N	
COMMUNITY HEALTH SERVICES						
33.	Vector Control	HTH	601	86.00*	86.00*	
	Operating	HTH	1,198,257A	1,206,413A	2,404,670A	
		HTH	2.00*	2.00*		
		HTH	22,779X	22,909X	45,688X	
34.	Sanitation & Substance Control	HTH	611	81.50*	81.50*	
	Operating	HTH	1,338,051A	1,362,622A	2,700,673A	
		HTH	1.00*	1.00*		
		HTH	131,004N	20,711N	151,715N	
35.	Drinking Water Quality	HTH	621	3.00*	3.00*	
	Operating	HTH	49,442A	50,240A	99,682A	
		HTH	1.00*	1.00*		
		HTH	207,020N	161,330N	368,350N	

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Item No.	Program Name	Program ID	APPROPRIATIONS				Total Biennium M 1979-81 F
			Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total M 1979-81 F	
36.	MEDICAL FACILITIES—STD'S, INSPECTION, LICEN	HTH 701					
	Operating	HTH		5.00*	6.00*		
		HTH	103,100A	110,236A	213,336A		
		HTH	9,60*	7,60*			
		HTH	254,278N	242,884N	497,162N		
37.	OVERALL PROGRAM SUPPORT Laboratory Services	HTH 901					
	Operating	HTH	48,50*	48,50*			
		HTH	832,058A	840,658A			
		HTH	6,00*	6,00*			
		HTH	109,675N	111,474N	221,149N		
38.	Public Health Nursing Services	HTH 902					
	Operating	HTH	135,00*	135,00*			
		HTH	2,454,594A	2,452,380A			
		HTH	4,00*	4,00*			
		HTH	30,000B	35,000B	65,000B		
		HTH	4,00*	4,00*			
		HTH	115,620N	118,176N	233,796N		
39.	Records, Data Collection and Research	HTH 903					
	Operating	HTH	35,00*	37,00*			
		HTH	608,045A	652,093A			
		HTH	2,00*				
		HTH	36,892N	N	36,892N		
40.	Health Education	HTH 908					
	Operating	HTH	16,00*	16,00*			
		HTH	520,986A	524,224A			
		HTH	1,00*				
		HTH	10,214N	80,608N	90,822N		

41.	Comprehensive Health Planning	HTH	906		6.00*	138,352A	273,462A
	Operating			HTH	135,110A	138,352A	25.00*
				HTH	25.00*	25.00*	745,310N
42.	General Administration	HTH	907		109.00*	109.00*	
				HTH	2,383,988A	2,458,049A	4,842,047A
				HTH	13.00*	13.00*	
				HTH	561,051B	602,244B	1,163,295B
				AGS	6.50*	5.50*	
	Investment: Capital			HTH	202,614N	179,385N	381,990N
				AGS	25,000C	185,000C	210,000C
43.	Private Hospitals & Medical Services	SUB	601		580,200A	525,372A	1,105,572A
	Operating			HTH	1,030,000C	310,000C	1,340,000C
	Investment: Capital						

**F. SOCIAL PROBLEMS**  
ALLEVIATION OF INDIVIDUAL AND GROUP  
PROB

Assistance to Families and/or Children  
Services to School-Age Hawaiians

1.	Services to Families and/or Children	HHL	601		4.05*	151,902B	685,498B
	Operating			SOC	51.14*	51.14*	
				SOC	3,210,383A	3,750,910A	6,961,293A
				SOC	103.36*	103.36*	
				SOC	7,106,550N	7,082,659N	14,189,209N
				SOC	91,385R	91,385R	182,770R
				SOC	125,337U	125,337U	250,674U

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Item No.	Program No.	Program ID	APPROPRIATIONS				Total Biennium M 1979-81 F
			Exp. Agy.	FY 1979-80 F	M 1980-81 F	M 1980-81 F	
3.	Assistance to Individual Adults	SOC 121		28.50*	29.50*	29.50*	3,821,265A
	Operating		SOC	1,466,513A 49.00*	2,354,752A 49.00*	5,529,225N 10,991R 656,645U	10,044,832N 21,982R 1,313,290U
<b>ASSURED STANDARD OF LIVING</b>							
4.	Monetary Assistance for General Needs Payments to Assist Families with Dependent Operating	SOC 201	SOC	36,948,019A 42,796,000N 7,593,981P	44,030,742A 45,846,418N 1,788,000P	80,978,761A 88,642,418N 9,381,981P	
5.	Payments to Assist the Aged, Blind & Disa Operating	SOC 202	SOC	7,759,000A N	9,174,000A 57,600N	16,933,000A 57,600N	
6.	Payments to Assist in Child Welf Foster Operating	SOC 203	SOC	1,297,000A N	1,409,000A 104,400N	2,706,000A 104,400N	
7.	Other General Assistance Payments Operating	SOC 204	SOC	19,000,000A N	20,000,000A 5,220,000N	39,000,000A 5,220,000N	
8.	Housing Assistance Rental Housing Augmentation and Assistan Operating	SOC 220		11.00*	11.00*	11.00*	2,543,427A
			SOC	1,168,130A 867,828B	1,375,297A 949,070B	26.50*	1,816,898B
			SOC	182.00*	182.00*	182.00*	11,350,963N
			SOC	10,811,114N 1,663,000C	11,350,963N 1,155,000C	22,162,077N 2,818,000C	
	Investment: Capital						



# ACT 300

Item No.	Program	Program ID	APPROPRIATIONS				Total Biennium 1979-81
			Exp. Agy.	FY 1979-80	M 1980-81	FY 1980-81	
16.	General Support for Assured Std of Living	SOC 236		313.50*	340.70*	340.70*	
	Eligibility Determination		SOC	4,924,038A 220.50*	5,379,453A 236.30*	5,379,453A 236.30*	10,303,491A 8,673,562N
17.	Disability Determination	SOC 238		4,139,594N	4,533,968N	4,533,968N	
	Operating		SOC	52.00*	52.00*	52.00*	52.00*
OVERALL PROGRAM SUPPORT FOR SOCIAL PROBL			SOC	1,356,123N	1,398,702N	1,398,702N	2,754,825N
18.	Progressive Neighborhoods Program	GOV 859		7.00*	7.00*	7.00*	
	Operating		GOV GOV	1,480,494A 330,598N	1,490,873A 346,324N	1,490,873A 346,324N	2,971,357A 676,922N
19.	Hawaii Office of Economic Opportunity	GOV 860		4.00*	4.00*	4.00*	
	Operating		GOV GOV	1,360,674A 4.00*	1,472,144A 4.00*	1,472,144A 4.00*	2,832,818A 232,000N
20.	Plan, Program Dev & Coord of Svcs for C &	GOV 861		116,000N	116,000N	116,000N	
	Operating		GOV GOV	9.00*	9.00*	9.00*	9.00*
21.	Plan, Program Dev & Coord of Svcs for Eld	GOV 602		254,207A 13,572N	249,921A N	249,921A N	504,128A 13,572N
	Operating		GOV	5.80*	5.80*	5.80*	5.80*
				546,730A	746,697A	746,697A	1,293,427A
				8.20*	8.20*	8.20*	8.20*
			GOV	3,635,038N	3,643,979N	3,643,979N	7,279,017N
			GOV AGS	500,000P 45,000C	500,000P 45,000C	500,000P 45,000C	1,000,000P 45,000C
							Investment: Capital

G. FORMAL EDUCATION

# ACT 300

Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium 1979-81 M O F
			Exp. Agy.	FY 1979-80 M O F	FY 1980-81 M O F	
5.	Instructional Administration and Support School Administration	EDN 203		796.50*	800.50*	31,144,235A 2,082,000C
			EDN AGS	15,405,714A 1,794,000C	15,738,521A 288,000C	
6.	Instructional Media	EDN 204		257.50*	259.50*	12,341,396A 1,535,109N 191,000C
			EDN EDN AGS	6,089,699A 738,033N 191,000C	6,251,697A 797,076N C	
7.	Instructional Development	EDN 205		107.00*	107.00*	8,149,737A 2,281,618N
			EDN EDN	4,011,606A 1,126,975N	4,138,131A 1,154,643N	
8.	Counseling	EDN 206		276.50*	277.50*	11,293,450A
			EDN	5,534,067A	5,759,383A	
9.	Student Activities	EDN 207		781,038A	831,125A	1,612,163A 1,000,000C
			EDN AGS	1,000,000C	C	
10.	Psychological & School Social Work Servi	EDN 208		155.00*	155.00*	6,373,201A
			EDN	2,959,461A	3,413,740A	
11.	Institutional Administration and Support State Administration	EDN 303		211.00*	211.00*	10,722,908A 1,117,761N
			EDN EDN	5,285,834A 5,555,094N	5,437,074A 562,667N	

12.	District Administration	EDN 304		215.00*	215.00*	
	Operating	EDN	5,626,396A	5,685,574A	11,311,970A	
13.	School Food Services	EDN 305		199.50*	199.50*	
	Operating	EDN	8,513,403A 711.50*	8,748,601A 711.50*	17,262,004A	
	Investment: Capital		6,332,285B 10,170,774N AGS C	6,276,844B 10,629,491N 103,000C	12,609,129B 20,800,265N 103,000C	
14.	Safety and Security Services	EDN 306		1,335,319A	1,511,896A	
	Operating	EDN	1,001,10*	1,010,10*	2,847,215A	
15.	Physical Plant Operations & Maintenance—	EDN 307		18,446,346A	19,454,451A	
	Operating	EDN	218.00*	218.00*	37,900,797A	
16.	Physical Plant Operations & Maintenance—	AGS 807		9,054,192A	9,367,242A	
	Operating	AGS	218.00*	218.00*	18,421,434A	
17.	Student Transportation	AGS 808		9,342,557A	10,574,913A	
	Operating	AGS	6.00*	6.00*	19,917,470A	
	Public Service	EDN 406		23.00*	23.00*	
	Adult Education	EDN	1,580,730A	1,609,570A	3,190,300A	
	Operating	EDN	1.00*	1.00*	1,113,046B	
		EDN	544,253B 1.00*	568,793B 1.00*	819,423N	
18.	Public Libraries	EDN 407		404,471N	414,952N	
	Operating	EDN	8,752,704A 430,493N AGS 179,000C	8,944,370A 430,493N 1,465,000C	17,697,074A 860,986N 1,644,000C	
19.	Investment: Capital					

**ACT 300**

Item No.	Program Name	Program ID	APPROPRIATIONS			Total Biennium M O 1979-81 F
			FY 1979-80 F	FY 1980-81 F	FY 1980-81 F	
20.	HIGHER EDUCATION University of Hawaii, Manoa Instruction—UOH, Manoa	UOH 101				
	Operating	UOH	1,514.54*	1,519.54*	40,761,813A	80,140,347A
		UOH	39,378,534A 21.00*	39,378,534A 21.00*	8.00*	
		UOH	3,416,585B 7.15*	3,335,879B 7.15*	6,752,464B	
	Investment: Capital	UOH AGS	721,276N 7,233,000C	721,276N 8,205,000C	1,442,552N 15,438,000C	
21.	Organized Research—UOH, Manoa	UOH 102				
	Operating	UOH	13,518,855A 34.42*	471.57* 34.42*	14,118,087A 34.42*	27,636,942A
		UOH	1,229,607N 235,000W	1,342,481N 240,000W	2,572,088N 475,000W	
	Investment: Capital	AGS AGS	5,767,000C 1,000,000E	2,301,000C 3,765,000E	8,068,000C 4,765,000E	
22.	Public Service—UOH, Manoa	UOH 103				
	Operating	UOH	2,580,082A 5.00*	90.41* 5.00*	2,672,674A 5.00*	5,252,756A
		UOH	917,881B 43.64*	917,881B 43.64*	938,311B 43.64*	1,856,192B
	Investment: Capital	UOH UOH	1,106,372N 32,000W	1,167,526N 35,000W	2,273,898N 67,000W	

23.	Academic Support—UOH, Manoa Operating	UOH 104		346.27*		
		UOH	8,415,206A	8,911,189A	17,326,395A	
			10.00*	10.00*		
		UOH	575,564B	582,664B	1,158,228B	
			6.00*	6.00*		
		UOH	630,151W	667,959W	1,298,110W	
		AGS	131,000C	C	131,000C	
	Investment: Capital					
24.	Student Services—UOH, Manoa Operating	UOH 105		155.75*	158.75*	
		UOH	3,468,571A	3,681,546A	7,150,117A	
		UOH	140,147B	146,940B	287,087B	
		UOH	703,403N	703,403N	1,406,806N	
			115.50*	115.50*		
		UOH	12,174,652W	12,649,587W	24,824,239W	
	Investment: Capital			26.00*	26.00*	
		UOH	2,431,010X	2,492,179X	4,923,189X	
		AGS	1,184,000A	A	1,184,000A	
		AGS	158,000C	C	158,000C	
	Institutional Support—UOH, Manoa Operating	UOH 106		339.00*	357.00*	
		UOH	10,122,928A	11,625,856A	21,748,784A	
			12.00*	12.00*		
		UOH	518,399B	544,818B	1,063,217B	
			6.00*	6.00*		
		UOH	1,524,729W	1,563,995W	3,088,724W	
	Investment: Capital			300,000A	300,000A	
		AGS	2,462,000C	900,000C	3,362,000C	
	University of Hawaii, Hilo Instruction—UOH, Hilo Operating	UOH 211		186.50*	188.50*	
		UOH	4,182,243A	4,470,482A	8,652,725A	
		UOH	404,920B	422,049B	826,969B	
		UOH	160,000N	160,000N	320,000N	
		UOH	137,800W	146,000W	283,800W	
		AGS	A	100,000A	100,000A	
		AGS	1,696,000C	1,314,000C	3,010,000C	
25.	Institutional Support—UOH, Manoa Operating	UOH 106		339.00*	357.00*	
		UOH	10,122,928A	11,625,856A	21,748,784A	
			12.00*	12.00*		
		UOH	518,399B	544,818B	1,063,217B	
			6.00*	6.00*		
		UOH	1,524,729W	1,563,995W	3,088,724W	
	Investment: Capital			300,000A	300,000A	
		AGS	2,462,000C	900,000C	3,362,000C	
26.	University of Hawaii, Hilo Instruction—UOH, Hilo Operating	UOH 211		186.50*	188.50*	
		UOH	4,182,243A	4,470,482A	8,652,725A	
		UOH	404,920B	422,049B	826,969B	
		UOH	160,000N	160,000N	320,000N	
		UOH	137,800W	146,000W	283,800W	
		AGS	A	100,000A	100,000A	
		AGS	1,696,000C	1,314,000C	3,010,000C	

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Item No.	Program	Program ID	APPROPRIATIONS				Total Biennium 1979-81 M
			FY 1979-80 F	M 1979-80 O	FY 1980-81 F	M 1980-81 O	
27.	Public Service—UOH, Hilo Operating	UOH 213	UOH UOH	30,475A 133,512B	30,649A 139,488B	61,124A 273,000B	
28.	Academic Support—UOH, Hilo Operating	UOH 214	UOH	42,00*	42,00*	2,230,324A	
			UOH AGS	1,103,152A 165,312B 1,438,000C	1,127,172A 172,826B 900,000C	7,00* 338,138B 2,338,000C	
29.	Investment: Capital Student Services—UOH, Hilo Operating	UOH 215	UOH	22,00*	22,00*	1,318,561A	
			UOH UOH UOH UOH	613,667A 94,000N 459,824W 60,676X	704,894A 94,000N 479,625W 64,230X	188,000N 6,00* 939,449W 124,906X	
30.	Institutional Support—UOH, Hilo Operating	UOH 216	UOH UOH AGS	36,00*	37,00*	2,053,118A	
				976,049A 12,292B C	1,077,069A 13,024B 441,000C	25,316B 441,000C	
31.	Investment: Capital Honolulu Community College Instruction—Honolulu Community College Operating	UOH 301	UOH	123,00*	123,00*	5,915,577A	
			UOH UOH AGS	2,930,056A 100,000N 142,000W 671,000C	2,985,521A 100,000N 142,000W 935,000C	100,000N 142,000W 284,000W 1,606,000C	
32.	Investment: Capital Public Service—Honolulu Community College Operating	UOH 302	UOH UOH	7,00*	7,00*	454,937A	
				444,970A 50,000B	50,000B	899,907A 100,000B	

33.	Academic Support—Honolulu Community Col	UOH	303			27.00*	521,222A	1,023,265A
34.	Operating							
	Student Services—Honolulu Community Col	UOH	304	UOH	502,043A	19.00*	521,222A	1,023,265A
	Operating							
35.	Institutional Support—Honolulu CC	UOH	305	UOH	368,148A	19.00*	382,658A	750,806A
	Operating			UOH	111,000N	111,000N	111,000N	222,000N
				UOH	4,000W	4,000W	4,000W	8,000W
	Investment: Capital							
36.	Kapiolani Community College	UOH	311	UOH	1,087,615A	36.00*	1,190,876A	2,278,491A
	Instruction—Kapiolani Community College			UOH	27,000B	27,000B	27,000B	54,000B
	Operating			UOH	53,000W	53,000W	53,000W	106,000W
				AGS	124,000C	C	C	124,000C
37.	Public Service—Kapiolani Community College	UOH	312	UOH	2,837,002A	107.00*	2,998,505A	5,835,507A
	Operating			UOH	75,000N	75,000N	75,000N	150,000N
				UOH	3,00*	3,00*	3,00*	461,096W
38.	Academic Support—Kapiolani Community Col	UOH	313	UOH	42,669A	1.00*	42,012A	84,621A
	Operating			UOH	1,00*	1,00*	1,00*	100,384B
				UOH	50,000B	50,384B	50,384B	100,384B
39.	Student Services—Kapiolani Community Col	UOH	314	UOH	433,571A	16.00*	430,855A	864,426A
	Operating			UOH	17.00*	17.00*	17.00*	
				UOH	364,673A	367,263A	367,263A	731,936A
				UOH	125,000N	150,000N	150,000N	275,000N
				UOH	6,250W	6,500W	6,500W	12,750W

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		APPROPRIATIONS					
Item No.	Program No.	Program ID	Exp. Agr.	FY 1979-80 F	FY 1980-81 F	FY M O	Total Biennium M O 1979-81 F
40.	Institutional Support—Kapiolani CC	UOH 315		26,50*	28,00*	1,530,514A	
	Operating		UOH	746,742A	783,772A		
			UOH	2,000B	2,000B	4,000B	
	Investment: Capital		UOH	55,000W	58,000W	113,000W	
		C	AGS		194,000C	194,000C	
41.	Leeward Community College Instruction—Leeward Community College	UOH 321		143,00*	143,00*	6,542,251A	
	Operating		UOH	3,223,401A	3,318,850A		
			UOH	40,000N	40,000N	80,000N	
	Investment: Capital		UOH	2,00*	2,00*		
			AGS	128,000W	135,000W	263,000W	
				85,000C	451,000C	536,000C	
42.	Public Service—Leeward Community College	UOH 322		5,00*	5,00*	521,746A	
	Operating		UOH	257,335A	264,411A		
			UOH	1,00*	1,00*		
			AGS	50,000B	50,904B	100,904B	
43.	Academic Support—Leeward Community College	UOH 323		25,00*	25,00*		
	Operating		UOH	529,373A	550,827A	1,080,200A	
	Student Services—Leeward Community College	UOH 324		29,00*	29,00*		
	Operating		UOH	577,504A	609,635A	1,187,139A	
			UOH	25,00B	25,00B	50,000B	
			UOH	125,00N	125,00N	250,000N	
			UOH	7,200W	7,800W	15,000W	
45.	Institutional Support—Leeward CC	UOH 325		49,50*	49,50*		
	Operating		UOH	1,145,412A	1,264,259A	2,409,671A	

46.	Windward Community College Instruction—Windward Community College	UOH 331	44.50* 943,673A 2,000W	47.50* 1,026,651A 3,000W	1,970,324A 5,000W
47.	Public Service—Windward Community College Operating	UOH 332	1.00* 18,579A 20,000B	1.00* 18,869A 20,000B	37,448A 40,000B
48.	Academic Support—Windward Community Coll Operating	UOH 333	10.00* 263,027A	10.00* 264,949A	527,976A
49.	Student Services—Windward Community Coll Operating	UOH 334	6.00* 136,074A 55,480N 2,300W	8.00* 158,536A 57,000N 2,300W	294,610A 112,480N 4,600W
50.	Institutional Support—Windward CC Operating	UOH 335	13.00* 290,261A 1.00* 35,000W	14.00* 313,422A 1.00* 35,000W	603,683A 70,000W 45,000C
	Investment: Capital		C		
51.	Maui Community College Instruction—Maui Community College Operating	UOH 501	61.50* 1,367,596A 50,000N	61.50* 1,406,000A 50,000N	2,773,596A 100,000N
	Investment: Capital		2.00*	120,451W	226,719W 125,000C
52.	Public Service—Maui Community College Operating	UOH 502	2.50* 86,132A 15,000B	2.50* 86,908A 15,000B	173,040A 30,000B

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium M 1979-81 F
			Exp. Agy.	FY 1979-80 F	FY 1980-81 F	
53.	Academic Support—Maui Community College Operating	UOH 503				
			UOH	9,00*	9,50*	
				223,158A	252,269A	475,427A
54.	Student Services—Maui Community College Operating	UOH 504				
			UOH	8,50*	9,50*	
				214,406A	231,192A	445,598A
			UOH	20,560B	316,151B	336,711B
			UOH	108,000N	118,000N	226,000N
			AGS	3,830W	5,400W	9,230W
				C	1,300,000C	1,800,000C
55.	Institutional Support—Maui Community Col Operating	UOH 505				
			UOH	17,00*	17,00*	
			UOH	500,692A	600,081A	1,100,773A
			UOH	3,000B	3,000B	6,000B
			AGS	238,000C	C	238,000C
56.	Kauai Community College Instruction—Kauai Community College Operating	UOH 601				
			UOH	46,00*	47,00*	
			UOH	950,345A	997,874A	1,948,219A
			UOH	30,000N	30,000N	60,000N
			AGS	7,000W	7,220W	14,220W
				C	890,000C	890,000C
57.	Investment: Capital Public Service—Kauai Community College Operating	UOH 602				
			UOH	.50*	.50*	
			UOH	13,772A	14,111A	27,883A
			UOH	15,000B	15,000B	30,000B
58.	Academic Support—Kauai Community College Operating	UOH 603				
			UOH	10,50*	10,50*	
				278,146A	290,770A	568,916A

59.	Student Services—Kauai Community College	UOH	604		8.00*	179,856A	352,395A
	Operating	UOH		172,539A	36,000N	72,000N	
		UOH		36,000N	2,000W	4,000W	
60.	Institutional Support—Kauai CC	UOH	605		24.50*	862,451A	952,031A
	Operating	UOH		15,000B	15,000B	30,000B	1,814,482A
		AGS		126,000C	C	126,000C	30,000B
	Investment: Capital						
61.	West Oahu College	UOH	701		9.00*	191,700A	197,115A
	Instruction—West Oahu College			A		180,000A	388,815A
	Operating	UOH					180,000A
	Investment: Capital	AGS					
62.	Academic Support—West Oahu College	UOH	704		3.50*	102,672A	107,638A
	Operating	UOH					210,310A
	Student Services—West Oahu College	UOH	705				
63.		UOH			2.00*	58,118A	61,212A
	Operating						119,330A
64.	Institutional Support—West Oahu College	UOH	706		4.00*	219,304A	228,953A
	Operating	UOH		A		232,253A	448,257A
		UOH					451,557A
65.	Higher Education State-Wide Support	UOH	901		28.00*	1,873,700A	31.00*
	Academic Support—UOH, System-Wide Support	UOH		675,363T		2,089,196A	3,962,896A
	Operating	UOH				1,053,422T	1,728,785T
66.	Student Services—UOH, System-Wide Support	UOH	902		4.00*	455,611A	4.00*
	Operating						480,941A
							936,552A

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium 1979-81 F
			Exp. Agy.	FY 1979-80 F	FY 1980-81 F	
67.	Institutional Sppt—UOH, System-Wide Sppt Operating	UOH 903	UOH	181.75*	182.00*	8,395,830A
68.	Vocational Education, Statewide Coordinat- Operating	UOH 904	UOH	7.00*	7.00*	246,433A
				120,355A	126,078A	
				6.00*	6.00*	
				272,234N	319,285N	
69.	Statewide Plan & Coord for Post-Secondar Operating	UOH 905	UOH	272,934A	287,130A	560,064A
70.	Community College Systemwide Support Operating	UOH 906	UOH	29.75*	29.75*	1,561,274A
				763,758A	797,516A	
				16.00*	16.00*	
				795,000B	820,000B	
				39.50*	39.50*	
				1,536,780N	1,604,161N	
				*	3.00*	
				75,000W	150,000W	
71.	Western Interstate Commission for Higher Operating	GOV 807	GOV	870,200A	920,000A	1,790,200A
						C
						50,000C
						50,000C

## H. CULTURE AND RECREATION CULTURAL ACTIVITIES

CULTURAL ACTIVITIES

**JOURNAL ACTIVITIES**  
Meetings, Historical Sites and Studies  
Cultural History & Humanities  
Investment: Capital

- Cultural History & Humanities  
Volume 1, Number 1, Spring 2002

2.	Hawaii Public Broadcasting Operating	REG 701		36.00*	36.00*	36.00*	2,177,851A
	Investment: Capital		REG	1,171,342A 1.00*	1,006,509A 1.00*	623,076W 718,000C 239,000N	1,226,844W 1,120,000C 239,000N
3.	Historical & Archaeological Places Operating Investment: Capital	LNR 801		18.00*	18.00*	540,034A 8,210,000A 1,980,000C	1,006,812A 8,210,000A 2,615,000C
4.	Pacific War Memorial System Operating	DEF 808	DEF	5,941A	5,964A	11,905A	
5.	Aquaria Operating	UOH 881	UOH	11.00*	11.00*	212,648A	417,138A
6.	Cultural and Artistic Events Performing & Visual Arts Events Operating	BUF 881		7.00*	10.00*	592,681A 543,260N 80,000R 20,000X	592,330A 543,260N 80,000R 20,000X
	Ethnic Group Presentations Operating	AGS 818	AGS	34,269A 7,500B	36,713A 7,500B	70,982A 15,000B	
	RECREATIONAL ACTIVITIES						
8.	Outdoor Activities Forest Recreation Operating	LNR 804		28.00*	28.00*	359,886A 84,000B 136,231N 50,000C	712,830A 168,000B 176,491N 38,000A C
	Investment: Capital						

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Item No.	Program No.	Program ID	APPROPRIATIONS				Total Biennium 1979-81 F
			Exp. Agv.	FY 1979-80 F	FY 1980-81 F	M	
9.	Aquatic Recreation	LNR 805		16.00*	16.00*		
			LNR	266,470A	251,607A		518,077A
			LNR	20,000B	20,000B		40,000B
10.	Parks Recreation	LNR 806		134,924N	177,069N		311,933N
			LNR	1,000C	C		1,000C
11.	Operating Investment: Capital	TRN 801		99.00*	101.00*		
			LNR	1,854,869A	1,777,323A		3,632,192A
			LNR	4,018,000C	945,000C		12,125,000A 4,963,000C
12.	Ocean-Based Recreation	TRN 801		39.50*	41.50*		
			TRN	1,920,630B	2,066,383B		3,987,013B
			TRN	541,000A	561,000A		1,102,000A
12.	Spectator Events & Shows—Aloha Stadium	BUF 889		80,000B	B		80,000B
			TRN	327,000C	95,000C		422,000C
			TRN	320,000D	779,000D		1,099,000D
12.	Operating Investment: Capital	BUF 889					
			BUF	473,329A	360,507A		1,033,836A
				34.00*	34.00*		
12.	Investment: Capital	BUF 889		975,853B	919,196B		1,895,049B
			AGS	A	A		1,795,000A
			AGS	1,287,000C	211,000C		1,498,000C
12.		AGS		910,000M	M		910,000M

13. GENERAL ADMIN FOR CULTURE &  
RECREATION LNR 809

Operating	LNR	24.50*	24.50*
Investment: Capital	LNR	421,944A	416,798A
	LNR	3,129,903N	3,133,859N
	LNR	65,000A	65,000A
	LNR	C	40,000C
	LNR	40,000N	65,000N

I. PUBLIC SAFETY  
SAFETY FROM CRIMINAL ACTIONS

1.	Intake Service Centers	GOV 894	31.60*	34.00*
	Operating	GOV	943,713A	1,005,409A
	Investment: Capital		2,40*	*
		GOV	490,482N	181,671N
				672,153N
2.	Confinement	SOC 401	77.00*	77.00*
	Juvenile Correctional Facilities			
	Operating	SOC	1,802,357A	1,859,278A
	Investment: Capital	AGS	163,000A	533,000A
		AGS	101,000C	C
3.	High Security Facility	SOC 402	134.00*	134.00*
	Operating	SOC	2,081,931A	2,235,594A
	Investment: Capital	AGS	95,088B	95,108B
			1,257,000C	75,000C
4.	Kulani Correctional Facility	SOC 403	36.83*	36.83*
	Operating	SOC	865,607A	929,552A
	In-Community Facilities	SOC 404	15.00*	15.00*
	Operating	SOC	362,407A	294,519A
				656,926A

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Item No.	Program No.	Program ID	Exp. Agy.	APPROPRIATIONS			Total Biennium M 1979-81 O F
				FY 1979-80 F	M 1980-81 F	FY M 1980-81 F	
6.	Hawaii Community Correctional Center Operating	SOC 405		29.00*	29.00*	526,136A	1,032,160A
7.	Maui Community Correctional Center Operating	SOC 406	SOC	506,024A	526,136A		
8.	Oahu Community Correctional Center Operating Investment: Capital	SOC 407	SOC	472,902A	516,887A	989,789A	
9.	Kauai Community Correctional Center Operating	SOC 408	SOC	294.80*	345.80*		
10.	Social Rehabilitation of Confined Adults Operating	UOH 859	SOC	5,461,713A AGS AGS	6,394,265A A 1,300,000C	11,855,978A 100,000A 2,700,000C	
11.	Parole Supervision and Counseling Adult Parole Determinations Operating	SOC 411	SOC	428,146A	439,472A	867,618A	
12.	Adult Parole Supervision and Counseling Operating	SOC 413	SOC	143,061A UOH UOH	149,722A 34,027N 2,000W	292,783A 68,054N 4,000W	
13.	Criminal Injuries Compensation Operating	SOC 414	SOC	86,357A	86,357A	155,089A	

14.	General Support—Criminal Action Criminal Data and Crime Statistics	ATG	191		9.00*	154,340A	304,302A
15.	Criminal Justice Planning & Prg Implementat Operating	GOV	893	ATG	149,962A	154,340A	304,302A
				GOV	290,858A	309,668A	4,16*
					7,84*	7,84*	600,526A
16.	General Adm—Confinement Operating Investment: Capital	SOC	493	GOV	2,392,990N	2,592,990N	4,985,980N
				SOC	15,00*	15,00*	
				AGS	283,697A	286,196A	569,893A
					200,000C	450,000C	650,000C
<b>SAFETY FROM PHYSICAL DISASTERS</b>							
17.	Prevention of Natural Disasters Operating Investment: Capital	LNR	810	LNR	3,00*	3,00*	
				LNR	93,538A	94,752A	188,290A
					A	1,500,000A	1,500,000A
18.	Amelioration of Natural Disasters Operating Investment: Capital	DEF	110	DEF	110,00*	110,00*	
					2,290,933A	4,744,705A	7,035,638A
				DEF	19,50*	19,50*	
					609,062N	618,919N	1,227,981N
				AGS	8,000A	16,000A	24,000A
				AGS	311,000C	623,000C	934,000C
				AGS	362,000N	978,000N	1,340,000N
<b>J. INDIVIDUAL RIGHTS</b>							
<b>PROTECTION OF THE CONSUMER</b>							
1.	Testing & Certification of Consumer Good Operating	AGR	810		28.00*	28.00*	
				AGR	481,970A	488,359A	970,329A
					28.00*	28.00*	
				AGR	559,832N	567,971N	1,127,803N

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Item No.	Program	Program ID	APPROPRIATIONS				Total Biennium M 1979-81 F
			Exp. Agy.	FY 1979-80 F	FY 1980-81 F	M O	
2. Regulation of Services	Communication, Utilities & Transportati	REG 103		46,00*	46,00*		
			REG	817,499A	920,766A		1,738,175A
3. Banking Services	Operating Investment: Capital	REG 104		5,00*	5,00*		
			REG	180,004X	176,013X		356,017X
4. Insurance Services	Operating	REG 106		28,00*	28,00*		
			REG AGS	493,686A D	506,407A 12,000,000D		1,000,093A 12,000,000D
5. Professional, Vocational & Personal Svcs	Operating	REG 105		30,00*	30,00*		
			REG	564,124A	584,730A		1,148,854A
6. Enforcement of Fair Business Practices	Business Registration	REG 111		51,00*	35,00*		
			REG	1,190,217A	874,980A		2,065,197A
7. Weights & Measures	Operating			1,00*	1,00*		
			AGR AGR	46,965X	46,965X		93,930X
8. Offc of Consumer Prot—Adv & Terms of S	Operating			12,00*	12,00*		
			REG	261,548A	242,285A		503,833A

9.	General Support—Protection of the Consumer Operating	REG 191		REG	27.00*	43.00*	
10.	LEGAL & JUDICIAL PROTECTION OF RIGHTS Legal Assistance in Criminal Actions Operating	GOV 821		GOV	63.00* 1,471,415A	63.00* 1,498,920A	2,970,335A
11.	Conveyances and Recordings Operating	LNR 111		LNR	43.00* 672,752A	43.00* 662,057A	1,334,809A
12.	Commission on the Status of Women Operating	BUF 888		BUF	2.00* 30,027A	2.00* 30,893A	60,920A
<b>K. GOVERNMENT-WIDE SUPPORT EXEC DIRECTN, COORD, &amp; POLICY DEVELOPMEN</b>							
1.	Office of the Governor Operating Investment: Capital	GOV 100		GOV GOV	41.00* 1,270,752A 1,000,000C	41.00* 1,322,501A 3,000,000C	2,593,253A 4,000,000C
2.	Office of the Lieutenant Governor Operating	LTG 100		LTG	21.00* 902,659A	21.00* 2,597,728A	3,500,387A
3.	Policy Development and Coordination BUF—Prgm Planning, Analysis & Budgeting Operating Investment: Capital	BUF 101		BUF BUF AGS	67.00* 1,916,364A 4,708B 155,000C	67.00* 2,086,568A 2,490B C	4,002,932A 7,198B 155,000C

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium M 1979-81 F
			Exp. Agy.	FY M 1979-80 F	FY M 1980-81 F	
4.	Land Use, Statewide Plan and Coordination	PED 103		46,00*	47,00*	
	Operating	PED	1,497,938A	1,507,315A	3,005,253A	
	Investment: Capital	PED	1,452,705N	1,571,523N	3,024,228N	
		PED	A	900,000A	900,000A	
		PED	C	1,862,000C	1,862,000C	
5.	GOV—Oth Policy Development & Coordination	GOV 102		16,00*	16,00*	
	Operating	GOV	827,479A	865,839A	1,693,318A	
<b>FISCAL MANAGEMENT</b>						
6.	Revenue Collection	TAX 101		115,40*	115,40*	
	Property Tax Assessment	TAX	1,977,275A	2,039,009A	4,016,284A	
7.	Income Assessment and Audit	TAX 102		159,30*	160,30*	
	Operating	TAX	2,662,969A	2,684,338A	5,347,307A	
8.	Tax Collection	TAX 103		79,30*	79,30*	
	Operating	TAX	1,168,310A	1,174,462A	2,342,772A	
9.	Supporting Services—Revenue Collection	TAX 107		79,00*	79,00*	
	Operating	TAX	2,288,781A	2,438,913A	4,727,694A	
10.	Fiscal Procedures and Control	AGS 101		8,00*	8,00*	
	Acct System Development & Maintenance	AGS	170,369A	173,367A	343,736A	
	Operating	AGS				

11.	Expenditure Examination	AGS 102		21.00*	22.00*	
	Operating	AGS	499,455A	520,805A	1,020,260A	
12.	Recording and Reporting	AGS 103		13.00*	13.00*	
	Operating	AGS	234,025A	292,905A	526,930A	
13.	Internal Post Audit	AGS 104		18.00*	18.00*	
	Operating	AGS	462,164A	447,957A	910,121A	
14.	Cash and Debt Management	BUF 110		16.00*	16.00*	
	Operating	BUF	151,794,466A	169,404,824A	321,199,290A	
		BUF	328,399B	316,566B	644,965B	
		BUF	27,500U	27,500U	55,000U	
15.	GENERAL SERVICES	ATG 100		77.30*	84.30*	
	Legal Services			2,653,659A	3,022,387A	5,676,046A
	Operating	ATG	11.70*	11.70*	356,652N	707,690N
		ATG	351,038N	23.00*	23.00*	
		ATG	517,677U	550,310U	1,067,987U	
16.	Electronic Data Processing Services	BUF 131		203.20*	203.20*	
	Operating	BUF	5,047,142A	5,019,200A	10,066,342A	
		BUF	21.80*	21.80*	1,288,660U	2,554,580U
17.	Records Management	AGS 111		23.00*	23.00*	
	Operating	AGS	304,884A	303,706A	608,590A	
18.	Personnel Services	PER 102		70.00*	71.00*	
	Work Force Attr., Select, Class, & Effect	PER	1,428,834A	1,466,447A	2,895,281A	
	Operating					

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Item No.	Program No.	Program ID	Exp. Agy.	APPROPRIATIONS			Total Biennium M 1979-81 F
				FY 1979-80 F	FY 1980-81 F	FY 1980-81 F	
19.	Supporting Services—Personnel Services	PER 191	PER	15.00*	15.00*	15.00*	15.00
	Operating			470,121A	488,975A	488,975A	959,096A
20.	Employee Fringe Benefit Administration Retirement	BUF 141	BUF	22.94*	22.94*	22.94*	22.94
	Operating			60,617,540A 8.06*	70,022,021A 8.06*	70,022,021A 8.06*	130,639,561A 8.06*
21.	Group Life Insurance, Med, Hosp & Dntl Bn	BUF 142	BUF	11.00*	11.00*	11.00*	11.00*
	Operating			15,697,240A 8,211,200S	17,654,346A 9,331,600S	17,654,346A 9,331,600S	33,351,586A 17,542,800S
22.	Property Management Public Lands Management	LNR 101	LNR	34.00*	34.00*	34.00*	34.00*
	Operating			595,856A LNR LNR	620,088A A 296,000C	620,088A 330,000A 215,000C	1,215,944A 330,000A 511,000C
23.	Insurance Management	AGS 203	AGS	2,399,275A 469,650U	4,228,705A 516,750U	4,228,705A 516,750U	6,627,980A 986,400U
	Operating						
24.	Land Survey	AGS 211	AGS	30.00*	30.00*	30.00*	30.00*
	Operating			605,122A	557,629A	557,629A	1,162,751A
25.	Facilities Construction and Maintenance	AGS 221	AGS	20.00*	20.00*	20.00*	20.00*
	Construction			398,585A AGS AGS	401,129A 100,000A 12,727,000C	401,129A 100,000A 12,727,000C	799,714A 170,000A 14,695,000C
	Operating						
	Investment: Capital						

26.	Custodial Services	AGS 231		138.50*	138.50*	
	Operating	AGS AGS	3,733,400A 216,200U	4,732,173A 230,000U	8,465,573A 446,200U	
27.	Grounds Maintenance	AGS 232		38.00*	39.00*	
	Operating	AGS	440,501A	505,902A	946,403A	
28.	Building Repairs and Alterations	AGS 233		23.00*	23.00*	
	Operating	AGS	1,214,201A	717,881A	1,932,082A	
29.	Purchasing and Supplies Central Purchasing	AGS 240		14.00*	14.00*	
	Operating	AGS AGS	206,437A 19,186W	210,673A 20,337W	417,110A 39,523W	
30.	Surplus Property Management	AGS 244		5.00*	5.00*	
	Operating	AGS	123,855W	124,993W	248,848W	
31.	Motor Pool	AGS 251		8.50*	8.50*	
	Operating	AGS	326,197W	341,777W	667,974W	
32.	Parking Control	AGS 252		12.50*	12.50*	
	Operating	AGS	346,813W	413,066W	759,879W	
33.	Communication	AGS 263		13.00*	13.00*	
	Operating	AGS AGS	1,187,133A 379,602U	1,208,420A 379,602U	2,395,553A 759,204U	
34.	Capitol Building Security	ATG 801		44.00*	36.00*	
	Operating	ATG	534,142A	541,121A	1,075,263A	
35.	Other State Buildings Security	AGS 301		10.00*	10.00*	
	Operating	AGS	101,629A	102,920A	204,549A	

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium M 1979-81 F
			Exp. Agy.	FY 1979-80 F	FY 1980-81 F	
36.	Genrl Adm Svcs—Accounting & General Sv	AGS 901			39.00*	39.00*
	Operating		AGS	708,763A	712,738A	1,421,501A
	Subsidies to Counties					
	Grants in Aid to Counties	SUB 101				
	Operating		BUF	19,447,551A	19,447,551A	38,895,102A
	County Capital Improvement Projects					
	City & County of Honolulu	SUB 201	CCH	4,137,000C	2,290,000C	6,427,000C
	Investment: Capital		CCH	468,000S	S	468,000S
38.	County of Hawaii	SUB 301	COH	1,862,000C	955,000C	2,817,000C
	Investment: Capital					
	County of Maui	SUB 401	COM	717,000C	C	717,000C
	Investment: Capital		COM		410,000C	1,127,000C
	County of Kauai	SUB 501	COK		A	200,000A
	Investment: Capital		COK		B	250,000B
			COK	879,000C	C	125,000C
						1,004,000C

SECTION 4. The appropriations and authorizations, or the expending agency, as the case may be, set forth opposite the cost categories in Section 5 of Act 214, Session Laws of Hawaii, 1979, are amended to read:

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Item No.	Program	Program ID	Exp. Agy.	APPROPRIATIONS			Total Biennium 1979-81 F
				FY 1979-80 M Q F	FY 1980-81 M Q F		
<b>A. ECONOMIC DEVELOPMENT</b>							
1.	COMMERCE AND INDUSTRY Operating	PED 102	PED	165,000A		A	165,000A
2.	TOURISM Operating	PED 113	PED	40,000A		A	40,000A
<b>AGRICULTURE</b>							
3.	Product Development and Marketing for Agr Distribution Systems Improvement for Agr Operating	AGR 151	AGR	25,000A		A	25,000A
4.	General Support for Agr Data Collection for Agr Operating	AGR 189	AGR	25,000A		A	25,000A
5.	General Administration for Agr Operating	AGR 192	AGR	50,000A		A	50,000A
6.	FISHERIES & AQUACULTURE Commercial Fishery and Aquaculture Operating	LNR 153	LNR	88,100A		A	88,100A
<b>ECON PLANNING &amp; COORD FOR ECON DEVELOPMEN</b>							
7.	Econ Planning & Research for Econ Devpt Operating	PED 130	PED	28,564A		28,564A	57,128A
8.	General Support for Marine Programs Operating	GOV 109	GOV	25,000A		A	25,000A
<b>B. EMPLOYMENT</b>							
<b>FULL OPPORTUNITY TO WORK</b>							
1.	Employment and Training Programs Operating	LBR 131	LBR	77,500A		A	77,500A

**ASSISTANCE IN WORK RELATED  
DIFFICULTIES**

2.	Vocational Rehabilitation Operating	SOC 802	SOC	9,535A	A	9,535A
	<b>OVERALL PROGRAM SUPPORT</b>					
3.	DLIR—Data Gathering, Research and Analysis Operating	LBR 901	LBR	A	39,000A	39,000A

**E. HEALTH**

<b>PHYSICAL HEALTH</b>						
Communicable Diseases						
1.	Other Communicable Diseases Operating	HTH 131	HTH	15,000A	15,000A	30,000A
2.	Chronic Diseases Operating	HTH 151	HTH	215,000A	200,000A	415,000A
3.	Emergency Medical Services Operating	HTH 170	HTH	302,769A	A	302,769A
4.	Health Care Services Operating	HTH 801	HTH	376,045A	517,392A	893,437A
	Hospital Care					
5.	Leahi Hospital Operating	HTH 242	HTH	30,000A	A	30,000A
<b>MENTAL HEALTH</b>						
6.	Community Based Services for MH Operating	HTH 401	HTH	955,303A	1,179,363A	2,134,666A
7.	General Support for MH Operating	HTH 495	HTH	A	60,000A	60,000A
<b>MENTAL RETARDATION</b>						
8.	Early Identification & Treatment for MR Operating	HTH 500	HTH	221,000A	214,500A	435,500A
9.	Community Based Services for MR Operating	HTH 501	HTH	138,632A	409,195A	547,827A

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium M 1979-81 F
			FY 1979-80 F	FY 1980-81 F	FY 1980-81 F	
10.	COMMUNITY HEALTH SERVICES Sanitation & Substance Control Operating	HTH 611		*	1,00*	
				A	73,935A	73,935A
11.	OVERALL PROGRAM SUPPORT General Administration Operating	HTH 907	HTH	114,940A	100,000A	214,940A
12.	Private Hospitals & Medical Services Operating	SUB 601	HTH	A	38,242A	38,242A

  

F. SOCIAL PROBLEMS ALLEVIATION OF INDIVIDUAL AND GROUP PROB						
1.	Assistance to Families and/or Children Operating	SOC 101	SOC	20,000A	95,000A	115,000A
2.	Assistance to Individual Adults Operating	SOC 121	SOC	10,511A	10,000A	20,511A
3.	ASSURED STANDARD OF LIVING Monetary Assistance for General Needs Payments to Assist the Aged, Blind & Disa Operating	SOC 202	SOC	100,000A	A	100,000A
4.	Payments to Assist in Child Welfr Foster Operating	SOC 203	SOC	A	6,800A	6,800A
5.	General Support for Assured Std of Livin Eligibility Determination Operating	SOC 236	SOC SOC	123,438A 90,036N	111,425A 85,853N	234,863A 175,889N

## OVERALL PROGRAM SUPPORT FOR SOCIAL PROBL

6.	Progressive Neighborhoods Program Operating	GOV	859	GOV	34,967A	49,500A	84,467A
7.	Hawaii Office of Economic Opportunity Operating	GOV	860	GOV	283,723A	160,000A	443,723A
8.	Plan, Program Dev & Coord of Svcs for C & Operating	GOV	861	GOV	62,540A	75,000A	137,540A
9.	Plan, Program Dev & Coord of Svcs for Ed Operating	GOV	602	GOV	92,848A 5,688N	119,084A 5,688N	211,932A 11,376N

G. FORMAL EDUCATION  
LOWER EDUCATION

1.	Instruction Regular Instruction Program Operating	EDN	105	EDN	224,572A	110,392A	334,964A
2.	Other Regular Instruction Programs Operating	EDN	106	EDN	506,054A	636,246A	1,142,300A
3.	Exceptional Child Program Operating	EDN	107	EDN	13,760A	9,549A	23,309A
4.	Compensatory Education Operating	EDN	108	EDN	16,713A	239,180A	255,893A
5.	Instructional Administration and Support Instructional Media Operating	EDN	204	EDN	55,174A	2,720A	57,894A
6.	Instructional Development Operating	EDN	205	EDN	64,623A	64,849A	129,472A
7.	Student Activities Operating	EDN	207	EDN	242,654A	809,235A	1,051,889A
8.	Psychological & School Social Work Servi Operating	EDN	208	EDN	5,197A	6,269A	11,466A

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium M 1979-81 F
			Exp. Agy.	FY 1979-80 F	FY 1980-81 F	
9.	Institutional Administration and Support State Administration Operating	EDN 303	EDN	63,087A	83,177A	146,264A
10.	District Administration Operating	EDN 304	EDN	23,879A	30,594A	54,473A
11.	School Food Services Operating	EDN 305	EDN	20,000A	A	20,000A
12.	Physical Plant Operations & Maintenance— Operating	EDN 307	EDN	93,822A	49,340A	143,162A
13.	Physical Plant Operations & Maintenance— Operating	AGS 807	AGS	133,165A	110,166A	243,331A
14.	Student Transportation Operating	AGS 808	AGS	53,947A	8,190A	62,137A
15.	Public Service Public Libraries Operating	EDN 407	EDN	227,903A	95,296A	323,199A
<b>HIGHER EDUCATION</b>						
University of Hawaii, Manoa						
16.	Instruction—UOH, Manoa Operating	UOH 101	UOH	A	132,000A	132,000A
17.	Organized Research—UOH, Manoa Operating	UOH 102	UOH	29,264A	253,645A	282,909A
18.	Public Service—UOH, Manoa Operating	UOH 103	UOH	35,000A	36,456A	71,456A
19.	University of Hawaii, Hilo Student Services—UOH, Hilo Operating	UOH 215	UOH	*	1.00*	15,948A

20.	Leeward Community College Academic Support—Leeward Community Coll	UOH	323	UOH	5,942A	A	5,942A
21.	Institutional Support—Leeward CC Operating	UOH	325	UOH	A	9,248A	9,248A
	Maui Community College Institutional Support—Maui Community Col	UOH	505	UOH	A	24,000A	24,000A
22.	Higher Education State-Wide Support Operating	UOH	903	UOH	A	4,000A	4,000A
23.	Institutional Sppt—UOH, System-Wide Sppt Operating	BUF	881	BUF	460,000A	1,122,000A	

**H. CULTURE AND RECREATION****CULTURAL ACTIVITIES**

Cultural and Artistic Events

1. Performing & Visual Arts Events  
Operating

**I. PUBLIC SAFETY****SAFETY FROM CRIMINAL ACTIONS**

Confinement

1. In-Community Facilities  
Operating

SOC      404      SOC      A      84,000A      84,000A

**K. GOVERNMENT-WIDE SUPPORT****EXEC DIRECTN, COORD, & POLICY DEVELOPMEN**

1. Office of the Governor  
Operating
2. Office of the Lieutenant Governor  
Operating

GOV      100      GOV      66,780A      A      66,780A  
LTG      100      LTG      20,000A      A      20,000A

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Item No.	Program	Program ID	APPROPRIATIONS			Total Biennium 1979-81
			Exp. Agy.	FY 1979-80	FY 1980-81	
3.	Policy Development and Coordination BUF—Prgm Planning, Analysis & Budgeting Operating	BUF 101				25,000,000A
4.	GOV—Oth Policy Development & Coordinat Operating	GOV 102	BUF	A	25,000,000A	164,267A
	<b>FISCAL MANAGEMENT</b>					
5.	Fiscal Procedures and Control Acct System Development & Maintenance Operating	AGS 101	GOV	98,267A	66,000A	325,000A
	<b>GENERAL SERVICES</b>					
6.	Electronic Data Processing Services Operating	BUF 131	AGS	225,000A	100,000A	325,000A
			BUF	150,000A	50,000A	200,000A

SECTION 5. Part IV, Part A, Act 214, Session Laws of Hawaii, 1979, is amended:

(1) By amending Section 6 to read:

“SECTION 6. Provided, that of the general fund appropriation to Commerce and Industry (PED 102), \$677,983 for fiscal year 1979–80 and \$709,059 for fiscal year 1980–81 shall be allotted to the Aquaculture Development Program. Provided further that temporary staff hired to carry out the functions in Act 12, SSLH 1977 shall be exempt from Chapters 76 and 77, Hawaii Revised Statutes.

Provided further, that the Governor may transfer funds appropriated and positions authorized for the Aquaculture Development Program to other existing agencies and departments of state government, Section 141 notwithstanding.”

(2) By adding a new Section to read:

“SECTION 6A. Provided, that of the general fund appropriation to the Commerce and Industry Program (PED 102) in fiscal year 1980–81, \$100,000 shall be for the Hawaii Institute of Electronics Research, \$90,000 shall be for the Manganese Nodule Program, \$25,000 shall be used to match funds received from the United States Department of Commerce, Economic Development Administration, and \$151,150 shall be used for an integrated engineering and power machine operator training program to promote the viability and expansion of the garment manufacturing industry in the State; provided further, that the sum appropriated for the integrated engineering and power machine operator training program shall be expended through a contract between the department of planning and economic development and Honolulu Community College.”

(3) By amending Section 7 to read:

“SECTION 7. Provided, that of the sums appropriated for the Tourism Program (PED 113), the general funds used for a contract with the Hawaii Visitors Bureau for the purpose of tourism promotion shall not exceed \$2,081,460 for fiscal year 1979–80 and \$2,054,696 for fiscal year 1980–81; provided further, that any such contract shall require the Hawaii Visitors Bureau, in its administration of “special events”, to fund such projects from other than State funds. Provided further, that supplemental funds appropriated for fiscal year 1980–81 shall be allotted on the condition that the Hawaii Visitors Bureau shall first enter into an agreement with the State. Such agreement shall provide that future State funding of the Hawaii Visitors Bureau shall be incrementally reduced until fiscal year 1983–84 when the State share of funding and any future State funding shall not exceed fifty per cent of the annual budget of the Hawaii Visitors Bureau.”

(4) By adding a new Section to read:

“SECTION 9A. Provided, that of the general fund appropriation to the Forestry Products Development Program (LNR 172) in fiscal year 1980–81, \$200,000 shall be used for the energy tree farm project.”

(5) By adding a new Section to read:

“SECTION 9B. Provided, that of the general fund appropriation to the Commercial Fishery and Aquaculture Program (LNR 153) in fiscal year 1980–81, \$100,000 shall be used for mullet/milkfish baitfish culture research, \$100,000 shall

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be used for distant water aku surveys and \$56,000 shall be used for distant water longline surveys; provided further, that these funds shall be allotted for these projects only if federal or other sources of matching funds are forthcoming; provided further that any equipment funded by the State for the use by any contractor for the mullet/milkfish baitfish culture shall revert to the State upon the request of the Director of the Department of Land and Natural Resources. Provided further, that in fiscal year 1980-81, \$7,000 shall be for the travel related expenses of the voting members of the Hawaii Fisheries Coordinating Council."

(6) By adding a new Section to read:

"SECTION 11A. Provided, that if federal funds and matching funds from other members are received by the Pacific Basin Development Council, then of the general fund appropriation to General Support for Economic Development (PED 142), \$37,500 in fiscal year 1980-81, may be used for a matching contribution by the State."

(7) By adding a new Section to read:

"SECTION 12A. Provided, that of the general fund appropriation for Disability Compensation (LBR 183), \$75,000 in fiscal year 1980-81 shall be for a rehabilitation unit for permanently disabled workers; provided further, that the general fund appropriation for Disability Compensation (LBR 183) includes \$30,000 in fiscal year 1980-81 for the Worker Compensation Program Commission."

(8) By adding a new Section to read:

"SECTION 12B. Provided, that the general fund appropriation to General Administration (LBR 902) in fiscal year 1980-81 includes \$12,525 for two clerical positions for the Maui district office."

(9) By adding a new Section to read:

"SECTION 13A. Provided, that of the special fund appropriation to Land Transportation Facilities and Services Support (TRN 595), \$30,000 in fiscal year 1980-81 shall be for the continuation of the Van Pool Program."

(10) By adding a new Section to read:

"SECTION 13B. Provided, that the special fund appropriation to Safety Administration of Land Transportation (TRN 597) for fiscal year 1980-81 includes \$91,467 for administration of transportation safety rules and regulations."

(11) By adding a new Section to read:

"SECTION 17A. Provided, that the general fund appropriation for Leprosy (HTH 111) includes \$90,633 in fiscal year 1980-81 for the purchase of hemodialysis services at the Kalaupapa Settlement; provided further, that the contracted agency shall be required to provide hemodialysis training to in-house personnel in addition to the provision of other services. Provided further, that of the general fund appropriation to Leprosy (HTH 111) \$10,000 in fiscal year 1980-81 shall be used for employment of eligible patients or pensioned patients at Kalaupapa Settlement in accordance with Act 18, Session Laws of Hawaii, 1979."

(12) By amending Section 18 to read:

“SECTION 18. Provided, that of the general fund appropriation to Emergency Medical Services (HTH 170) \$4,056,697 for fiscal year 1979–80 and \$6,254,642 for fiscal year 1980–81, shall be used to provide emergency ambulance services on Oahu, Hawaii, Kauai, and Maui. Provided further, that \$76,000 shall be used for the extension of the Medical Communication Network (MEDICOM) into the Ka‘u district of Hawaii.”

(13) By amending Section 19 to read:

“SECTION 19. Provided, that of the general fund appropriation to Sensory Deficiencies (HTH 180), twenty positions and \$293,343 in fiscal year 1979–80 and \$377,243 in fiscal year 1980–81 are for the funding of occupational and physical therapists, pursuant to requirements of P. L. 94-142.”

(14) By amending Section 21 to read:

“SECTION 21. Provided, that the Department of Health shall review the continued need for the new positions for Hilo, Honokaa, Ka‘u, Kohala, Kona, Maui Memorial, Hana, Lanai, Kauai Veterans, and Samuel Mahelona Memorial Hospitals (HTH 211, HTH 212, HTH 213, HTH 214, HTH 215, HTH 221, HTH 222, HTH 224, HTH 231, HTH 232) and shall submit a personnel needs evaluation and assessment report to the 1981 Regular Session of the Legislature.”

(15) By adding a new Section to read:

“SECTION 25A. Provided, that of the special fund appropriation to General Administration (HTH 907), \$80,000 in fiscal year 1980–81 shall be used to continue (10.00) temporary credit and collection clerks for the County-State Hospitals Division; provided further, that the special fund appropriation of \$80,000 and the (10.00) temporary credit and collection clerks shall not be continued beyond June 30, 1981.”

(16) By amending Section 26 to read:

“SECTION 26. Provided, that in establishing fees for individual practitioners for Health Care Payments (SOC 230) for fiscal year 1979–80, the department of social services and housing shall use the 1975 profile of usual and customary fees of health care practitioners and for fiscal year 1980–81, the department of social services and housing shall use the 1979 profiles of usual and customary fees of health care practitioners adjusted to the 79.5% of the 75th percentile within the limits of the \$4,000,000 provided in the supplemental appropriation.”

(17) By adding a new Section to read:

“SECTION 26A. Provided, that the Director of the Department of Social Services and Housing shall establish a demonstration project, beginning July 1, 1980 through June 30, 1981, for the purpose of decreasing the number of visits per month for emergency room services by Medicaid recipients. Provided further, that the Director shall submit a report to the 1981 Regular Session of the Legislature on the progress of the project.”

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(18) By adding a new Section to read:

**"SECTION 26B.** Provided, that of the general fund appropriation to Assistance to Individual Adults (SOC 121), \$30,000 in fiscal year 1980–81 shall be used to allow the Director of the Department of Social Services and Housing to provide funds to cover transportation costs for the return of aged and indigent aliens or naturalized citizens to the aliens' or citizens' homeland; and provided further, that the Director shall submit a report to the 1981 Regular Session of the Legislature on expenditures made for this purpose."

(19) By adding a new Section to read:

**"SECTION 26C.** Provided, that of the general fund appropriation for Assistance to Individual Adults (SOC 121), \$500,000 in fiscal year 1980–81 shall be used to implement a supplemental payments program to residents of adult family boarding and care homes who do not fall within the definition of levels of care I, II, or III, but are certified by the department of social services and housing as requiring special care. Provided further, that in implementing the supplemental payments program, the department of social services and housing is authorized to establish temporary positions as may be necessary for the certification of care needs and the monitoring and administration of the supplemental payments program."

(20) By adding a new Section to read:

**"SECTION 26D.** Provided, that of the general fund appropriation for payments to Aged, Blind or Disabled (SOC 202) \$1,000,000 in fiscal year 1980–81 shall be used to increase payments to recipients in adult care and boarding homes. Provided further, that the Department of Social Services and Housing shall, pursuant to Chapter 91, Hawaii Revised Statutes, adopt rules to determine the rate of payment for the different levels of domiciliary care provided to recipients eligible for Federal Supplemental Security Income or public assistance."

(21) By adding a new Section to read:

**"SECTION 26E.** Provided, that the positions authorized for Eligibility Determination (SOC 236) includes thirty-seven positions for the Income Maintenance Program which shall be established only upon approval of the Director of Finance after a review of the personnel requirements of the Program by the Director of Finance. Provided further, that the Director of Finance shall submit a report on the status of such positions to the Legislature no later than twenty days prior to the convening of the 1981 Regular Session."

(22) By amending Section 28 to read:

**"SECTION 28.** Provided, that the sum appropriated in Section 4 of Part III for FY 1979–80 and for fiscal year 1980–81 to the Hawaii Office of Economic Opportunity (GOV 860) for the Legal Aid Society of Hawaii shall be the maximum amount of State funds which shall be used to support the operations of the Legal Aid Society of Hawaii, and that all awards of attorneys' fees collected by the Legal Aid Society of Hawaii against any State agency or officer, after July 1, 1979, which would cause the amount of State funds to exceed the amount appropriated for each respective fiscal year, shall be paid from or set-off against the sum appropriated for each respective fiscal year to the Legal Aid Society of Hawaii."

(23) By adding a new Section to read:

“SECTION 31A. Provided, that of the general fund appropriation for fiscal year 1980–81 to General Administration (SOC 904), \$20,300 shall be used to cover the costs of providing an additional Deputy Attorney General for the child protective services and third party liability programs.”

(24) By amending Section 33 to read:

“SECTION 33. Provided, that of the general fund appropriation for the Regular Instruction Program (EDN 105), \$1,035,918 in fiscal year 1979–80 and \$1,054,905 in fiscal year 1980–81 shall be allotted for supplies, equipment and services to augment regular instruction and other purposes which, at the schools’ discretion, will benefit students and improve the instruction program of the schools; provided further, that each principal shall consult with teachers, and to the extent practicable, with parents and students, to solicit their advice on the purposes for which expenditures are to be made; provided further, that the amount to be allocated to each school in fiscal year 1979–80 is based on a formula which provides each school with a basic allocation of \$2,000 plus an additional \$3.50 per regular and special education student in regular schools and the amount to be allocated to each school in fiscal year 1980–81 is based on a formula which provides each school with a basic allocation of \$1,000 plus an additional \$5.00 per regular and special education student in regular schools; provided further, that by such dates as designated by the superintendent of education and under such guidelines as he may issue, principals shall submit plans for the expenditure of special needs funds to their district superintendents; provided further, that a district superintendent may advise a principal to amend an expenditure plan if the need for a proposed expenditure can be met through the transfer of idle or underutilized supplies, equipment, or other resource from another school or source, and he is able to make such transfer; provided further, that all school expenditures shall be made through normal departmental procurement and disbursing procedures; provided further, that there shall be kept for each school a record of the expenditures made, and the superintendent of education or the district superintendents may request the evaluation of specific expenditures; provided further, that the superintendent of education shall monitor expenditures to determine conformance to his guidelines and shall provide the legislature with such accountability reports as may be requested; provided further, that anything in the law or in any provision of this Act to the contrary notwithstanding, the superintendent of education may transfer such funds in an equitable manner among schools for Regular Instruction in the event of significant changes in individual school enrollments resulting from such conditions as delayed school openings, changes in school boundaries, disasters or other emergencies and shall report to the legislature on the amounts transferred and the reasons therefor.”

(25) By adding a new Section to read:

“SECTION 33A. Provided, that of the general fund appropriation for the Regular Instruction Program (EDN 105) for fiscal year 1979–80, the department of education shall expend up to \$2,000,000 from departmental savings to buy textbooks to ease the shortage in the public schools; provided further, that for fiscal year 1980–81, the department of education shall establish a system whereby textbook require-

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ments and other learning material needs will be accurately determined on a periodic basis, budgeted for properly, and met through timely purchases and distribution and whereby emergency shortages or other unforeseen circumstances can be accommodated without disrupting classroom instruction; provided further, that the system established shall be capable of generating budgetary displays by individual schools of textbook requirements and other learning material needs and allocations by individual schools; provided further, that the department of education shall submit to the Legislature not less than twenty days prior to the convening of the 1981 Regular Session a report on the system established and a budgetary display for the next fiscal biennium which shows by individual schools the resource requirements for textbooks and other learning materials, the extent to which each school's requirements have been incorporated in the 1981-83 executive budget, and if applicable, the requirements for each school which remain unmet by the executive budget."

(26) By amending Section 35 to read:

"SECTION 35. Provided, that the amounts shown for Regular Instruction (EDN 105), are intended for student enrollment projections of 167,960 for fiscal year 1979-80 and 165,781 for fiscal year 1980-81."

(27) By adding a new Section to read:

"SECTION 36A. Provided, that of the general fund appropriation for the Exceptional Child Program (EDN 107), \$250,000 in fiscal year 1980-81 shall be allotted for temporary full-time special education teacher positions; provided further, that the Superintendent of Education shall evaluate the current method of allocating special education teachers to regular schools and submit a report of the findings to the Legislature no later than twenty days prior to the convening of the 1981 Regular Session."

(28) By amending Section 37 to read:

"SECTION 37. Provided, that of the general funds appropriated for Compensatory Education (EDN 108), \$21,331 in fiscal year 1979-80 and \$39,820 in fiscal year 1980-81 shall be allotted for one temporary full-time Special Motivation Teacher position and educational and office supplies for the Storefront School."

(29) By adding a new Section to read:

"SECTION 40A. Provided, that of the general fund appropriation for the Counseling Program (EDN 206), \$140,000 in fiscal year 1980-81 shall be used to convert seven federal funded positions in the Honolulu District to seven temporary general funded positions."

(30) By adding a new Section to read:

"SECTION 40B. Provided, that of the general fund appropriation for State Administration (EDN 303), \$5,000 in fiscal year 1980-81 shall be allotted for the Superintendent of Education's protocol fund."

(31) By adding a new Section to read:

"SECTION 40C. Provided, that of the general fund appropriation for School Food Services (EDN 305), \$50,000 in fiscal year 1980-81 shall be used for the

purchase and installation of insect-o-cutor units.”

(32) By adding a new Section to read:

“SECTION 42A. Provided, that of the general fund appropriation for the Adult Education Program (EDN 406), \$19,848 in fiscal year 1980–81 shall be used to provide for one full-time temporary account clerk for Aiea Community School and one full-time temporary account clerk for Wahiawa Community School; provided further, that general funding for these positions shall not be continued after fiscal year 1980–81.”

(33) By adding a new Section to read:

“SECTION 43B. Provided, that of the general fund appropriation for Public Libraries (EDN 407), \$13,349 shall be allotted for one permanent full-time Librarian position at the Waimanalo Community School Library.”

(34) By adding a new Section to read:

“SECTION 47A. Provided, that the thirteen additional positions for Institutional Support-UOH, Manoa (UOH 106) be used exclusively for janitors and groundskeepers and shall not be reclassified by the University to other types of positions.”

(35) By amending Section 54 to read:

“SECTION 54. Provided, that the general fund appropriation to the Performing and Visual Arts Events Program (BUF 881), \$100,000 in fiscal year 1979–80 and \$90,000 in fiscal year 1980–81 shall be allotted to provide for continuation and expansion of the Ethnic Studies Oral History Project; provided further, that of the appropriation for fiscal year 1979–80, \$20,000 shall be used for the production of a documented historical record of the Okinawans in Hawaii; provided further, that annual progress reports on the projects shall be submitted to the Legislature.”

(36) By amending Section 58 to read:

“SECTION 58. Provided, that of the general fund appropriation for General Administration for Culture and Recreation (LNR 809), \$18,318 shall be used in each year of the 1979–81 biennium for operating costs to support the operation of the Hawaii Historic Places Review Board including secretarial and other administration support.”

(37) By adding a new Section to read:

“SECTION 60A. Provided, that of the general fund appropriation in fiscal year 1980–81, \$10,000 for High Security Facility (SOC 402), \$10,000 for Kulani Correctional Center (SOC 403), and \$12,500 for Oahu Community Correctional Center (SOC 407), to continue the Drug and Alcohol Program for inmates at each facility, shall be expended only if the request of the Department of Social Services and Housing to extend the funding period for the demonstration project is denied by the Federal Law Enforcement Assistance Administration.”

(38) By adding a new Section to read:

“SECTION 60B. Provided, that the general fund appropriation to the Kulani

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Correctional Facility (SOC 403) for fiscal year 1980–81 includes \$24,000 to lease a truck tractor.”

(39) By adding a new Section to read:

“SECTION 61A. Provided, that of the general funds appropriated to the Oahu Community Correctional Center Program (SOC 407), \$10,000 in fiscal year 1980–81 shall be used for the Stay Straight Program.”

(40) By adding a new Section to read:

“SECTION 62A. Provided, that of the general funds appropriated to the Amelioration of Natural Disasters Program (DEF 110), \$2,250,000 in fiscal year 1980–81 shall be used exclusively for the relief from major disasters; provided further, that the amount expended for each disaster shall not exceed \$500,000.”

(41) By adding a new Section to read:

“SECTION 63A. Provided, that the general fund appropriation to Insurance Services (REG 106) includes \$6,000 in fiscal year 1980–81 for publication of a comparative listing of no-fault motor vehicle insurance rates in a newspaper of general circulation throughout the State.”

(42) By amending Section 67 to read:

“SECTION 67. Provided, that of the general fund appropriation for the Office of the Governor (GOV 100), \$24,462 in fiscal year 1980–81 shall be used for temporary positions in the Affirmative Action Coordinator Program.”

(43) By adding a new Section to read:

“SECTION 69A. Provided, that any reimbursements received by the Office of the Lieutenant Governor (LTG 100) from the counties for county associated election costs in fiscal year 1980–81 shall be deposited into the general fund.”

(44) By adding a new Section to read:

“SECTION 69B. Provided, that of the general fund appropriation in fiscal year 1980–81 for the Office of the Lieutenant Governor (LTG 100), \$306,215 shall be used in the Elections Administration Program for only additional temporary elections personnel, ballot boxes, ballot printing, and election-related contractual services; \$6,011 shall be used for subscriptions to the Hawaii Legal Reporter; \$150,000 shall be used for the operations of the Reapportionment Commission; and \$475,000 shall be used for the operations of the Hawaii Crime Commission; provided further, that the general fund appropriation for the Hawaii Crime Commission includes \$25,000 for expenses incurred in the preparation of the Violence in Schools study.”

(45) By adding a new Section to read:

“SECTION 69C. Provided, that in the event that expenses specified in Section 11-221, Hawaii Revised Statutes, exceeds the Hawaii election campaign fund specified in Section 11-217, Hawaii Revised Statutes, in fiscal year 1980–81 for the purpose stated therein, the Director of Finance, with the approval of the Governor, may appropriate general fund revenues for the purpose of meeting such deficit.”

(46) By adding a new Section to read:

“SECTION 69D. Provided, that in the event expenses specified in Section 621-9, Hawaii Revised Statutes, exceeds the general fund appropriations made to the Program, Planning, Analysis, Budgeting, and Coordination Program (BUF 101) in fiscal year 1980–81 for the purposes stated therein, the Director of Finance with the approval of the Governor is authorized to utilize moneys from the Governor’s Contingency Fund, or savings as determined to be available from any other state program, for the purpose of meeting deficits incurred by the Department of Budget and Finance.”

(47) By adding a new Section to read:

“SECTION 69E. Provided, that the general fund appropriation to Land Use, Statewide Plan and Coordination (PED 103) includes \$15,253 in fiscal year 1980–81 for a Planner V position in the Land Use Division.”

(48) By adding a new Section to read:

“SECTION 69F. Provided, that of the general fund appropriation for Governor-Other Policy Development and Coordination (GOV 102), \$25,000 in fiscal year 1980–81 shall be allotted to the Governor’s Agriculture Coordinating Committee for the development of the jojoba nut as an agricultural resource of the State, including developmental efforts in growing, processing, and marketing.”

(49) By adding a new Section to read:

“SECTION 69G. Provided, that the general fund appropriation to the Supporting Services, Revenue Collection Program (TAX 107) includes \$97,000 in fiscal year 1980–81 for the requirements of litigated tax claims pursuant to Section 40-35, Hawaii Revised Statutes.”

(50) By adding a new Section to read:

“SECTION 69H. Provided, that the general fund appropriation to the Recording and Reporting Program (AGS 103) includes \$50,000 in fiscal year 1980–81 to be expended only for Escheated Outlawed Warrants pursuant to the provisions of Section 40-68, Hawaii Revised Statutes.”

(51) By adding a new Section to read:

“SECTION 69I. Provided, that the general fund appropriation to the Cash and Debt Management Program (BUF 110) includes \$150,000 to be expended only for fiscal year 1980–81 requirements of the Uniform Disposition of Unclaimed Property Program, pursuant to Section 523-20, Hawaii Revised Statutes.”

(52) By adding a new Section to read:

“SECTION 70A. Provided, that of the general fund appropriation to Legal Services (ATG 100), \$213,658 and six positions shall be used for the Antitrust Unit for the conduct of its operations; provided further, that any federal funds received for the operations of the Antitrust Unit shall be used to reduce the general fund appropriation for the Antitrust Unit to the extent of the amount of federal funds received.”

(53) By adding a new Section to read:

“SECTION 70B. Provided, that the general fund appropriation to the Work Force Attraction, Selection, Classification and Effectiveness Program (PER 102) includes \$10,600 and one position for a Secretary IV for the Civil Service Commission.

(54) By adding a new Section to read:

“SECTION 71A. Provided, that the general fund appropriation to the Land Management Program (LNR 101) includes \$30,000 in fiscal year 1980–81 for temporary positions and other expenses related to monitoring and enforcing State land lease agreements and for the compilation of a comprehensive inventory of public lands and those public lands encumbered by the provisions of Section 5(f) of the Act of March 18, 1959 (P. L. 86-3, 73 Stat. 4); provided further, that the Director of Land and Natural Resources shall submit a report to the Legislature twenty days prior to the start of the 1981 Regular Session on the status of the compilation of the public lands inventory.”

(55) By amending Section 73 to read:

“SECTION 73. Provided, that the general fund appropriation to the Custodial Services Program (AGS 231) includes \$243,251 in fiscal year 1980–81 for lease rent of space in the Old Federal Courthouse Building; provided further, that any funds appropriated for lease rent to an agency relocated to the Old Federal Courthouse Building shall be restricted from expenditure by the Governor in accordance with its date of occupancy.”

(56) By amending Section 75 to read:

“SECTION 75. Provided, that of the security officer positions allotted to Capitol Building Security (ATG 801) in fiscal year 1980–81, seven security officer II positions and one security officer III position shall be transferred to the Judiciary; provided further, that no appropriations are to be transferred with these positions.”

SECTION 6. Part IV, Part B, Act 214, Session Laws of Hawaii, 1979, is amended:

(1) By amending section 84 to read:

“SECTION 84. Provided, that the general fund appropriation for Employment and Training Program (LBR 131) includes \$77,500 in fiscal year 1979–80 for the establishment of an assistance program providing displaced homemakers’ counseling, employment assistance, job training and other supportive services.”

(2) By adding a new Section to read:

“SECTION 85A. Provided, that of the general fund appropriation for fiscal year 1980–81 to Chronic Diseases (HTH 151), \$90,000 shall be for the Arthritis Center of Hawaii and \$110,000 shall be for the Hemophilia Foundation of Hawaii.”

(3) By amending Section 86 to read:

“SECTION 86. Provided, that the general fund appropriation for fiscal year 1979–80 to Emergency Medical Services (HTH 170) shall be utilized for the training of emergency medical personnel.”

(4) By amending Section 87 to read:

“SECTION 87. Provided, that the general fund appropriation for fiscal year 1979–80 to Health Care Services (HTH 801) is comprised of the following: \$212,485 to fund child and spouse abuse programs (Catholic Social Services, Child and Family Services, Hawaii Family Stress Center, Puuhonua Family Crises Center, and Kokua Kalihi Valley Shelter), \$68,900 to fund the Poison Information Center, \$64,660 for the Hana Like Home, and \$30,000 for the Variety Club School.”

(5) By adding a new Section to read:

“SECTION 87A. Provided, that of the general fund appropriation for fiscal year 1980–81 to Health Care Services (HTH 801) \$39,392 shall be for the Catholic Social Service—CPS Group Work Program, \$36,000 shall be for the Catholic Social Service—CPS Paraprofessional Program, \$70,000 shall be for the Family Services Center (Hana Like Home), \$100,000 shall be for the Hawaii Family Stress Center, Kapiolani-Children’s Medical Center, \$15,000 shall be for the Kokua Kalihi Valley—Shelter for Abused Spouses and Children, \$14,000 shall be for Child and Family Service—Hale Lokahi, \$35,000 shall be for The Family Crisis Shelter, Inc. (Pu’u honua), \$60,000 shall be for the Variety Club School—Treatment and Educational Program, \$30,000 shall be for the Variety Club School—Diagnostic Clinic and Education Center, \$50,000 shall be for the Autistic Vocational Education Center, and \$68,000 shall be for the Poison Information Center.”

(6) By amending Section 89 to read:

“SECTION 89. Provided, that the general fund appropriation to Community Based Services for Mental Health (HTH 401) is comprised of the following: \$15,000 in each fiscal year of the 1979–81 biennium for “Pierre the Pelican”, parent education program; \$42,346 in fiscal year 1979–80 and \$34,754 in fiscal year 1980–81 for temporary statistical clerks and related supplies; \$167,929 in fiscal year 1979–80 to fund programs of the Mental Health Coalition; \$345,930 in fiscal year 1979–80 to fund programs of the Alcohol Coalition; \$195,098 in fiscal year 1979–80 to fund Community Health Services (Drug Programs); and \$189,000 in fiscal year 1979–80 to fund a Sex Abuse Treatment Center.”

(7) By adding a new Section to read:

“SECTION 89A. Provided, that of the general fund appropriation for fiscal year 1980–81 to Community Based Services for Mental Health (HTH 401), \$27,475 shall be for the Awareness House, \$44,907 shall be for the Alcoholic Rehabilitation Services of Hawaii, Inc., \$30,000 shall be for the Big Island Council on Alcoholism, Inc., \$7,500 shall be for the Catholic Social Services—Bilingual/Bicultural, \$12,172 shall be for the Catholic Social Services—Integrated Alcohol, \$12,776 shall be for the Catholic Social Services—Youth Education, \$11,500 shall be for the Child and Family Service—Dole-Kalakaua School Project, \$8,000 shall be for the Drug Addiction Services of Hawaii, \$8,000 shall be for the GROW (Hawaii) Inc., \$52,000 shall be for the Hawaii Committee on Alcoholism, \$22,260 shall be for the Hilo Halfway House, Inc., \$58,375 shall be for the Kalihi YMCA—Alternatives for Youth, \$10,000 shall be for the Kokua Service (Maui), \$58,644 shall be for the St. Francis Hospital Halfway House for Women, \$189,000 shall be for the Sex Abuse Treatment

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Center—Kapiolani-Children's Medical Center, \$20,000 shall be for The House, Inc., \$54,000 shall be for the Volunteer Information and Referral Service, \$115,000 shall be for the YMCA—Detached Counselors Program, \$23,000 shall be for the Child and Family Services (Hale O'Ulu), \$77,000 shall be for the Salvation Army—Alcohol Treatment Facility, \$15,000 shall be for Serenity House, \$23,000 shall be for the Waianae Rap Center—John Howard Association and \$250,000 shall be used by the department of health to establish a community residential treatment system to provide alternatives to institutional settings for mental health patients.”

(8) By adding a new Section to read:

“SECTION 89B. Provided, that of the general fund appropriation for FY 80-81 to General Support for Mental Health (HTH 495), \$60,000 shall be used to implement a demonstration project for orthomolecular medicine at Hawaii State Hospital.”

(9) By amending Section 90 to read:

“SECTION 90. Provided, that the general fund appropriation for fiscal year 1979-80 to Early Identification and Treatment for Mental Retardation (HTH 500) is comprised of the following: \$41,000 to fund the Hilo Association to help retarded children, and \$180,000 for infant and child development programs (Kauai Easter Seals, Hilo Easter Seals, Maui Easter Seals, Oahu Easter Seals, Hawaii Association for Retarded Children).”

(10) By adding a new Section to read:

“SECTION 90A. Provided, that of the general fund appropriation to Early Identification and Treatment for Mental Retardation (HTH 500), \$43,000 shall be for the Easter Seal Society for Crippled Children and Adults of Hawaii County—Infant and Child Development, \$30,000 shall be for the Easter Seal Society for Crippled Children and Adults of Kauai—Infant and Child Development, \$45,000 shall be for the Easter Seal Society for Crippled Children and Adults of Oahu—Infant and Child Development, \$34,500 shall be for the Easter Seal Society for Crippled Children and Adults of Maui—Infant and Child Development, \$35,000 shall be for the Hilo Association to Help Retarded Citizens (Deaf And Blind), and \$27,000 shall be for the Hawaii Association for Retarded Citizens.”

(11) By amending Section 91 to read:

“SECTION 91. Provided, that the general fund appropriation for fiscal year 1979-80 to Community Based Services for Mental Retardation (HTH 501) is comprised of the following: \$50,000 to provide for respite services for the developmentally disabled, \$49,695 for the continued operation of Lanakila Rehabilitation Center's work activity centers, and \$38,937 for the Lanakila Rehabilitation Center's Wahiawa day activity program.”

(12) By adding a new Section to read:

“SECTION 91A. Provided, that of the general fund appropriation for fiscal year 1980-81 to Community Based Services for Mental Retardation (HTH 501), \$37,000 shall be for the Easter Seal Society for Crippled Children and Adults of Oahu—Respite Service, \$10,000 shall be for the Hilo Association to Help Retarded

Citizens—Respite Care, \$10,000 shall be for the Maui Association for Retarded Citizens—Respite Care, \$45,000 shall be for the Lanakila Rehabilitation Center—Wahiawa Day Activity Program, \$49,695 shall be for the Lanakila Rehabilitation Center—Kalihi-Palama Work Activity Program, \$25,000 shall be for the Brantley Center, and \$232,500 shall be used by the department of health for pre-vocational training services to developmentally disabled adults.”

(13) By adding a new Section to read:

“SECTION 91B. Provided, that of the general fund appropriation for fiscal year 1980–81 to Sanitation and Substance Control (HTH 611), \$46,500 shall be for the department of health to carry out the provisions of S.B. No. 2134-80, H.D. 1, C.D. 1; provided further, that of the general fund appropriation for fiscal year 1980–81 for the Sanitation and Substance Control Program (HTH 611), \$27,435 shall be used for the purpose of establishing a permanent Sanitarian V Position and related expenses for the Kauai District Health Office, Division of Environmental Protection.”

(14) By amending Section 92 to read:

“SECTION 92. Provided, that the general fund appropriation for fiscal year 1979–80 to General Administration (HTH 907) is comprised of the following: \$50,000 to fund preventive health education programs in the State, including the Northern Koolau Community Health Education Program, \$40,560 for a medical library, and \$24,380 for the Waianae Coast Comprehensive Health Center.”

(15) By adding a new Section to read:

“SECTION 92A. Provided, that of the general fund appropriation to General Administration (HTH 907), \$50,000 shall be for the Waianae Coast Comprehensive Health Center and \$50,000 shall be for the St. Francis Hospital—Northern Koolau Health Education Project.”

(16) By adding a new Section to read:

“SECTION 92B. Provided, that of the general fund appropriation to Private Hospitals and Medical Services (SUB 601), \$38,242 shall be for the Molokai General Hospital.”

(17) By amending Section 93 to read:

“SECTION 93. Provided, that the general fund appropriation to the Services to Families and/or Children Program (SOC 101) includes \$20,000 in fiscal year 1979–80 to continue the operation of Hale Opio, a youth shelter.”

(18) By adding a new Section to read:

“SECTION 93A. Provided, that of the general fund appropriation for fiscal year 1980–81 to the Services to Families and/or Children Program (SOC 101), \$10,000 shall be for The Shelter (Kauai), \$10,000 shall be for the Maunaolu Youth Residential Shelter, and \$75,000 shall be for the Salvation Army Hilo Interim Home.”

(19) By adding a new Section to read:

“SECTION 93B. Provided, that of the general fund appropriation for fiscal year 1980–81 to Assistance to Individual Adults (SOC 121), \$10,000 shall be for the Maui Rehabilitation Center.”

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(20) By adding a new Section to read:

“SECTION 94A. Provided, that of the general fund appropriation for fiscal year 1980–81 to the Payments to Assist in Child Welfare Foster Care Program (SOC 203), \$6,800 shall be used for the purpose of providing general casualty insurance to each foster parent who operates a licensed foster boarding home.”

(21) By adding a new Section to read:

“SECTION 95A. Provided, that of the general fund appropriation for fiscal year 1980–81 to the Progressive Neighborhoods Program (GOV 859), \$27,000 shall be for the Kalihi-Palama Community Service Center, \$10,000 shall be for the Waimanalo Council of Community Organizations’ Mamalahoa Project, and \$12,500 shall be to provide for a social needs assessment study of census tract numbers 10 and 11 (Palolo).”

(22) By amending Section 96 to read:

“SECTION 96. Provided, that the general fund appropriation to the Hawaii Office of Economic Opportunity (GOV 860) includes \$100,000 in fiscal year 1979–80 for a grant-in-aid to Alu Like, Inc. for the purpose of obtaining matching federal funding.”

(23) By adding a new Section to read:

“SECTION 96A. Provided, that of the general fund appropriation for fiscal year 1980–81 to the Hawaii Office of Economic Opportunity Program (GOV 860), \$100,000 shall be for Alu Like, Inc., \$35,000 shall be for the Susannah Wesley Community Center, and \$25,000 shall be for Home Na’auao O Ka’u.”

(24) By amending Section 97 to read:

“SECTION 97. Provided, that of the general fund appropriation for the Planning, Program Development and Coordination of Services for Children and Youth Program (GOV 861) includes \$62,540 in fiscal year 1979–80 to continue the operation of Hilo Interim Home.”

(25) By adding a new Section to read:

“SECTION 97A. Provided, that of the general fund appropriation for fiscal year 1980–81 to the Planning, Program Development and Coordination of Services for Children and Youth (GOV 861), \$75,000 shall be for the implementation of pilot and demonstration projects to strengthen and develop the network of non-governmental individual and organizational providers of child care services in order to improve child care and development and educational services for children.”

(26) By adding a new Section to read:

“SECTION 98A. Provided, that of the general fund appropriation for fiscal year 1980–81 to the Planning, Program Development and Coordination of Services for the Elderly (GOV 602), \$60,000 shall be for the Kapahulu Multi-Purpose Senior Center, \$5,000 shall be for the Kaneohe Community Senior Citizens Council, and \$10,000 shall be for the Catholic Social Services’ Frail Elderly Program. Provided further, that the general fund appropriation to the Kapahulu Multi-Purpose Senior Center shall not be used for salary increases for the Center’s personnel.”

(27) By adding a new Section to read:

“SECTION 99A. Provided, that the general fund appropriation for Regular

Instruction Program (EDN 105) includes \$5,000 in fiscal year 1980–81 to commemorate the 150th anniversary of Lahainaluna High School.”

(28) By amending Section 101 to read:

“SECTION 101. Provided, that of the general fund appropriation for the Other Regular Instruction Programs (EDN 106), \$250,000 in fiscal year 1979–80 and \$251,500 in fiscal year 1980–81 shall be allotted to foster Intensive Basic Skills. Provided further, that the Superintendent of Education shall submit a report to the 1981 Regular Session of the Legislature on the status of the program.”

(29) By amending Section 102 to read:

“SECTION 102. Provided, that of the general fund appropriation for Other Regular Instruction Programs (EDN 106), \$111,600 in fiscal year 1979–80 and \$90,000 in fiscal year 1980–81 shall be allotted for Project Holomua; provided further, that \$8,900 in fiscal year 1980–81 shall be used for a temporary full-time dormitory counselor at Lahainaluna High School.”

(30) By adding a new Section to read:

“SECTION 102A. Provided, that of the general fund appropriation for Other Regular Instruction (EDN 106), \$125,000 in fiscal year 1980–81 shall be allotted for the following projects to improve foreign language instruction in the State: (1) \$10,000 for follow-up work on materials and projects initiated in 1978; (2) \$25,000 for a study of appropriate steps toward improving the articulation of afternoon school with the secondary school programs of the Department of Education; (3) \$5,000 for the revision of foreign language examinations; (4) \$15,000 for the development of cultural materials appropriate to second language and international studies; (5) \$70,000 for the use of community resource persons as teaching aides in the instruction of language and culture through augmentation of the Intensive Language Program.”

(31) By adding a new Section to read:

“SECTION 102B. Provided, that of the general fund appropriation for Compensatory Education (EDN 108), \$20,000 in fiscal year 1980–81 shall be allotted to the Distributive Education Club of America.”

(32) By adding a new Section to read:

“SECTION 102C. Provided, that of the general fund appropriation for Compensatory Education (EDN 108), \$57,886 in fiscal year 1980–81 shall be allotted to promote the activities of the Immigrant Youth Program of the Palama Interchurch Council.”

(33) By adding a new Section to read:

“SECTION 102D. Provided, that of the general fund appropriation for Compensatory Education (EDN 108), \$123,000 in fiscal year 1980–81 shall be used to provide for the establishment and maintenance of ten alternative learning centers in the Honolulu and Leeward education districts.”

(34) By adding a new Section to read:

“SECTION 102E. Provided, that of the general fund appropriation for Compensatory Education (EDN 108), \$10,000 in fiscal year 1980–81 shall be allotted to the Maui Hui Malama, Inc.”

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(35) By amending Section 103 to read:

“SECTION 103. Provided, that the general fund appropriation for Student Activities (EDN 207) includes \$217,227 in fiscal year 1979–80 and \$256,158 in fiscal year 1980–81 to fund 38 half-time temporary Student Activities Coordinator positions at high schools throughout the State.”

(36) By adding a new Section to read:

“SECTION 104A. Provided, that of the general fund appropriation for the Student Activities Program (EDN 207), \$518,350 in fiscal year 1980–81 shall be used to provide State funding for the salaries of coaches of high school interscholastic sports; provided further, that the Superintendent of Education shall submit a report to the 1981 Regular Session of the Legislature which reviews the present compensation schedule for coaches of high school interscholastic sports and which makes recommendations to provide for fair and equitable compensation of each coach based on factors relating to their coaching responsibilities; provided further, that \$3,000 in fiscal year 1980–81 shall be used for the employment of executive secretaries for the Big Island Interscholastic Federation and the Maui Interscholastic League.”

(37) By adding a new Section to read:

“SECTION 108. Provided, that of the general funds appropriated to the Instruction—UOH, Manoa Program (UOH 101), \$132,000 in fiscal year 1980–81 shall be used to increase the stipends for Graduate Assistants.”

(38) By adding a new Section to read:

“SECTION 108A. Provided, that of the general fund appropriation for Organized Research—UOH, Manoa (UOH 102), in fiscal year 1980–81 includes \$100,000 for Kohala Alternative Crop, \$50,000 for the Tri-Fly Eradication Project, \$50,000 for the Kona Experiment Station, and \$22,209 for a scientific coordinator for the University’s involvement in the Deep Underwater Muon and Neutrino Detection Project.”

(39) By amending Section 109 to read:

“SECTION 109. Provided, that the general fund appropriation to Public Service—UOH, Manoa (UOH 103) includes \$35,000 in fiscal year 1979–80, and \$36,456 in fiscal year 1980–81 for the College of Continuing Education’s Program for Continuing Education for Women.”

(40) By adding a new Section to read:

“SECTION 110A. Provided, that the general fund appropriation to Institutional Support—Leeward Community College (UOH 325) includes \$9,248 in fiscal year 1980–81 for janitorial supplies.”

(41) By adding a new Section to read:

“SECTION 110B. Provided, that the general fund appropriation to Institutional Support—Maui Community College (UOH 505) includes \$24,000 in fiscal year 1980–81 for repairs to the roll-up doors.”

(42) By adding a new Section to read:

“SECTION 110C. Provided, that the general fund appropriation to Institutional Support—Systemwide (UOH 903) includes \$4,000 in fiscal year 1980–81 for student help to address the backlog of drafting work in the facilities planning office.”

(43) By adding a new Section to read:

“SECTION 112A. Provided, that of the general fund appropriation for the Performing and Visual Arts Events Program (BUF 881) in fiscal year 1980–81, \$150,000 shall be for the Bernice P. Bishop Museum, \$25,000 shall be for the Filipino 75th Annual Commemoration Commission, \$45,000 shall be for Friends of Waipahu Cultural Garden Park, \$100,000 shall be for Honolulu Symphony Society, \$75,000 shall be for Honolulu Theatre for Youth, \$15,000 shall be for Kalihi-Palama Culture and Arts Society, \$25,000 shall be for the Okinawan 80th Anniversary Celebration Commission, \$40,000 shall be for Pacific and Asian Affairs Council, \$45,000 shall be for Waianae Coast Culture and Arts Society, \$12,000 shall be for Polynesian Voyaging Society, \$10,000 shall be for Hawaii Performing Arts Co., \$20,000 shall be for Hawaii Council on Portuguese Heritage, \$50,000 shall be for Hawaiian Islands Public Radio, \$5,000 shall be for the Waianae Hawaiian Civic Club, \$20,000 shall be for the Hawaii Multi-Cultural Center, and \$25,000 shall be for the Hawaii Youth Symphony.”

(44) By adding a new Section to read:

“SECTION 113A. Provided, that of the general funds appropriated to In-Community Facilities Program (SOC 404), \$84,000 in fiscal year 1980–81 shall be allotted to continue the operation of the Liliha House II Program.”

(45) By adding a new Section to read:

“SECTION 115A. Provided, that the general fund appropriation for the Program, Planning, Analysis and Budgeting Program (BUF 101) includes \$25,000,000 in fiscal year 1980–81 for the Repair and Maintenance of State facilities; provided further, that the Director of Finance with the approval of the Governor, may transfer such funds to the appropriate program for such repairs and maintenance. Provided further, that a report of all such funds allotted for repairs and maintenance shall be submitted to the 11th Legislature by the Director of Finance no later than twenty days prior to the convening of the 1981 Regular Session.”

(46) By adding a new Section to read:

“SECTION 117A. Provided, that the general fund appropriation to Other Policy Development and Coordination (GOV 102) includes \$66,000 in fiscal year 1980–81 for the Protection and Advocacy Agency.”

SECTION 7. Part V, Section 120, Act 214, Session Laws of Hawaii, 1979, is amended to read:

“SECTION 120. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part III of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided, that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80	FY 1980-81	Total	
<b>A. ECONOMIC DEVELOPMENT COMMERCE AND INDUSTRY</b>								
1A.	Aquarium, Hawaii  Plans and construction of an aquarium in Hilo. Funds authorized in Item K-97, Section 120, Act 214, SLH 1979, may be used for this project.	LH0751	PED	102				
	Construction			PED	C	20	20	
	Total Funding							130C
1.	Oceanic Institute, Oahu  Design and construction for improvements at Oceanic Institute including a well, motors, maintenance of experimental and demonstration holding of marine species. Unencumbered balances from Act 9, Special Session Laws of Hawaii 1977, Section 2, Item III-B-1 should be used to supplement this appropriation. Grant-in-aid.	LS0311	PED	102				
	Construction			PED	130	130C	130	
	Total Funding							130C
<b>TRADE AND FINANCE</b>								
International Trade & Economic Cooperation								
2.	Increment I Redevelopment of the Aloha Tower Complex from Piers 8 to 11.  Plans, design and redevelopment of the Aloha Tower Complex from Piers 8 to 11. The first increment plans include constructing the Hawaii World Trade Center building, Aloha Tower Plaza, exhibit and commercial areas, parking, skybridges; reno-	HISA-1	PED	105				

vating the Aloha Tower, Irwin Park, and Pier 11 as passenger terminal; and including other compatible facilities. This project includes on-site and off-site improvements.

Plans	PED	200	C
Total Funding	PED	200C	

#### Foreign Trade Zone Services

3.	Renovation of Pier 2 Fac. for Relocation and Expansion of Foreign-Trade Zone.	FTZ-1	PED	107		
	Renovation of structures and grounds at Pier 2 to provide improvements for the relocation of FTZ No. 9 from Pier 39 and expansion of zone activities including manufacturing, transshipment, assembly, storage, and warehousing of goods and merchandise. Improvements include offices, exhibit rooms, warehouse and manufacturing areas, security fences, parking areas, utilities and other zone requirements.					
	Design			150	150	
	Construction		PED	1,220	1,220	D
	Total Funding			1,370D	1,370D	
4.	Foreign-Trade Zone Industrial Park	FTZ-2	PED	107		
	Design and construction of site improvements on Sand Island, Oahu, for FTZ activities. Improvements include installation of water and sewer lines, communications and electrical lines, fire hydrants, and other utilities; security fencing; roadway; office space; and other facilities needed to meet foreign-trade zone requirements.					
	Plans			50	50	
	Design		PED	100	100	D
	Total Funding			150D	150D	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)						
				Exp. Agy.	FY 1979-80 M	FY 1980-81 M	Total			
<b>AGRICULTURE</b>										
Productivity Improvement & Mgt Assistance for Agriculture Farms & Ranches—Production & Mgt Improvement										
5.	Molokai Water System Improvement To upgrade the existing water system on Molokai to County of Maui standards.	H30	HHL 111		265	265				
	Design					1,160	1,160			
	Construction				HHL 265C	1,160C	1,425C			
	Total Funding									
5A.	Panaewa Farm Subdivision Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan.	H38	HHL 111			150	150			
	Construction					C 150C	150C			
	Total Funding									
5B.	Anahola-Moleoa Farm and Pastoral Subdivision Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.	H39	HHL 111			640	640			
	Construction					C 640C	640C			
	Total Funding									
6.	Statewide Farm Loan Fund Capitalization To provide additional capitalization to the Hawaiian farm loan fund for agricultural loans.	H51	HHL 111			1,000	1,000			
	Construction									
	Total Funding									

7.	Hawaiian Home Lands Project, Maui Plans for development of Hawaiian home lands in accordance with DHHL general plan.	H-41 Plans Total Funding	HHL 111 HHL 111 HHL 111	50 50C 50C	50 50C 50C
8.	Hawaiian Home Lands Project, Waimea, Hawaii Plans for development of Hawaiian home lands in accordance with DHHL general plan	H-47 Plans Total Funding	HHL 111 HHL 111 HHL 111	75 75C 75C	75 75C 75C
9.	Nanakuli Homestead, Oahu Plans and construction for improvements including caretaker maintenance of cemetery Haleakala Avenue.	LH2101 Construction Total Funding	HHL 111 HHL 111 HHL 111	5 5C 5C	5 5C 5C
9A.	Product Development and Marketing for Agr Forestry—Products Development	D-18 Energy Tree Farm Survey soils on potential areas of energy tree farms so that most productive sites will be selected. Improve facilities at central tree nursery to make production of energy tree farm seedlings more efficient and less costly.	LNR 172 LNR LNR	100 100C 100C	100 100C 100C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M	FY 1980-81 F	
10.	Distribution Systems Improvement for Agr	LH0401	AGR	151				
	Kamuela Vacuum Cooling Facilities, Hawaii							
	Plans and construction to complete the improvements to the vacuum cooling facility for agricultural commodities at Kamuela.							
	Construction				25			
	Total Funding				AGS	25C	C	25C
11.	Omaopio Vacuum Cooling Plant, Maui	LH0501	AGR	151				
	Plans and construction of improvements and expansion of the cooling plant. Supplements prior appropriation.							
	Construction							
	Total Funding				AGS	100	C	100C
12.	Kula Vacuum Cooling Plant, Maui	LH0505	AGR	151				
	Plans and construction of improvements and expansion of the vacuum cooling plant including loading dock, parking and access roads, security fence, fork lift, and other appurtenances. Supplements prior appropriations.							
	Construction							
	Equipment							
	Total Funding				AGS	27C	C	27C

13.	Waimea Vacuum Cooling Plant, Hawaii Design and construction for the extension of the vacuum cooling plant at Waimea, Hawaii. Unex- pended balances from Act 9, SSLH 1977, Sec. 2, Item I-A-1; and Act 244, SLH 1978, Sec. 2, Item I- A-1 may be used to supplement this appropriation.	LS0101	AGR 151				
	Design	AGS	75	C	75	75C	
	Total Funding						
	General Support for Agr						
	General Administration for Agr						
14.	Agricultural Park Subdivision, Statewide Plans and construction of on and off site improve- ments for development of agricultural lots, includ- ing acquisition of land by purchase fee simple or lease.	A01	AGR 192				
	Plans		200	80	280		
	Land Acquisition		1,000	1,000			
	Design		400	100	500		
	Construction		2,500	4,150	6,650		
	Total Funding	AGS	4,100C	4,330C	8,430C		
15.	Renovation of HDI Facilities, Ala Moana Oahu Additional office space and other renovations to include decontamination, to the present Hawaii De- velopment Irradiator building located on Ilalo Street, Ala Moana, Oahu.	012	AGR 192				
	Design		50	50	50		
	Construction		335	335	335		
	Total Funding	AGS	385C	C	385C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agg.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total	
15A.	Hilo Land Reclamation Project  Feasibility study of the economic suitability and study of the impact on the environment and to manage the project in the acquisition of federal, county, and private funds for design, plans, and construction of transportation facility for soil and organic matter from Hilo coast processing company's mill at Pepeekeo, Hawaii to the Hilo-Panaewa area.	LH0440	AGR 192					
	Plans							
	Total Funding							
16.	Maui Office-Complex Facility, Maui  Design and construction for an office-complex facility for department of agriculture.	LS0201	AGR 192					
	Design							
	Total Funding							
<b>FISHERIES &amp; AQUACULTURE</b>								
	Commercial Fishery and Aquaculture							
16A	Anuenue Fisheries Research Center Replacement Cottage, Sand Island Oahu  Demolition/removal of existing residential cottage damaged beyond repair by termites & dry rot. Planning & construction of new two-bedroom residential cottage to provide habitable living quarters for chief biologist who will be responsible for security & overall smooth operation of all equipment facilities & ongoing projects at the center.	C19	LNR 153					
	Construction							
	Total Funding							

17.	Flash Fishery Freezing and Cooling Facility, Oahu	LS0609	LNR	153				
	Design, construction and purchase of equipment for a flash fishery freezing and cooling facility. Unexpended funds from Item 5B002 of 244/78 shall be used to supplement this appropriation.							
	Equipment				50			
	Total Funding		LNR		50			
				C	50C			
18.	Energy Conservation in Hospitals, Schools, and Public Buildings.	SE0-1	PED	120				
	Conduct energy audits & carry out audit recom- mend by making modifications to structures & electrical/mechanical systems in hospitals, schools, & public bldgs to obtain signif energy sav- ings. This proj incl. auditing, renovating, altering, & retrofitting structures & systems to make them energy efficient & less costly to operate. Includes plans, design, const & equip. proj rec fed aid fin/ reimb.							
	Plans				92			
	Design				480			
	Construction				2,263			
	Equipment				365			
	Total Funding		PED		875C			
			PED		1,600N			
			PED		R			
					725R			
						92		
						480		
						2,263		
						365		
						875C		
						1,600N		
						R		
						725R		
							92	
							480	
							2,263	
							365	
							875C	
							1,600N	
							R	
							725R	

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Item No.	Program and Capital Project Name	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
18A.	Alternate Energy Demonstration and Commercialization Projects	AES775	PED	120				
	Plans, design, and construction of facilities to demonstrate feasibility of alternate energy resources in Hawaii and for facilities required in the commercialization of alternate energy resources found to be economically feasible. Funds may be used for land acquisition, equipment purchases, and various types of energy resources. Funds may be used as state matching for non-state funds.							
	Plans				130		130	
	Land Acquisition					1		1
	Design				130		130	
	Construction				839		839	
	Equipment				200		200	
	Total Funding		PED	C	1,300C		1,300C	
19.	WATER DEVELOPMENT & IRRIGATION SERVICES							
	West Maui Water Project, Maui		G04	LNR	141			
	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. (State assistance to county)							
	Construction							
	Total Funding				490		490C	

20.	Wailua-Kapaa Water System, Kawaihau, Kauai Wailua-Kapaa Water System, Kawaihau, Kauai Incremental development of water system, including plans and construction for source development, booster pumps, storage facilities, pipelines and appurtenances. (State assistance to county)	G99  Construction Total Funding	LNR 141  LNR 390C	C  390 390C	
21.	South Kona Water System, Hawaii South Kona Water System, Hawaii Incremental development of water system including plans and construction of source development, pumps, appurtenances, transmission mains and storage facilities. (State assistance to county)	G14  Land Acquisition Design Construction Total Funding	LNR 141  LNR 390C	C  10 55 490 555C	10 55 490 555C
22.	Water Sources Investigation, and Development, Hawaii Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.	G25  Plans Design Construction Total Funding	LNR 141  LNR 300C	5 20 275 300C	5 20 275 300C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1979-80 F	FY 1980-81 F	
23.	North Kohala Water Development and System Improvement, Hawaii	G29	LNR 141					
	Incremental development and improvement of water system, including source development, transmission mains, storage facilities, water quality and related appurtenances.							
	Construction				300		C	300
	Total Funding				300C			300C
24.	Water Sources Investigation, and Development, Oahu	G43	LNR 141					
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.							
	Plans				5		20	25
	Design				20		40	60
	Construction				175		440	615
	Total Funding				200C		500C	700C
25.	Water Sources Investigation, and Development, Kauai	G44	LNR 141					
	Engineering and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.							
	Plans				5		5	10
	Design				20		20	40
	Construction				275		275	550
	Total Funding				300C		300C	600C

25A.	Water Resources Development for Agriculture Statewide	G45	LNR	141			
Planning, acq design and construc of water facil for agricultural enterprises, agricultural parks and aquaculture.							
	Land Acquisition				3		
	Design				180		
	Construction				1,017		
	Total Funding		LNR	C	1,200C	1,017	1,200C
26.	Water Sources Investigation, and Development, Maui	G46	LNR	141			
Engineering, and economic studies, geologic and hydrologic investigation, exploration and development for the conservation and utilization of surface and ground water sources including the improvement of water quality.							
	Plans				5		
	Design				20		
	Construction				275		
	Total Funding		LNR		300C	275	300C
27.	Mokaua Island, Oahu	LHI1701	LNR	141			
Plans and construction for installation of a waterline from Sand Island to Mokaua Island. Unencumbered balances from Item III-C-2, Section 92-E, Act 226, SLH1976 may be used to supplement this project.							
	Construction						
	Total Funding		LNR	C	1	1	1C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)			
				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
28.	Waimanalo Irrigation System, Waimanalo, Oahu	LH2601	LNR 141				
	Plans and construction for improvements to the Waimanalo irrigation system.						
	Construction				20	C	20
	Total Funding		LNR		20C		20C
29.	Waimanalo Stream, Waimanalo, Oahu	LH2602	LNR 141				
	Plans and construction of bridge across Waimanalo Stream.						
	Design			2			2
	Construction			6			6
	Total Funding		LNR	8C		C	8C
29A.	Haina Well Development, Honokaa, Hawaii	SL0101	LNR 141				
	Incremental development of water system for Hamakua area.						
	Construction						
	Total Funding		LNR	A			
				300			300A
29B.	Panaewa Well No. 3, South Hilo, Hawaii	SL0102	LNR 141				
	Drilling of an additional source well for south Hilo, Hawaii.						
	Construction						
	Total Funding		LNR	A			
				100			100A
29C.	Laupahoehoe Well No. 2, County of Hawaii	SL0103	LNR 141				
	Installation of pump and motor to transform present holding well to a producing well.						
	Design						
	Construction						
	Total Funding		LNR	A			
				20			20A
				180			180A
				200A			200A

29D.	Pihonua Well No. 2, County of Hawaii Addition of well to supplement existing production well.	SL0104	LNR	141			
	Design				20	20	
	Construction				110	110	
	Total Funding				130A	130A	
29E.	Pepeekeo Well Development Installation of deep well pump and connection pipeline to the Pepeekeo water system.	SL0107	LNR	141			
	Design				20	20	
	Construction				180	180	
	Total Funding				200A	200A	
29F.	1.6 MW Pumped Hydroelectric Storage System, Molokai 1.6 megawatt pumped hydroelectric storage system on Molokai.	SL0501	LNR	141			
	Design				399	399	
	Construction				1	1	
	Total Funding				400C	400C	
29G.	90 Kilowatt Hydroelectric Plant, Molokai 90 kilowatt hydroelectric plant on Molokai mauka of the Kualapuu reservoir. Low-head hydroelectric system not requiring a dam, making use of the existing water flow rate.	SL0502	LNR	141			
	Design				50	50	
	Construction				450	450	
	Total Funding				500C	500C	

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Item No.	Program and Capital Project wide	Cap. Proj. No.	Program ID	Exp. Avay.	APPROPRIATIONS (\$1,000's)			
					FY 1979-80 M F	FY 1980-81 M F	Total M O F	Biennium M 1979-81 F
29H.	Run-of-the-River Hydroelectric Systems, State-wide	SI0503	LNR 141					
	Planning, design and construction of run-of-the-river hydroelectric systems, statewide.							
	Plans				98		98	
	Design					1		1
	Construction					1		1
	Total Funding		LNR	C	100C		100C	
29I.	Groundwater Exploratory Wells	SI0511	LNR 141					
	Drilling of exploratory wells to search for additional groundwater sources.							
	Land Acquisition					100		100
	Design					200		200
	Construction					2,000		2,000
	Total Funding		LNR	A	2,300A		2,300A	
29J.	Waimea Water System	SI0803	LNR 141					
	Land acquisition, plans and construction of a storage tank (1 MG.), and connecting main.							
	Land Acquisition					20		20
	Design					50		50
	Construction					600		600
	Total Funding		LNR	A	670A		670A	
29K.	Koloa Water System	SI0804	LNR 141					
	Land acquisition, plans and construction of a storage tank (1 MG.), and connecting main.							
	Land Acquisition					20		20
	Design					30		30
	Construction					600		600
	Total Funding		LNR	A	650A		650A	

29L.	Lihue Water System Land acquisition, plans and construction of a storage tank (1 MG.), and connecting main.	SL0805	LNR	141			
	Design				10	10	
	Construction				125	125	
	Total Funding		A		135A	135A	
29M.	Wailua-Kapaa Water System Land acquisition, plans and construction of a storage tank (1 MG.), and connecting main.	SL0806	LNR	141			
	Design				30	30	
	Construction				450	450	
	Total Funding		A		480A	480A	
<b>ECON PLANNING &amp; COORD FOR ECON DEVELOPMENT</b>							
	General Support for Marine Programs						
29N.	OTEC Aquaculture Research Facilities Facilities for the integration of aquaculture research with the OTEC energy project.	SL0506	GOV	109			
	Plans				1	1	
	Design				50	50	
	Construction				340	340	
	Equipment				109	109	
	Total Funding		GOV		500C	500C	
29O.	OTEC Pilot Plant 10/40 The next step in OTEC development a 10/40 OTEC pilot plant capable of generating 10 megawatts of electricity, but designed for expansion to accommodate four separate modules, 10 megawatts each for a total capacity of 40 megawatts including Waianae coast environmental study.	SL0509	GOV	109			
	Plans						
	Total Funding		GOV		1,000C	1,000C	

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**C. TRANSPORTATION FACILITIES  
AIR TRANSPORTATION FACILITIES AND  
SVCS**

	HIA Facilities & Svcs	A06	TRN	102			
1A.	Auto Parking Facilities						
	Prepare site, install all civil utilities and electrical utilities underground, and construct multi-level parking structure entrance and exit plaza and appurtenances.						
	Design				1,000	1,000	
	Construction				10,000	10,000	
	Total Funding				4,200B	4,200B	
					6,800E	6,800E	
1.	Diamond Head Extension to Main Terminal	A07	TRN	102			
	Construction of the Diamond Head extension to the main terminal and appurtenances and the fronting deplaning-deplaning roadways and other miscellaneous improvements.						
	Design				500	500	
	Construction				500B	500B	
	Total Funding				4,500E	4,500E	
2.	Hardstands and Gates for Overseas Aircraft	A08	TRN	102			
	Construct B747 hardstands and holding rooms, air cargo hardstands and appurtenances. This project qualifies for fed aid financing/reimbursement						
	Design				800	800	
	Construction				700	700	
	Total Funding				E	1,500E	

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Item No.	Program and Capital Project HIA	Cap. Proj. No.	Program ID TRN 102	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total	
2A.	Freeway Connection and Roadway Alter.	A10			1,000	5,000	5,000	
	Construct the ramps and roadway connections to the H-1 freeway, alterations to the internal roadway system, other miscellaneous adjustments and improvements. Airport special funds may be used to finance or provide reimbursement for all roadway construction or any portion of roadway construction within the airport proper.							
	Design							
	Construction							
	Total Funding							
3.	New Inter-Island Terminal, HIA	A11	TRN 102					
	Construct new passenger terminal, land acquisition, aircraft taxiways and parking apron, connecting roadways and other miscellaneous improvements, relocate existing inter-island maintenance, cargo and administrative offices, alterations to existing parking areas, roadways and landscaping, install furniture and miscellaneous equipment.							
	Land acquisition							
	Design				570	570	570	
	Construction				8,730	8,730	8,730	
	Equipment				200	200	200	
	Total Funding				6,000E	4,000E	10,000E	
					3,500N	4,000N	3,500N	

4.	Airfield Improvements Construct associated taxiways and appurtenances and improve fillets at taxiway intersection, reconstruct taxiway C, demolish certain bldgs, install guidance signs, engine runup pad, extended safety areas, strengthen, groove and mark runways and taxiways, install rotating beacon and control panel in control tower, realign control cables and other misc impr. This proj qualifies for fed aid financing/reimb.	A23	TRN	102			
	Design			100			
	Construction			760			
	Total Funding			860B	B		
5.	Alteration and Improvements to Terminal Buildings. Construct additions, alterations, and improvements to existing terminal buildings and appurtenant areas as needed to provide for changes in operational procedures, equipment, safety requirements, and air traffic demands; may be supplemented by Item C-3 of Act 243, SLH 1978.	A24	TRN	102			
	Design			10			
	Construction			80			
	Equipment			10			
	Total Funding			100B	B		
6.	Lagoon Drive Relocation and Utility System Extension Construct new makai roadway along south ramp and extend utility system and other appurtenant improvements.	A25	TRN	102			
	Design			150			
	Construction			2,150			
	Total Funding			2,300B	B		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
7.	Service Court Development. Design and install roads, utilities, landscaping, and other improvements for airline service areas.	A27	TRN 102					
	Design				60			60
	Construction				940			940
	Total Funding		TRN	1,000B		B		1,000B
7A.	Replacement Heliport for the Ala Wai Heliport Construct helipad with parking apron, vehicle access road and parking, perimeter fencing, and other appurtenant facilities. This project qualifies for fed aid financing/reimbursement.	A28	TRN 102					
	Design							
	Construction							
	Total Funding		TRN			B		
7B.	Oahu General Aviation Airport—Dillingham Airfield	A70	TRN 102					
	Funds to develop Dillingham airfield as the first satellite general aviation airport. Funds to be expended for runway improvements, taxiways, holding pads, access roads, utilities, and administration building, hangars, security fencing, and other improvements required for general aviation operations.							
	Design							
	Construction							
	Total Funding		TRN			E		

7C.	Castle Memorial Hospital HeliPad, Oahu Grant-in-aid for the planning, design and construction of a helipad at Castle Memorial Hospital.	LH0109	TRN	102		
	Construction				60	60C
	Total Funding		TRN		C	
7D.	Kahuku Hospital HeliPad, Oahu Design and construction of helipad at Kahuku Hospital.	LH0233	TRN	102		
	Construction				75	75C
	Total Funding		TRN		C	
7E.	Extension of Runway 4-Left at Honolulu International Airport Funds for analysis, plans, design, engineering, and other studies necessary for the extension of runway 4-left at Honolulu International Airport for its full and exclusive use by turbojet commercial aircraft.	SL0404	TRN	102		
	Design				200	200B
	Total Funding		TRN		B	
8.	General Lyman Field Facilities and Svcs Airfield Improvements Construct runway safety areas and other airfield improvements. This project qualifies for fed aid financing/reimbursement.	B05	TRN	111		
	Design				10	10
	Construction				190	190
	Total Funding		TRN		B	
9.	Improvements to General Aviation Area Construct T-hangers, aprons, lights and other improvements for general aviation. This project qualifies for fed aid financing/reimbursement.	B06	TRN	111		
	Design				25	25
	Construction				375	375
	Total Funding		TRN		B	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1980-81 F	M 1980-81 F	
10.	Security Fencing Construct security fencing along public highway. This project qualifies for fed aid financing/reimbursement.	B08	TRN 111					
	Design Construction				3		3	
	Total Funding				47		47	
10A.	Vehicle Parking Lot Expansion Construct additional parking stalls at the main public parking lot, landscape, and provide other appurtenant facilities.	B09	TRN 111	TRN	50B	B	50B	
	Design Construction							
	Total Funding							
	Ke-Ahole Airport Facilities and Services							
10B.	Terminal Improvements Construct the airport maintenance building, new fire station and expand the terminal facilities and other improvements.	C03	TRN 114	TRN	170B	B	170B	
	Design Construction							
	Total Funding							
11.	Airfield Improvements Expand aircraft apron, landscaping, and other appurtenances. This project qualifies for fed aid financing/reimbursement.	C05	TRN 114	TRN	E	500E	500E	
	Design Construction							
	Total Funding							

12.	Improvements to General Aviation Area Construct T-hangars and appurtenances	C06	TRN 114	4	25	29
	Design			58	375	433
	Construction			62E	400E	462E
	Total Funding					
13.	Air Cargo Facilities Develop facilities for air cargo including utility systems, roadways, parking, terminal, and other appurtenances.	C07	TRN 114	TRN	E	
	Design			30	30	
	Construction			470	470	
	Total Funding			500E	500E	
14.	Expand and Improve the Aircraft Apron Expand the aircraft parking apron, improve the taxiway grade at the apron and other miscellaneous airfield improvements. This project qualifies for fed aid financing/reimbursement.	C51	TRN 116	TRN	E	
	Design			15	10	
	Construction			171	150	
	Total Funding			186E	160E	
15.	Air Cargo Facilities Develop additional area for cargo facilities including utility systems, roadways, parking, terminal and other appurtenances.	C54	TRN 116	TRN	E	
	Design			10	10	
	Construction			110	40	
	Total Funding			120E	50E	
15A.	Waimea Kohala—Airfield Improvements Miscellaneous improvements to runway 22, move fence.	C55	TRN 116	TRN	E	
	Design			30	30	
	Total Funding			30E	30E	

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					FY 1979-80 F	FY M O	FY M O	
16.	Utility Systems—Upolu Airport	C82	TRN 118					
	Provide potable water, electrical, and sewer systems and other appurtenant improvements.							
	Design							
	Construction							
	Total Funding		TRN		8 100 108E		E	
17.	Kahului Airport Terminal Expansion	D04	TRN 131					
	Construct additions and alterations to passenger and cargo terminal buildings, parking lot, roadways and other misc. improvements. Aircraft parking positions, landscaping, furniture and other miscellaneous equipment.							
	Design							
	Construction							
	Equipment							
	Total Funding		TRN		450 8,650 500 7,600E 2,000N		E N	
18.	Construct Taxiway and Extend Safety Area	D05	TRN 131					
	Grade extended safety area for runway 2, construct parallel taxiway along runway 5-23, strengthen runway 5-23, and improve airfield drainage system. This project qualifies for fed aid financing/reimbursement.							
	Design							
	Construction							
	Total Funding		TRN		75 1,225 700E 600N		25 475 350E 150N	
			TRN					

19.	Terminal Roadway and Parking Alterations Alteration of terminal roadway, parking areas, lighting, landscaping, and other miscellaneous improvements.	D06	TRN 131				
	Design			180			
	Construction			2,945			
	Total Funding			3,125E			
20.	Air Cargo Facilities Develop facilities for air cargo including utility systems, aprons, roadways, parking, terminal and other appurtenances.	D09	TRN 131.				
	Design			100			
	Construction			2,350			
	Total Funding			2,500E			
21.	Air Taxi Facilities Expand the air taxi terminal and other appurtenant facilities.	D10	TRN 131				
	Design			40			
	Construction			660			
	Total Funding			700E			
22.	Molokai Airport Facilities and Services	D54	TRN 141				
	Airfield Improvements Acquire Hawaiian homes land parcels, widen, strengthen, and groove runway, strengthen taxiway and apron and other miscellaneous airfield improvements. This project qualifies for fed aid financing/reimbursement.						
	Land Acquisition			500			
	Design			250			
	Construction			3,200			
	Total Funding			2,550E			
				1,000N	E N		

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					FY 1979-80 F	FY 1980-81 F	Total M O	
23.	Terminal Improvements Construct new air taxi facilities, modify existing terminal building, parking and roadway facilities, provide air cargo handling lease areas and terminal building and other appurtenances.	D55	TRN 141		100	100	100	
	Design							
	Construction				1,300	1,300	1,300	
	Equipment				200	200	200	
	Total Funding				1,600E	1,600E	1,600E	
24.	Airport Services Lease Lots Develop airport services lease lots and other appurtenant improvements.	D56	TRN 141		TRN	TRN	E	
	Design				6	6	6	
	Construction				94	94	94	
	Total Funding				100E	100E	100E	
25.	Lanai Airport Facilities and Services Airport Landscaping Grass and landscape the airfield and terminal areas with other appurtenant improvements.	D74	TRN 151		TRN	TRN	E	
	Design				15	15	15	
	Construction				235	235	235	
	Total Funding				250E	250E	250E	
	Lihue Airport Facilities and Services							
25A.	Plans, Land Acquisition & Constr of New Rwy E02 Plans, land acquisition and construction of a new runway and taxiway, apron, lighting and other miscellaneous improvements.		TRN 161		TRN	TRN	E	
	Construction							
	Total Funding				8,600	8,600	8,600	

26.	New Passenger Terminal Design and construct new terminal facilities and other miscellaneous improvements. This project qualifies for fed aid financing/reimbursement.	E03	TRN	161				
	Design				800	500	1,300	
	Construction				4,200	4,500	8,700	
	Total Funding				4,000E	4,000E	8,000E	
					1,000N	1,000N	2,000N	
27.	Kalaupapa Airport Facilities and Services Terminal and Maintenance Facilities Construct new maintenance building and expand and modify the passenger terminal building.	D92	TRN	181				
	Design				3	3	3	
	Construction				37	37	37	
	Total Funding				40E	E	40E	
28.	Airport Planning Statewide Provide basic data and information for proper planning, preliminary designs, special engineering, architectural, environmental and special studies for the statewide system of airports and continue review and updating of master plans.	F04	TRN	195				
	Plans							
	Total Funding							
29.	Improvements for Various Statewide Airports Provide for various equipment, alterations and improvements such as passenger loading bridges, baggage claim devices , intra terminal buses, energy saving devices, aircraft ground support power, security doors, sewage grinders, wash racks, waste water disposal system, alterations for handicapped users in conformance with federal requirements and other miscellaneous improvements.	F05	TRN	195				
	Design				875	450	1,325	
	Construction				875B	450B	1,325B	
	Equipment							
	Total Funding							

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					FY 1979-80 F	M 1979-80 F	Total Biennium 1979-81 F	
29A.	Land Acquisition and Airfield Improvements at Various Statewide Airports	F06	TRN	195				
	Acquisition and airfield improvements at various statewide airports.							
	Land Acquisition				3,000		3,000	
	Design				1,000		1,000	
	Construction				1,000		1,000	
	Total Funding				5,000B		5,000B	
30.	Add Recon Rel Improv to Fac Piers 19-34	J02	TRN	301				
	Addition, reconstruction, relocation and improvement of roadways, sheds, parking, lighting, utilities and other facilities to the Pier 19 to 34 area including improvements to Pier 27 bulkhead, Pier 19 shed, and proposed ship repair/marine construction facility in the Piers 21-26 area.							
	Design				34		160	194
	Construction				556		825	1,381
	Total Funding				590B		B	590B
					TRN		985E	985E
31.	Misc Improv to Exist Pier Fac at Hon Har	J03	TRN	301				
	Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu Harbor, including improvements to lighting, paving, and other facilities.							
	Design				8		8	16
	Construction				57		62	119
	Total Funding				65B		70B	135B

32.	Container Facilities at Sand Island, Oahu Expansion and development of container facilities at Sand Island, including piers, sheds, yard areas and other improvements.	J06	TRN	301				
	Design				175			
	Construction				3,950			
	Total Funding				4,125D			
33.	Navigational Improvements to Hon Harbor Navigational improvements. Dredge main entrance channel and main harbor basin, and Kapalama channel and basin, berthing areas, and construction of revetments and other improvements. Possible federal participation for this project is approxi- mately \$7,380,000. This project qualifies for fed- aid financing/reimbursement.	J09	TRN	301				
	Design				175			
	Construction				3,950			
	Total Funding				4,125D			
34.	Improvements to Piers 39-40 Complex, Hon Har Shed renovation, pier and yard improvements at piers 39-40.	J20	TRN	301				
	Design				110			
	Construction				1,450			
	Total Funding				1,560B			
	TRN				E			
35.	Aloha Tower Renovation, Honolulu Harbor Improvements and modifications to Aloha Tower.	J24	TRN	301				
	Design				10			
	Construction				394			
	Total Funding				404B			
	TRN				B			

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				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium M 1979-81 F	
35A.	Commercial Fisheries Facility Development Dredging and expansion of commercial fishing vessel facilities in the Piers 16 to 17 area, and other related improvements for commercial fishing activities.	J25	TRN 301					
	Design				145	145		
	Construction				15	15		
	Total Funding		TRN	C	160C	160C		
Barbers Point Harbor Facilities and Services								
35B.	Barbers Pt Deep Draft Harbor Improvements Oah	J11	TRN 303					
	Incremental development of Barber's Point Harbor including dredging, piers, shed, yard areas & other improvements. Possible federal participation for this project is approximately \$53,600,000.							
	Plans				100	100		
	Construction				4,940	4,940		
	Total Funding		TRN	E	5,040E	5,040E		
Hilo Harbor Improvements, Hawaii								
36.	Miscellaneous improvements at Hilo Harbor port including wharf shop/warehouse facilities and other related improvements.	L01	TRN 311					
	Design				10	10		
	Construction				78	138		
	Total Funding		TRN	88B	60B	148B		

37.	Container Facilities at Hilo Harbor, Hawaii Construction of lo-lo container facilities at Hilo Harbor and other related improvements. Unexpended funds from Item C-28, Act 218, SLH 1974, Item C-25, Act 195, SLH 1975, and Item C-22, Act 243, SLH 1978 to be used for design of this project.	106	TRN	311
	Construction	3,680	B	3,680
	Total Funding	TRN TRN	1,400B 2,280D	1,400B 2,280D
38.	Barge Terminal Improvements at Kawaihae Harbor Demolition of existing office and shop facilities, improvements to barge terminal facilities at Kawaihae Harbor and other related improvements.	105	TRN	313
	Design	25	20	45
	Construction	100	100	100
	Total Funding	TRN 125B	20B	145B
38A.	Kahului Harbor Facilities and Services Kahului Harbor Improvements Maui Miscellaneous improvements at Kahului Harbor including construction of roadway, fencing, and other improvements.	MO1	TRN	331
	Construction	265	265	265
	Total Funding	TRN	E	265E
38B.	Kaunakakai Harbor Facilities and Services Kaunakakai General Cargo Shed, Kaunakakai Harbor, Molokai Plans and construction of a produce shed at Kaunakakai Harbor, Molokai.	SL0201	TRN	341
	Design	25	225	225
	Construction	TRN	E	250E
	Total Funding			250E

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					FY 1979-80 F	FY M O	FY M O	
39.	Naviliwili Harbor Facilities and Services	K01	TRN	361				
	Naviliwili Harbor Improvements Kauai							
	Naviliwili Har impr including 12 inch water line, removal of water tank, paving cargo storage areas, utility relocation, lighting, and seawall modifica- tions.							
	Design			85				85
	Construction			540				540
	Total Funding		TRN	625B			B	625B
39A.	Small Commercial Boat Facilities at Naviliwili Harbor, Kauai	K05	TRN	361				
	Design and construction of facilities for small com- mercial and fishing boats in the northwest end of Naviliwili Harbor.							
	Design							
	Construction							
	Total Funding		TRN				B	200B
40.	Misc. Imprv. to Fac. at Neighbor Is. Ports Improvements to yard areas, sheds, piers, utilities, water areas and other facilities.	103	TRN	395				
	Design							
	Construction							
	Total Funding		TRN					

**LAND TRANSPORTATION FACILITIES AND SERVICES**

Oahu Highways and Services						
41. Interstate H-1—Pearl City	N2	TRN	501			
Plans and construction for a new highway interchange between the Kaonohi Street overpass and the Pearl City offramp.						
Design			3			
Construction			22			
Total Funding		TRN	25B	B		
			3			
			22			
			25B			
Oahu Highways and Services						
42. Interstate H-1—Waipahu	N3	TRN	501			
Plans for construction of a new highway interchange in the vicinity of the Waipahu offramp.						
Plans			25			
Total Funding		TRN	25B	B		
			25			
Oahu Highways and Services						
43. Pali and Likeike Highways, Oahu	N6	TRN	501			
Highway Lighting						
Plans and installation of twenty lights near the Honolulu entrances of the Pali and Likeike Tunnels.						
Construction			50			
Total Funding		TRN	50B	B		
			50			
			50B			
Oahu Highways and Services						
44. Interstate Route H-1—Middle Street Separation to Koko Head Avenue	Q44	TRN	501			
Safety improvements along existing Lunaihi Freeway from Middle Street separation to Koko Head Avenue.						
Land Acquisition			111			
Design			230			
Construction			12,485			
Total Funding		TRN	3,397	9,088	1,465D	1,948D
		TRN	483D		7,964J	10,878J
			2,914J			

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total Biennium M O 1979-81 F	
44A.	Interstate Route H-1, Safety Improvements and Reconstruction of University Ave Interchange. Safety improvements and reconstruction of University Avenue interchange.	Q47	TRN 501					
	Design				330	330		
	Total Funding				75D	75D		
			TRN	D				
			TRN	J	255J	255J		
44B.	Interstate Route H-1—West of Waiau Interchange to East of Halawa Interchange, Oahu Incremental construction of divided highway, including the Waianae and Halawa interchanges.	R11	TRN 501					
	Land Acquisition				535	535		
	Design				161	161		
	Construction				2,000	2,000		
	Total Funding				377D	377D		
			TRN	D				
			TRN	J	2,319J	2,319J		
44C.	Interstate Route H-1, East of Halawa I.C. to Middle Street Separation Incremental construction of eight freeway lanes, including Pearl Harbor, airport and Keelhi interchange.	R12	TRN 501					
	Land Acquisition				800	800		
	Design				1,000	1,000		
	Construction				17,644	17,644		
	Total Funding				4,374D	4,374D		
			TRN	D				
			TRN	J	15,070J	15,070J		

44D.	Interstate H-1, Improvements to the Pearl City Offramp, Oahu Extend deceleration lane, construct additional lane on the offramp and on Moanalua Road between the ramp and Ho'omaluh Street.	R14	TRN 501					
	Land Acquisition							
	Design							
	Total Funding							
44E.	H-2 Access Control Fencing, Mililani Access Rd to Crestview subdivision Install 16 foot chain-link fencing along R/W and access control line.	R21	TRN 501					
	Design							
	Construction							
	Total Funding							
44F.	Interstate Route H-3, Junction at H-1 to Kaneohe Marine Corps Air Station Incremental construction of divided highway from junction at H-1 to Kaneohe Marine Corps Air Station.	R30	TRN 501					
	Land Acquisition							
	Design							
	Total Funding							
44G.	Castle Junction Interchange, Koolaupoko, Oahu-grade separation at the intersection of Kalanianaole, Pali and Kamehameha Highways.	R52	TRN 501					
	Plans							
	Total Funding							

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					FY 1979-80 F	FY 1980-81 F	Total	
44H.	Kamehameha Highway, Helemano-Waialua Junction to Haleiwa Beach Park. Realignment and improvement of highway from Helemano-Waialua junction to Haleiwa Beach Park.	R53	TRN 501					
	Plans				100	100		
	Total Funding				TRN TRN	D K	34D 66K	
45.	Puiloa Road-Kamehameha Highway to Peltier Avenue. Widening existing two-lane facility.	R63	TRN 501					
	Design					295	295	
	Construction				TRN TRN	97D 181M	130D 165M	
	Total Funding						227D 346M	
46.	Liliha St. Improvements, H-1 to King St., Oahu R64 Improvement of Liliha Street from H-1 to King Street.	TRN 501						
	Design					50	50	
	Construction				TRN TRN	76D 144M	25D 25M	
	Total Funding						101D 169M	
46A.	Likelike Hwy-Kahekili Hwy Interchange, Koolaupoko. Construction of interchange to replace the existing at grade intersection.	R71	TRN 501					
	Design					50	50	
	Total Funding				TRN	D	50D	

46B.	Kalanianaole Hwy, Ainakoa to Lunaihi Hme-Rd. Developing a transportation corridor including hwy bikeways & land transit systems from Hawaii Kai to downtown Honolulu.	R76	TRN 501				
	Land Acquisition		TRN TRN	D K	633 3,618 1,377D 2,874K	633 3,618 1,377D 2,874K	
	Design						
	Total Funding				100 100D	100 100D	
46C.	Kahekili Highway Widening, Kaneohe, Oahu— Widen the existing two-lane Kahekili Highway to a four-lane divided facility.	S40	TRN 501				
	Plans		TRN	D	100 100D	100 100D	
	Total Funding						
47.	Pali Highway Improvement, Waokanaka to Vineyard Boulevard, Oahu. Construction of additional traffic lanes and signals.	S51	TRN 501		277 97D .180K	277 97D 180K	
	Construction		TRN TRN	D K			
	Total Funding						
47A.	Moanalua Road Improvements—Aiea Towards Middle Street, Oahu—Improving the existing four- lane divided highway from Aiea to Middle Street.	S65	TRN 501				
	Construction		TRN TRN	D K	13,596 4,735D 8,861K	13,596 4,735D 8,861K	
	Total Funding						
47B.	Emergency Truck Turnouts at Pali & Likelike Highways	S68	TRN 501				
	Construction of emergency truck turnouts.						
	Land Acquisition				32	32	
	Design				20	20	
	Construction				150	150	
	Total Funding		TRN TRN	D K	87D 115K	87D 115K	

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				Exp. Agy.	FY 1979-80 F	M O	FY 1980-81 F	Total Biennium 1979-81 F
48.	Fort Weaver Road Realignment and Widening Ewa, Oahu	\$70	TRN 501					
	Realignment and widening of Fort Weaver Road including improvements to Kunia Road to provide for a connection to H-1 and improvements of existing two-lane highway to a divided highway, and for the extension of the Renton Road-Hanakahi Street section.							
	Land Acquisition				4,307		4,307	
	Design				340		340	
	Construction				1,475	B	5,657	7,132
	Total Funding				TRN	516D	925B	925B
					TRN	959M	2,904D	3,420D
						6,475M	7,434M	
48A.	Oahu Bikeways	\$74	TRN 501					
	Construct a bikeway on Oahu from the vicinity of Ala Moana Park to Mokuleia by way of Pearl Harbor, Waipahu, Waianae and Kaena Point.							
	Construction							
	Total Funding				TRN	D	490	490D
48B.	Honolulu Airport Gateway Beautification, Nimitz Highway & Ala Moana Blvd., Oahu.	\$76	TRN 501					
	Landscaping and sprinkler systems on Nimitz Highway and Ala Moana Blvd. from the vicinity of Sand Island Access Road to the vicinity of Ala Wai Canal.							
	Construction							
	Total Funding				TRN	D	200	200D

49.	Guardrail & Shoulder Improve. at Various Loc on State Highways on Oahu. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails, concrete safety bar- riers and modernization of existing guardrails at various locations on state highways on Oahu.	S78	TRN 501				
	Design						
	Construction						
	Total Funding						
50.	Highway Lighting Improvements, Oahu. Highway lighting improvements and rehabilitation at various locations on Oahu.	S80	TRN 501				
	Design						
	Construction						
	Total Funding						
50A.	Study to Increase Safety & Capacity of Interstate H-1 from Middle St. to Aina Koa, Oahu. Design of high occupancy vehicle (HOV) lanes on interstate H-1 from Middle Street to Vineyard Blvd.	S81	TRN 501				
	Design						
	Construction						
	Total Funding						
50B.	Makai Boulevard Concept: High Occupancy Ve- hicle (HOV) Lanes, Oahu. To provide HOV lanes from Keehi interchange at interstate H-1, along the makai boulevard network to Kapiolani interchange on interstate H-1, and de- sign, land and construction for the first phase of HOV lanes, Keehi interchange to Pier 18 along Nimitz Highway.	S82	TRN 501				
	Plans						
	Total Funding						

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					FY 1979-80 M O F	FY 1980-81 M O F		
50C.	Sand Island Access Road Widening and Improvements, Oahu.	\$83	TRN	501				
	Completion of the partially developed Sand Island Parkway Road, construction of a second bridge paralleling the existing Bascule Bridge, widening of existing road to Nimitz Highway and construction of an interchange at Nimitz Highway.							
	Plans			D	20	20	20D	
	Total Funding		TRN					
50D.	Rehabilitate Existing Sprinkler Systems at Various Locations, Oahu.	\$85	TRN	501				
	Rehabilitate existing sprinkler systems to conserve water on landscaped areas along the interstate freeways and other major urban highways.							
	Design		TRN	D	50	20D	20D	
	Total Funding		TRN	J	20J	20J	20J	
			TRN	K	10K	10K	10K	
50E.	Access Road to Ho'omaluhia Wilderness Park, Oahu.	\$86	TRN	501				
	Plans and construction for an improved access road to the Ho'omaluhia Wilderness Park, to be matched by City and County of Honolulu funds.							
	Design		TRN	D	30	30	30	
	Construction		TRN	S	490	490	490	
	Total Funding		TRN		260D	260D	260D	
					260S	260S	260S	

50F.	Kalanianaole Highway, Construct Retaining Wall in the Vicinity of Uluhala Street, Oahu. Construct retaining wall along Kalanianaole Highway in the vicinity of Uluhala Street.	\$87	TRN 501	
	Design			12
	Construction			80
	Total Funding		D 92D	92D
51.	Likelike Highway, Stabilization of Fill, Oahu. Stabilization of fill on Likelike Highway from Kula Kolae Drive to Valley View Drive.	\$88	TRN 501	
	Design			25
	Construction			200
	Total Funding		D 225D	225D
51A.	Sealing of Well 1851-22 at Ala Moana Mini Park. Sealing abandoned well located at Ala Moana mini-park at the intersection of Richards Street and Ala Moana Blvd.	\$89	TRN 501	
	Design			8
	Construction			79
	Total Funding		D 87D	87D
51B.	Kamehameha Highway Realignment at Waimea Bay. Realign Kamehameha Highway away from eroded rock overhangs at Waimea Bay.	\$90	TRN 501	
	Design			71
	Total Funding		D 71D	71D

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					FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
51C.	Installation of Universal Testing Machine Construct Foundation to support testing machine; install and renovate housing of unit.	S91	TRN 501				
	Design				3		3
	Construction				20		20
	Total Funding		TRN	D	23D	23D	
51D.	Likelike Highway Improvements, Vicinity of Kula Kolea to Kam IV Road, Oahu. Roadway improvements and additional lane.	S92	TRN 501				
	Design				120		120
	Total Funding		TRN	D	120D	120D	
51E.	Likelike Highway Improvement, Kam IV Road to Kalihii Street, Oahu. Roadway improvements, additional lane, pedestrian footpath, and traffic signal including widening of Kalihii Stream Bridge and removal of pedestrian footbridge at Kalihii Stream Bridge.	S93	TRN 501				
	Design				200		200
	Total Funding		TRN	D	200D	200D	
51F.	Kahekili Highway, Oahu. Widening of the existing two-lane Kahekili Highway to a divided facility of four or six lanes from Waiee Stream to Likelike Highway.	LH0116	TRN 501				
	Construction		TRN	C	100	100	100C
	Total Funding						

51G.	Kealaolu Avenue and Waialae Avenue Intersec- tion, Oahu. Design, land acquisition, and construction of right turn lane from Waialae Avenue onto Kealaolu Ave- nue.	LH0126	TRN	501
	Construction	TRN	C	80
	Total Funding			80C
51H.	Pedestrian Walkway Along Likelike Highway, Oahu Planning and construction of pedestrian walkway and other improvements on Likelike Highway from School Street towards Kamehameha Field.	LH0134	TRN	501
	Construction	TRN	C	20
	Total Funding			20C
51I.	Hamakua Road, Kailua, Oahu Planning, land acquisition and construction of Ha- makua Road.	LH0202	TRN	501
	Construction	TRN	C	200
	Total Funding			200C
51J.	Kalanianaole Highway and Kapaa Quarry Road, Oahu Feasibility study for escape ramp and warning lights on Kalanianaole Highway in the vicinity of Kapaa Quarry Road.	LH0209	TRN	501
	Plans	TRN	C	25
	Total Funding			25C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 M F
					FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium 1979-81 M F	
51K.	Likelike-Kahekili Highway Interchange, Oahu	LH0216	TRN 501					
	Construction of a two-lane right turn ramp from Kahekili Highway to Likelike Highway and the complementary left-turn ramp from Likelike Highway to Kahekili Highway.							
	Construction							
	Total Funding		TRN	C	50	50	50C	
51L.	Farrington Highway, Oahu	LH0221	TRN 501					
	Plans and installation of traffic signal on Farrington Highway and Mokuola Street in Waipahu.							
	Construction							
	Total Funding		TRN	C	70	70	70C	
51M.	Likelike Highway, Oahu	LH0234	TRN 501					
	Planning funds for elimination of the pedestrian underpass on Likelike Highway near Wilson Street to allow for the installation of traffic signals.							
	Plans							
	Total Funding		TRN	C	10	10	10C	
51N.	Traffic Lights for Nuuanu Avenue and Pali Highway, Oahu	LH0242	TRN 501					
	Plans and installation of traffic lights along Nuuanu Avenue and Pali Highway.							
	Construction							
	Total Funding		TRN	C	40	40	40C	

51O.	Kahekili and Hui Iwa Street, Oahu Plans and construction of a left turn lane from Kahekili into Hui Iwa Street and other safety improvements at the intersection of Hui Iwa Street and Kahekili Highway.	LH0245	TRN	501			
	Construction		TRN		C	65	65C
	Total Funding				C	65	65C
51P.	Kamehameha Hwy. Castle Junction to & Including the Front of Hawaii Loa College, Oahu Plans and construction for the installation of street lights.	LH0309	TRN	501			
	Construction		TRN		C	25	25C
	Total Funding				C	25	25C
51Q.	Likelike Highway Pedestrian Overpass, Oahu Land acquisition and design of pedestrian overpass on Likelike Highway in the vicinity of Bishop Museum.	LH0314	TRN	501			
	Construction		TRN		C	125	125C
	Total Funding				C	125	125C
51R.	Farrington Highway, Oahu Plans, design and construction for the beautification of the triangle fronting Farrington Highway and Waipio Point Access Road and inclusion of a sprinkler system.	LH0321	TRN	501			
	Construction		TRN		C	40	40C
	Total Funding				C	40	40C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 M O F
					FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium 1979-81 M O F	
51S.	Traffic Signal at Whitmore Avenue at Kamehameha Highway, Oahu Installation of a traffic signal light at Whitmore Avenue and Kamehameha Highway.	LH0333	TRN	501				
	Construction		TRN	C	90	90	90	
	Total Funding				90C	90C	90C	
51T.	Bikeways, Oahu Planning and construction of improvements to existing bikeways and paths and expansion of new bikeways and paths in the twenty-first representative district.	LH0401	TRN	501				
	Construction		TRN	C	25	25	25	
	Total Funding				25C	25C	25C	
51U.	Waimea Bay Footbridge, Oahu Construction of a footbridge across Kamahameha Highway near Waimea Bay.	LH0433	TRN	501				
	Construction		TRN	C	35	35	35	
	Total Funding				35C	35C	35C	
51V.	Diamond Head Road Power Poles, Oahu Removal of power poles on Diamond Head Road.	LH0526	TRN	501				
	Construction		TRN	C	10	10	10	
	Total Funding				10C	10C	10C	

52.	Traffic Lights—Wyllie Street, Nuuanu Ave and Pali Hwy	LHI501	TRN	501			
	Plans and construction for installation of traffic lights.				5	5	
	Plans				5	5	
	Design				5	5	
	Construction				50	50	
	Total Funding				60C	60C	
53.	Likelike Highway and North School Street, Oahu	LHI601	TRN	501			
	Plans and design for improvements to intersection.				30	30	
	Plans				30C	30C	
	Total Funding				TRN	TRN	
54.	Likelike Highway and Kalihii Street, Oahu	LHI602	TRN	501			
	Plans and design for improvements to intersection.				10	10	
	Plans				10C	10C	
	Total Funding				TRN	TRN	
55.	Alu Street and Likelike Highway, Oahu	LHI650	TRN	501			
	Plans and construction of safety improvements in intersection.				10	10	
	Design				50	50	
	Construction				60C	60C	
	Total Funding				TRN	TRN	
56.	Wilson Street and Likelike Highway, Oahu	LHI651	TRN	501			
	Plans and engineering of traffic lights at intersection.				10	10	
	Design				10C	10C	
	Total Funding				TRN	TRN	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY M O	FY M O	
57.	Kaihi Street and Likelihi Highway, Oahu Plans and construction of improvements at intersection.	LH1632	TRN 501		10	C	10	10C
	Design				10			
	Total Funding				TRN	10C	C	10C
58.	School Street and Likelihi Highway, Oahu Planning and construction of improvements at intersection.	LH1633	TRN 501					
	Design				5			
	Construction				20			
	Total Funding				TRN	25C	C	25C
59.	Aloha Stadium Pedestrian Overpass, Moanalua Road, Oahu Plans and construction for a pedestrian overpass across Moanalua Highway.	LH1801	TRN 501					
	Design				50			
	Construction				200			
	Total Funding				TRN	250C	C	250C
60.	Kunia Road, Oahu Plans and construction for installation of state highway lights along Kunia Road between H-1 freeway and Wilikina Drive.	LH2001	TRN 501					
	Construction				120			
	Total Funding				TRN	120C	C	120C

61.	Kamehameha Highway, Oahu Plans and construction for the installation of street lights on Kamehameha Highway between Meheula Parkway and Lanikuhana Avenue.	LH2002	TRN	501				
	Construction							
	Total Funding		TRN					
62.	Farrington Highway, Oahu Plans, design and construction of retaining wall to control erosion on Farrington Highway between Waipio Point access road and Awanui Street in Waipahu.	LH2003	TRN	501				
	Design							
	Construction							
	Total Funding		TRN					
63.	Farrington Highway, Oahu Plans and construction of Farrington Highway drainage improvements, providing drainage from storm culvert fronting TMK 9-4-15-20 into Kapa- kahi Stream. Funds from Item II-C-15, Section 2 of Act 244, SLH 1978, shall be used for this project.	LH2004	TRN	501				
	Design							
	Construction							
	Total Funding		TRN					
64.	Farrington Highway, Nanakuli, Oahu Survey, plans and construction of pedestrian cross- walks, situated to correspond with City and County of Honolulu bus stops, along entire length of Far- rington Highway in Nanakuli.	LH2101	TRN	501				
	Plans							
	Construction							
	Total Funding		TRN					

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Item No.	Program and Capital Project Effects, Oahu	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1980-81 F	Total M 1980-81 F	
65.	21st Representative District Transportation Projects, Oahu	LH2102	TRN	501				
	Plans and construction of transportation facilities and projects within the 21st representative district.							
	Construction			10				
	Total Funding		TRN	10C		C	10	
66.	Kamehameha Highway, Oahu	LH2201	TRN	501				
	Plans and construction for pavement of shoulder of Kamehameha Highway fronting all of Kahuiku High School for bus loading and unloading purposes.							
	Design			7			7	
	Construction			33		C	33	
	Total Funding		TRN	40C			40C	
67.	Kamehameha Highway, Haleiwa to Wahiawa, Oahu	LH2250	TRN	501				
	Truck lane on Kamehameha Highway from Wahiawa to Haleiwa.							
	Plans			50			50	
	Total Funding		TRN	50C		C	50C	
68.	Kamehameha Highway, Wahiawa, Oahu	LH2251	TRN	501				
	Plans and construction for installation of street lights along Kamehameha Highway from Karsten Thot bridge to Whimore Avenue.							
	Plans			5			5	
	Construction			25			25	
	Total Funding		TRN	30C		C	30C	

69.	Poamoho, Kamehameha Highway, Oahu Plans and construction for the widening of Kamehameha Highway at Poamoho.	LH2252	TRN	501			
	Plans				15		15
	Construction				85		85
	Total Funding		TRN	100C	C		100C
70.	Kamehameha Highway Fronting Kaaawa Elementary School Drainage System, Oahu Design and construction of a drainage system fronting Kaaawa Elementary School.	LH2301	TRN	501			
	Construction				50		50
	Total Funding		TRN	50C	C		50C
71.	Haiku Road Pedestrian Overpass, Oahu Plans and construction of a pedestrian overpass fronting Heeia Elementary School.	LH2302	TRN	501			
	Construction				75		75
	Total Funding		TRN	75C	C		75C
72.	Maunawili Bridge, Oahu Plans and construction to bridge to eliminate noise.	LH2401	TRN	501			
	Construction				8		8
	Total Funding		TRN	8C	C		8C
73.	Drainage Improvements—Castle High School, Oahu Plans, design and construction of road drainage improvements to mauka lane fronting Castle High School.	LH2402	TRN	501			
	Construction				30		30
	Total Funding		TRN	30C	C		30C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total M Biennium 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total M Biennium 1979-81 F	
74.	Likelike and Kam Highway, Oahu Plans, design and construction for improvements to lights at intersection of Likelike and Kam High- way.	LH2403	TRN 501					
	Construction			10				
	Total Funding			10C				
75.	Pali and Kalanianaole Highway Intersection Oahu Plans and construction for replacement of present lights to pressure lights at intersection of Pali and Kalanianaole Highway.	LH2404	TRN 501					
	Construction							
	Total Funding			TRN				
76.	Kamehameha Highway, Kaneohe, Oahu Plans and construction for installation of street lights from Castle Junction to and including the front of Hawaii Loa College.	LH2450	TRN 501					
	Construction							
	Total Funding			TRN				
77.	Kalanianaole Highway, Waimanalo, Oahu Plans and construction of pedestrian and traffic safety improvements on Kalanianaole Highway. Design Construction	LH2601	TRN 501					
	Design							
	Construction							
	Total Funding			TRN				

78.	Kamehameha Highway, Oahu Design and construction for incremental resurfacing and general highway improvements, including bike lanes on Kamehameha Highway from Hygenic Store to Kahuku Hospital.	LS0317	TRN	501
	Construction			
	Total Funding	TRN	225	C
			225	225C
79.	Kaneohe Bay Drive, Oahu Design and construction for incremental reconstruction of existing two-lane Kaneohe Bay Drive to accomodate shoulders, bike lanes and walkways.	LS0318	TRN	501
	Construction			
	Total Funding	TRN	100	C
			100	100C
80.	Likelike Highway, Oahu Design and construction for installation of street lights along Likelike Highway from the Wilson Tunnel toward Kalihii.	LS0319	TRN	501
	Construction			
	Total Funding	TRN	30	C
			30	30C
81.	Pali Highway, Oahu Design and construction for installation of street lights along Pali Highway from the Pali Tunnel towards Nuuanu.	LS0320	TRN	501
	Construction			
	Total Funding	TRN	50	C
			50	50C
82.	Bypass Route Around Haleiwa, Oahu Design and construction for a bypass route around Haleiwa, Oahu. Supplements prior appropriations.	LS0409	TRN	501
	Construction			
	Total Funding	TRN	50	C
			50	50C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total M 1979-81 F	
83.	Farrington Highway Drainage Improvements, Oahu	LS0410	TRN 501					
	Design and construction for drainage from a storm culvert fronting TMK 9-4-15:20 and TMK 9-4- 14:1 into Kapakahi Stream. To be supplemented by funds from Act 244, SLH 1978, Item III-C-15.							
	Design				10		10	
	Construction				65		65	
	Total Funding				75C		75C	
84.	Sidewalks and Bikeways, Kaneohe Bay Drive, Oahu	LS0421	TRN 501					
	Design and construction for sidewalks and bike- ways along Kaneohe Bay Drive from Castle High School to Mikiola Drive.							
	Design				10		10	
	Construction				90		90	
	Total Funding				100C		100C	
85.	Guardrails at Ulupii Street and Kalanianaole Highway, Oahu	LS0422	TRN 501					
	Design and construction to extend guardrails at Ulupii Street and Kalanianaole Highway.							
	Construction							
	Total Funding				5C		5C	

86.	Ground Improvements for State Highways, Oahu	LS0520	TRN	501				
	Plans, design, construction of ground improvements, including landscaping of road shoulders and medial strips along state highways for the abatement of noise and air pollution.							
	Construction	70	70C					
	Total Funding	C						
87.	Salt Lake Boulevard, Oahu	LS0521	TRN	501				
	Plans, design and construction for improvements to the intersection of Salt Lake Boulevard and Kalaloa Street, including sidewalks and shoulder improvements.							
	Construction	25	25C					
	Total Funding	TRN	C					
87A.	Interchange on Interstate H-2 in the Vicinity of Mililani Memorial Road	SL0405	TRN	501				
	Design and construction of an interchange on interstate H-2 in the vicinity of Mililani Memorial Road.							
	Design	5						
	Construction	95						
	Total Funding	TRN	B	100B				
87B.	Mokuula Street Improvements, Waipahu	SL0406	TRN	501				
	Planning, design, and construction of roadway and improvements necessary to complete Mokuula Street in Waipahu, Oahu.							
	Construction	125						
	Total Funding	TRN	B	125B				

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1980-81 F	M 1980-81 F	
87C.	Kamehameha Highway, Haleiwa to Kahuku Funds for study of improvements to Kamehameha Highway, Haleiwa to Kahuku.	SL0407	TRN 501			50	50B	
	Plans				TRN	B	50B	
	Total Funding							
87D.	Farrington Highway, Waipio Access Road and Kahualii Street, Oahu Plans and construction for improvements to the tri- angle area which is bounded by Farrington High- way, Waipio Access Road and Kahualii Street, and which fronts Waipahu High School.	SL0408	TRN 501					
	Construction				TRN	B	17 17B	
	Total Funding							
	Hawaii Highways and Services							
87E.	Hilo Waterfront Road, Vicinity of Wailuku River to Hilo Wharf, South Hilo Improvement of highway from vicinity of Wailuku River to Hilo Wharf including replacement of Wailoa River bridge.	TO2	TRN 511					
	Plans				TRN	D	50D	
	Total Funding							
88.	Kuakini Highway, Hawaii Realignment of present two-lane highway to meet the Kalina-Kawaihae Road at its intersection with Palani Road.	TO4	TRN 511					
	Land Acquisition				1,870		80	1,950
	Design						155	155
	Total Funding				TRN	1,870D	235D	2,105D

88A.	Kawaihae Road: Waimea Toward Hapuna Incremental construction of a hwy from Mamala- hoa Hwy in the vicinity of Kamuela racetrack to Queen Kaahumanu Hwy at Hapuna & construct a hwy along route 27C from the jct of rte 270 and 19 to Kawaihae.	T06	TRN	511			
	Land Acquisition				131	131	
	Design				13	13	
	Total Funding		TRN	D	144D	144D	
88B.	Hawaii Belt Road, Improvements Realignment of portion of Hawaii Belt Road in- cluding the construction of the Kapehu and Kaalau ridges.	T16	TRN	511			
	Design				174	174	
	Total Funding		TRN	D	174D	174D	
89.	Hawaii Belt Road, Climbing Lanes, Hamakua, Hawaii. Construction of climbing lanes from Kaawali Gulch to Ookala Cemetery.	T26	TRN	511			
	Construction				404	404	
	Total Funding		TRN	D	404D	404D	
89A.	Hawaii Belt Road: Replacement of 5 Bridges Hawaii Belt Road improvement, Hamakua, Ha- waii—replace existing wooden bridges at Kainehe, Kaholalele, Paauilo School and East Paauilo Streams and concrete bridge at Kealakaha Stream.	T27	TRN	511			
	Land Acquisition				115	115	
	Design				80	80	
	Construction				1,305	1,305	
	Total Funding		TRN	D	500D	500D	
			TRN	K	1,000K	1,000K	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY M O 1979-80 F	FY M O 1980-81 F	Total Biennium M O 1979-81 F	
90.	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 Keau-Paho Road, including improvement of the Hawaii Belt Road and Keau-Paho Road intersection.	T56	TRN 511					
	Construction				170		D	
	Total Funding		TRN	170D				170 170D
91.	Hawaii Belt Road, Truck Climbing Lanes, Pepeekeo, South Hilo	T61	TRN 511					
	Construction of climbing lanes on Hawaii Belt Road at Pepeekeo.							
	Design					20		
	Construction				609		20D	
	Total Funding		TRN	609D				609 629D
92.	Keau-Paho Rd., Puna, Hawaii	T62	TRN 511					
	Realignment of highway from the vicinity of Keonepoko homesteads to Paho-Kalapana Road in the vicinity of the Paho-Kalapana-Kapoho Road junction.							
	Land Acquisition							
	Design				380		50	380 195
	Total Funding		TRN	278D			50D	278D 247L

92A.	Hawaii Belt Road, Hawaii Volcano National Park (Kau-Kona)	T73	TRN	511				
Plans and construction for incremental construction and realignment of highway between Kau and Kona.								
	Design		TRN		D	30	30	
	Total Funding					30D	30D	
92B.	Keaau-Pahoa Road Puna, Hawaii.	T75	TRN	511				
Reconstruction of highway from Hawaiian Paradise Park to vicinity of Keonepoko homesteads.								
	Land Acquisition					70	70	
	Design		TRN		D	95	95	
	Total Funding		TRN		L	120D	120D	
						45L	45L	
93.	Guardrail and Shoulder Improvements, Various Locations on State Highways	T77	TRN	511				
Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highway on Hawaii.								
	Design					12	16	
	Construction		TRN		230	296	28	
	Total Funding				242D	312D	526	
							554D	
94.	Hawaii Belt Road, Plumeria Road Intersection.	LH0301	TRN	511				
Plans and construction for improvements at Plumeria Road, Hawaii Belt Road, Honokaa.								
	Construction		TRN		100	C	100	
	Total Funding				100C		100C	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
95.	Hawaii Belt Highway, Kona, Hawaii Design and construction of general safety improvements between Milolii and Honaunau, Kona, Hawaii.	LS0130	TRN 511					
	Construction				50		50	
	Total Funding		TRN		50C	C	50C	
96.	Overpass at Kealakehe School, Hawaii Design and construction of an overpass over Palani Road to Kealakehe School in Kona, Hawaii.	LS0131	TRN 511					
	Construction				40		40	
	Total Funding		TRN		40C	C	40C	
97.	South Hilo Road Improvements, Hawaii Improvements to existing streets in Hilo area. Supplements prior appropriations.	LS0132	TRN 511					
	Construction				20		20	
	Total Funding		TRN		20C	C	20C	
	Maui Highways and Services							
98.	Maui Baseyard, Kahului, Maui. Design and construction for Maui district baseyard.	V17	TRN 531					
	Construction				375		375	
	Total Funding		TRN		375D	D	375D	
98A.	Haleakala Highway—Airport to Kula Highway Makawao, Maui—widen, realign and reconstruct highway from Kahului Airport junction on Hana Highway to Kula Highway, junction at Pukalani.	V41	TRN 531					
	Design				50		50D	
	Total Funding		TRN		D		50D	

98B.	Honoapiilani Highway, Lahaina, Maui Construction of two-lane highway from Honoko- wai to Honokahua.	V42	TRN 531				
	Land Acquisition						
	Construction						
	Total Funding						
99.	Piilani Highway, Kihei to Ulupalakua. Incremental construction of highway from Kihei to Ulupalakua.	V43	TRN 531				
	Land Acquisition						
	Construction						
	Total Funding						
100.	Hana Highway—Huelo to Hana, Maui Repair and replacement of bridges and culverts, safety improvements and resurfacing of Hana Highway from Huelo to Hana.	V45	TRN 531				
	Land Acquisition						
	Design						
	Construction						
	Total Funding						
101.	Guardrail and Shoulder Improvements on State Highways on Maui. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highways on Maui.	V48	TRN 531				
	Design						
	Construction						
	Total Funding						

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				Exp. Agy.	FY 1979-80	FY 1980-81	Total M O F	
102.	Hana Highway Improvements, Maui Design and construct a sidewalk along Hana Highway between lower Paia community center and lower Paia town.	L.S0212	TRN 531					
	Design			8				8
	Construction			47				47
	Total Funding		TRN	55C			C	55C
 <b>Molokai Highways and Services</b>								
102A.	Kamehameha V Hwy & Maunaloa Hwy. Drainage Improvements at Various Locations, Molokai.	W06	TRN 541					
	Drainage improvements at various locations on Kamehameha V Highway, Kaunakakai to Kamalo and Maunaloa Highway.							
	Design		TRN	D			20	20
	Total Funding						20D	20D
102B.	Kamehameha V Highway and Maunaloa Highway—Replacement of Bridges, Molokai. Replacement of Honoulimalo and Kamalo bridges on Kam V Highway and Manawainui bridge on Maunaloa Highway.	W07	TRN 541					
	Design		TRN	D			125	125
	Total Funding		TRN	L			60D	60D
							65L	65L

103.	Guardrail and Shoulder Improvements on State Highways on Molokai. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrails and modernization of existing guardrails at various locations on state highways on Molokai.	W08	TRN	541
	Design			20
	Construction			220
	Total Funding	TRN	120D	240D
103A.	Maunaloa Highway, Molokai, Maui Plans, design, and construction for resurfacing and other improvements.	LH0115	TRN	541
	Construction			250
	Total Funding	TRN	C	250C
104.	Kamehameha V Highway, Molokai Plans and construction for incremental resurfacing of highway toward east-end of Molokai.	LH0601	TRN	541
	Plans			5
	Construction			45
	Total Funding	TRN	50C	50C
105.	Kamehameha V Highway, Molokai Plans, design and construction for resurfacing and other improvements to the highway.	LH0650	TRN	541
	Design			5
	Construction			45
	Total Funding	TRN	50C	50C

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					FY 1979-80 F	M 0	FY 1980-81 F	
106.	Kamehameha V Highway, Molokai Design and resurface highway toward east end of Molokai to supplement prior appropriation in Act 244 SLH 1978 Section 2 Item II-D-5.	LS0213	TRN 541					
	Construction			TRN	50		C	50
	Total Funding				50C			50C
106A.	Maunaloa Highway, Molokai Funds for resurfacing of Maunaloa Highway, Mo- lokai. Replacement of bridges, and other improve- ments.	SL0202	TRN 541					
	Design							
	Construction							
	Total Funding			TRN	B			300B
	Lanai Highways and Services							
107.	Guardrail and Shoulder Improvements on State Highways on Lanai.	W58	TRN 551					
	Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving and installation of metal guardrail and modernization of existing guardrail at various locations on state high- ways on Lanai.							
	Design							
	Construction							
	Total Funding			TRN	D			165D
								15 150 150D

	Kauai Highways and Services							
107A.	Kauai Belt Rd., Hanalei to Kaliihwi Hanalei, Kauai—construction of highway, includ- ing appurtenant drainage, landscaping and im- provements.	X03	TRN	561				
	Design							
	Total Funding		TRN		D	100	100D	100D
107B.	Kauai Belt Rd., Lumaha'i to Hanalei, Kauai. Construction of highway, including major drainage structure and landscaping.	X04	TRN	561				
	Design					151	151D	151D
	Total Funding		TRN		D	151	151D	151D
107C.	Kauai Belt Road, Hanalei Bridge & Approaches Hanalei, Kauai—construction of new bridge over the Hanalei River, including approaches, to replace existing Hanalei bridge.	X05	TRN	561				
	Land Acquisition					103	103	103
	Design					307	307	307
	Total Funding		TRN		D	115D	115D	115D
			TRN		K	295K	295K	295K
107D.	Waikoko Bridge Replacement, Kauai Belt Road—Hanalei, Kauai Construction of bridge and approaches to replace deteriorating structure.	X39	TRN	561				
	Design					30	30D	30D
	Total Funding		TRN		D	30	30D	30D
107E.	Hanamaulu—Ahukini Cutoff Rd. Kauai Land acquisition, plans & construction of hwy to relieve congestion thru Lihue town area.	X43	TRN	561				
	Land Acquisition					506	506	506
	Total Funding		TRN		D	164D	164D	164D
			TRN		K	342K	342K	342K

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					FY 1979-80 F	M 1980-81 F	Total	
108.	Kaumualii Highway—Huleia Bridge Replacement, Kauai.	X45	TRN 561					
	Construction of bridge and approaches to replace existing structure.							
	Land Acquisition				77		77	
	Design						175	
	Total Funding				TRN	175D	77D	252D
109.	Maalo Road Widening, Kauai	X47	TRN 561					
	Widen road from Kuhio Highway to Wailua Falls lookout.							
	Land Acquisition					50		
	Design					55		
	Total Funding				TRN	105D	D	105D
109A.	State Highways, Kauai—Safety Improvements at Various Locations Including Drainage.	X49	TRN 561					
	Safety improvements at various locations on Kauai including widening, reconstructing, resurfacing, installing guardrails and pavement markers, and other improvements necessary to enhance safety.							
	Land Acquisition						25	
	Total Funding				TRN	D	25D	25D
109B.	Kauai Belt Road—Safety Improvements, Kauai	X50	TRN 561					
	Safety improvements between Eleele Road and Hanapepe Road.							
	Land Acquisition						26	
	Design					5	5	
	Construction					451	451	
	Total Funding				TRN	D	482D	482D

110.	Guardrail and Shoulder Improvements at Various Locations on State Highways on Kauai. Upgrading of existing dirt or sod shoulders with stabilized base and surface treatment or paving & installation of metal guardrails & modernization of existing guardrails at various locations on state highways on Kauai.	X51	TRN	561				
	Design			24	24	48		
	Construction			314	284	598		
	Total Funding	TRN		338D	308D	646D		
110A.	Kuhio Highway, Kauai. Construction of passing lanes between Hanamaulu and Wailua.	X54	TRN	561				
	Design			40	40	40		
	Total Funding	TRN		D	40D	40D		
110B.	Kokee Rd. and Waimea Canyon Road, Waimea, Kauai Construction of emergency turn off ramps, vehicular runaway ramps and other necessary safety improvements.	X55	TRN	561				
	Land Acquisition			71	71	49		
	Design			D	60D	60D		
	Total Funding	TRN		L	60L	60L		
110C.	Kuhio Highway Safety Improvements Vicinity of Coco Palms Hotel Design, acquire r/w and construct off-street parking areas and fencing.	X56	TRN	561				
	Land Acquisition			11	11	19		
	Design			D	30D	30D		
	Total Funding	TRN						

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1979-80 F	Total M 1980-81 F	
110D.	Kauai Belt Road, Realignment at Eleele, Kauai Plans for realignment of Kauai Belt Road at Eleele, Kauai.	LH0100	TRN 561			60	60C	
	Plans					60	60C	
	Total Funding				TRN	C	60C	
111.	Newiliwili Road Safety Improvements, Kauai Plans and construction for realignment of Newili- wili Road intersecting Kaumualii Highway.	LH2701	TRN 561			4	4	
	Plans					4	4	
	Construction				TRN	31	31	
	Total Funding					35C	35C	
	Land Transportation Fac & Svcs Support							
111A.	Pavement Markings at Various Bridges, State- wide Install delineators and pavement markings.	X92	TRN 595					
	Design				TRN	D	300D	
	Construction							
	Total Funding							
112.	Renovation of Aliiaimoku Building The project shall include the replacement of the air conditioning equipment and installing zone con- trols, more efficient lighting system, false ceiling and renovation of offices.	X93	TRN 595			15	15	
	Plans					285	285	
	Design							
	Construction							
	Total Funding				TRN	563D	323D	
								886D

113.	To Construct Vehicle Size & Weight Enforcement Sites at Various Locations Along State Hwy's.	X94	TRN	595				
	Design				37			
	Construction				677			
	Total Funding				714D	D		
114.	Miscellaneous Drainage Improvements Statewide—drainage improvements to existing highway facilities.	X97	TRN	595				
	Land Acquisition				10			
	Design				30			
	Construction				160			
	Total Funding		TRN	100D	200D			
115.	Miscellaneous Improvements to Existing Intersections and Highway Facilities. Statewide miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety.	X98	TRN	595				
	Land Acquisition				100			
	Design				235	235		
	Construction				1,815	1,815		
	Total Funding		TRN	625D	625D	1,250D		
			TRN	1,525N	1,525N	3,050N		
116.	Highway Planning, Statewide Road use, road life, economic studies, research and advance planning of federal-aid and non federal-aid highway projects.	X99	TRN	595				
	Plans		TRN	600	1,800			
	Total Funding		TRN	600N	865B	935N		
					2,400	865B		
						1,535N		

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					FY 1979-80 F	FY 1980-81 F	Total Biennium M 1979-81 F						
<b>D. ENVIRONMENTAL PROTECTION</b>													
<b>POLLUTION CONTROL</b>													
	Solids, Liquids, Gases, and Noise												
1.	Sewerage Construction Grants	Y01	HTH	840									
	Grants to county or state agencies for elig. water pollution control facil. conforming w/state WPC plan auth. by Act 187/78. State may make grants to finance elig. plan, design &/or constr costs of projects receiving fed grants.												
	Design				1		1						
	Construction				2,999		2,252						
	Total Funding				3,000C		2,253C						
<b>PRESERVATION AND ENHANCEMENT</b>													
<b>Forests and Wildlife Resources</b>													
2.	Forest Fences	D04	LNR	402									
	Forest fences, fences, for forest reserve and management unit boundary. Standards: stock or non-stock proof. Fencing can produce emergency grazing land (drought), noxious plant control by controlled grazing, protection of forest where presence of livestock is detrimental, F.R. or mgt unit boundary delineation. Project applies 100% to forests and open spaces.												
	Construction				49		49						
	Equipment				1		1						
	Total Funding				50A		A						

3.	Hawaii Endangered Species Facilities Plans and construction of utility buildings and staff and cooperater quarters and animal enclosures.	D23	LNR	402			
	Plans			1	1	2	
	Design			1	1	1	
	Construction			1	1	1	
	Total Funding			59	59	77	
				20C	15C	35C	
				N	45N	45N	
4.	Kanaha Pond Wildlife Sanctuary Improvements Development of water control structures, moats, islands, signs and markers, access roads and public viewing facilities.	D24	LNR	402			
	Plans			18	2	2	
	Design			20C	2	2	
	Construction			N	16	16	
	Total Funding			20C	C	20C	
5.	Kahoolawe Conservation Program Incremental development of a comprehensive conservation program for the island of Kahoolawe to include research, surveys, erosion control work, water development, feral animal removal, and the preservation, restoration, and development objects, structures, places and resources of Kahoolawe.	D26	LNR	402			
	Plans			10	10	10	
	Construction			80	80	80	
	Equipment			10	10	10	
	Total Funding			100C	C	100C	

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					FY 1979-80 F	M O	FY 1980-81 F	
6.	Groundwater Monitor Wells—Statewide Incremental construction of monitor wells including measuring apparatus and appurtenances.	G55	LNR 404		10		10	
	Land Acquisition				10		10	
	Design				20		20	
	Construction					200	200	
	Equipment					20	20	
	Total Funding				LNR	30C	220C	250C
	Coastal Areas							
6A.	Waikiki Beach Erosion Control, Oahu Restoration of 10,800 feet of Waikiki Beach from Duke Kahanamoku Beach to Elks Club. Restoration and improvements consist of construction of groins and placement of sand. Possible federal aid anticipated in the planning period is approximately \$5,170,000.	100	TRN	903				
	Design							
	Total Funding				TRN	C	100C	100C
7.	Sand Island Shoreline Erosion Control, Oahu Shoreline protection and erosion control of the eastern edge of Sand Island. Possible federal aid in the planning period is approximately \$405,000. This project qualifies for fed aid financing/reimbursement.	140	TRN	903				
	Construction							
	Total Funding				TRN	66C	66C	66C

8. Keehi Shoreline Erosion Control, Oahu  
Design and construction of revetment for shoreline protection, clearing, grading, and other improvements at Keehi, Oahu.

Design		25		
Construction		250		
Total Funding	TRN	275C	C	275C

170 TRN 903

Design		25		
Construction		250		
Total Funding	TRN	275C	C	275C

## E. HEALTH

### PHYSICAL HEALTH

#### Communicable Diseases

#### Leprosy

1. Petroleum Drum Storage Shed  
Covered storage facility to protect and minimize damage to fuel drums exposed to inclement weather. Pole-type structure approximately 34 ft by 70 ft in dimension 14 ft clear inside height with one side open.

Design		3		
Construction		AGS	3C	C
Total Funding				3C

3 AGS 3C C 3C

1A. Kalaupapa Water System Improvements, Molokai  
Improvements to Kalaupapa water system to comply with the requirements of the safe drinking water act.

Construction		50		
Total Funding	AGS	50C	C	50C

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					FY 1979-80	M O F	FY 1980-81	
1B.	Kalaupapa Wind Energy System Development of wind energy system in Kalaupapa, Molokai.	SL0510	HTH 111					
	Design					10	10	
	Construction					10	10	
	Equipment					30	30	
	Total Funding		AGS	C		50C	50C	
 <b>Health Care Services</b>								
1C.	Puuhonua Family Stress Center, Hawaii Repair and construction of fire damaged building utilized as family stress center at Puuhonua, Hilo, Hawaii.	LHC0338	HTH 801					
	Construction					15	15	
	Total Funding		AGS	C		15C	15C	
 <b>Hospital Care</b>								
	Hilo Hospital							
3.	New Acute Care Facility in Hilo To design and construct new acute care hospital.	C28	HTH 211					
	Construction					15,000	15,000C	
	Total Funding		AGS					
								30,000 30,000C

4.	Honokaa Hospital Replacement of Non-Conforming Facilities	LH0301	HTH212				
	Plans and construction to replace non-conforming facilities. Supplements prior appropriations. 3,7740 sq ft 35 beds.						
	Increment 1 hospital 19040 sq ft and sitework						
	Increment 2 hospital 6900 sq ft						
	Increment 3 hospital 11800 sq ft sitework roadway and parking 80 stalls.						
	Design	25		25		25	
	Total Funding		AGS	25C	C	25C	
5.	Kau Hospital	H16	HTH	213			
	Kau Hospital Recreation and Therapy Area						
	Plans and construction of a recreation and therapy area.						
	Design			3			
	Construction			47			
	Total Funding		AGS	50C	C	50C	
6.	Kau Hospital Storage & Maintenance Work Area	H17	HTH	213			
	Plans and construction of a storage and maintenance area.						
	Design			2			
	Construction			13			
	Total Funding		AGS	15C	C	15C	
7.	Kau Hospital, Hawaii	LS0102	HTH	213			
	Design and construction for recreation and therapy, office space and restroom, storage and maintenance, employees cottages. To supplement available appropriations.						
	Construction						
	Total Funding		AGS	40C	C	40C	

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					FY 1979-80 F	M O	FY 1980-81 F	
8.	Kohala Hospital—Employee Cottages Planning and design of employee quarters.	H11	HTH	214				
	Construction				10			10
	Total Funding				10C	C	10C	
	Kona Hospital							
8A.	Kona Hospital Emergency Room Renovation & Remodel present emergency room & clinic area & expand both areas into present open space adjacent to emergency room. Provide space for triage, trauma treatment, nurses station, consultants treat- ment rooms, toilets, & public waiting. Gross square footage = approx 2000 ft.	H25	HTH	215				
	Construction				AGS	C	250 250C	250 250C
	Total Funding							
9.	Renovation of Employee's Quarters and Con- struction of Additional Employee Quarters Renovation of present building and construction of additional employee quarters.	H27	HTH	215				
	Plans				5			5
	Design				15			15
	Total Funding				AGS	20C	C	20C
10.	Drywell, Old and New Kona Hospital, Hawaii Design and construction of a drywell for storm wa- ter protection in the old and new Kona Hospital area.	LS0103	HTH	215				
	Construction				AGS			
	Total Funding				36C	C		36C

11.	Old Kona Hospital, Kona, Hawaii Design and construction for renovation of old Kona Hospital for use by state and government services. Construction Total Funding	LS0104      HTH      215	AGS      100 100C	C      100 100C	
12.	Hana Medical Center Modernization and Renovation Additional space for lab exam rooms, education room and conference room including equipment, provide ambulance cover and warehouse for storage, generator, heater, including equipment. Plans Design Total Funding	C06      HTH      222	AGS      10 30 40C	C      10 30 40C	
12A.	Kula Hospital Modernization and Renovation to Correct Code Deficiencies The proposed project will be to eliminate all building code deficiencies and maximize the use of the existence of the five story structure. It is estimated that the proposed project will cost \$8106380. Refer to the certificate of need for further details. Construction Equipment Total Funding	D06      HTH      223	AGS      7,974 50 8,024C	C      7,974 50 8,024C	

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					FY 1979-80 F	FY 1980-81 F	Total M O	
13.	Kauai Veterans Memorial Hospital	LS0801	HTH 231					
	Design and construction for the renovation to Kauai Veterans Memorial Hospital, furnishings and other improvements. Unexpended balances from Act 9, Special Session Laws of Hawaii 1977, Item IV-H-1; Act 244, Session Laws of Hawaii 1978, Item V-H-3 may be used for this project.							
	Construction							
	Total Funding				1 1C		C	1 1C
14.	Kauai Veterans Memorial Hospital, Kauai	LS0802	HTH 231					
	Plans for ten new nurses quarters to house nurses employed at Kauai Veterans Memorial Hospital.							
	Plans							
	Total Funding				25 25C		C	25 25C
14A.	Samuel Mahelona Memorial Hospital							
	Electrical Work	Samuel Mahelona Memorial Hospital	SMMH-2	HTH 232				
	Correct electrical code deficiencies Samuel Mahelona Memorial Hospital as indicated in the electrical study DAGS job no. 04-20-2418.							
	Design							
	Construction							
	Total Funding							

	Maluhia Hospital							
15.	Maluhia Hospital—Replace Steam Boilers Replace steam boilers.	H08	HTH 241					
	Plans			2				
	Construction			10				
	Equipment			30				
	Total Funding			42C				
				C				
	Leahi Hospital							
15A.	Leahi Hospital Renovation to north Trotter building.	C50	HTH 242					
	Construction				868			
	Total Funding				868C			
				C				
	Leahi Hospital, Oahu, Young Building							
15B.	Plans and construction for additions, renovations, and remodeling of medical and ancillary facilities, including landscaping, lighting and equipment.	Q02	HTH 242					
	Design				275			
	Total Funding				275C			
				C				
15C.	Facilities Masterplan for Leahi Hospital To develop a facilities master plan for Leahi Hospi- tal.	Q03	HTH 242					
	Plans				165			
	Total Funding				165C			

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				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium M 1979-81 F
	MENTAL HEALTH						
	Hawaii State Hospital						
15A.	Hawaii State Hospital Oahu	E02	HTH	430			
	New or modification of facilities of to meet all codes and standards required of hospitals by code enforcing agencies and to meet program needs.						
	Plans			45			
	Design			160			
	Construction			3,306			
	Total Funding		AGS	3,511C			
16.	Hawaii State Hospital, Oahu	LH2401	HTH	430			
	New or modification of facilities of Hawaii State Hospital to meet all codes and standards required of hospitals by code enforcing agencies and to meet program needs. To be supplemented by funds in Item E-17, Act 243, Regular Session of 1978.						
	Design			10			
	Total Funding		AGS	10C			
					C		
						10	10C
	OVERALL PROGRAM SUPPORT						
	General Administration						
17.	Wailuku Health Center Expansion	I24	HTH	907			
	To provide for plans/design, construction, air conditioning, and equipment for expansion of the Wailuku health Center.						
	Plans						
	Total Funding		AGS	25C			
					C		
						25	25C

17A.	Waianae Comprehensive Health Center, Oahu Planning, design, and construction of improvements to the Waianae comprehensive health center.	LH0201	HTH	907			
	Construction	AGS	C	105	105	105C	
	Total Funding			105C			
17B.	Waianae Comprehensive Health Center, Oahu Planning, design and construction of new health care facilities.	LH0835	HTH	907			
	Construction	AGS	C	80	80	80C	
	Total Funding			80C			
<b>Private Hospitals &amp; Medical Services</b>							
18.	St. Francis Renal Dialysis Center Hilo, Hawaii Plans and construction of the renal dialysis center. Shall be supplemented by Section 2, Item I-H-3 of Act 244, Session Laws of Hawaii 1978. Grant-in-aid.	LH0201	SUB	601			
	Construction	HTH		75	C	75C	
	Total Funding			75C			
18A.	Castle Memorial Hospital, Oahu Grant-in-aid for plans and construction for expansion and renovation of emergency room and radiology facilities at Castle Memorial Hospital (to be expended by the Department of Health).	LH0445	SUB	601			
	Construction	HTH	C	210	210	210C	
	Total Funding			210C			

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					FY 1979-80 M F	FY 1980-81 O F	Total Biennium M O	
18B.	G. N. Wilcox Memorial Hospital, Kauai Grant-in-aid for plans and construction of improvements at G. N. Wilcox Memorial Hospital and health center.	LH0700	SUB 601					
	Construction		HTH	C	100	100	100	
	Total Funding				100C	100C	100C	
19.	Kapiolani Children's Medical Center, Oahu Plans and construction for renovation and additional equipment of phase II. Grant-in-aid.	LH1301	SUB 601					
	Equipment		HTH	50	50	50	50	
	Total Funding				50C	50C	50C	
20.	St Francis Hospital, Oahu Plans, construction and modernization of patient units and other related facilities. Grant-in-aid.	LH1701	SUB 601					
	Construction		HTH	1	1	1	1	
	Total Funding				1C	1C	1C	
21.	J. W. Cameron Center, Wailuku, Maui Design and construct additional office spaces or renovations to existing buildings at J. W. Cameron Center to accommodate agencies.	LS0211	SUB 601					
	Construction		HTH	50	50	50	50	
	Total Funding				50C	50C	50C	

22.	Wahiawa General Hospital, Oahu Design and construction for additional facilities to improve services for the central Oahu area. Grant-in-aid.	L\$0408	SUB	601			
	Construction				100	C	100
	Total Funding				100C		100C
23.	Kuakini Medical Center, Oahu Plans, design, construction, and equipping of the progressive health care building which will house a 150-bed care home for the elderly, a daycare center for 100 elderly people and a 100-day intermediate care facility. Grant-in-aid to be expended by Department of Health.	L\$0517	SUB	601			
	Construction				50	C	50C
	Total Funding				50C		50C
24.	Rehabilitation Hospital of the Pacific, Oahu Plans, design and construction for medical rehabilitation facilities. Grant-in-aid. Unexpected balances from Item III-H-8 of Act 9/1977; Items III-H-6 and III-M-8 of Act 226/1976, Section 911F; Item IV-H-12-2 of Act 195/1975; and Item IV-D-4 of Act 218/1974 shall be used for this appropriation.	L\$0518	SUB	601			
	Construction				50	C	50
	Total Funding				50C		50C
25.	Saint Francis Hospital, Oahu Plans, design, construction, equipping and modernization of patient units and other related facilities. To be expended by the Department of Health. Grant-in-aid.	L\$0519	SUB	601			
	Construction				50	C	50
	Total Funding				50C		50C

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					FY 1979-80 F	M 1980-81 O	FY 1980-81 F	
26.	Kapiolani-Children's Medical Center, Oahu Design and construction for renovation and additional equipment of phase II. Unexpended funds from Item 3H004 of 226/76, Item 3H006 of 9/77, Item 3H002 of 244/78, Item 5H002 of 244/78 shall be used to supplement this appropriation. Grant-in-aid.	LS0614	SUB 601		150	150C	C	150C
	Equipment				HTH	150	150C	150C
	Total Funding							
27.	G.N. Wilcox Memorial Hospital and Health Center, Kauai Renovation of existing facility to include refurbishing and repair of existing long-term care wing. Plans and construction for conservation and alternate energy sources projects.	LS0807	SUB 601		100	100C	C	100C
	Construction				HTH	100	100C	100C
	Total Funding							
<b>F. SOCIAL PROBLEMS</b>								
<b>ASSURED STANDARD OF LIVING</b>								
	Housing Assistance							
	Rental Housing Augmentation and Assistance							
1.	Site Improvements—Palo Homes I Site improvements—install retaining walls—sidewalks—steps—building landings and grading work.		KH7901	SOC 220				
	Construction							
	Total Funding							
	SOC							
	80							
	80C							
	C							

## F. SOCIAL PROBLEMS ASSURED STANDARD

ASSURED STANDARD OF LIVING

Housing Assistance

Rental Housing Audit

- |    |  |        |     |     |
|----|--|--------|-----|-----|
| 1. | Site Improvements—Palo Homes I<br>Site improvements—install retaining walls—<br>sidewalks—steps—building landings and grading<br>work. | KH7901 | SOC | 220 |
|----|--|--------|-----|-----|

2.	Renovation of Heater Enclosures at Palolo Homes Replacing existing wood sidings with concrete masonry enclosures and installing new metal frames and doors.	KH7902	SOC 220	
	Construction	SOC	122	C
	Total Funding		122C	
3.	Installation of Security and Emergency Call System at Makua Alii Installation of security walls enter phones emergency buzzer for dwelling units signal panel and wirings.	KH7903	SOC 220	
	Construction	SOC	80	C
	Total Funding		80C	
4.	Installation of New Doors and Windows at Puahala Homes Replacing existing double-hung windows at bathrooms with new jalousie windows converting existing slide-panel doors to solid core doors and installing new screen doors.	KH7904	SOC 220	
	Construction	SOC	40	C
	Total Funding		40C	
5.	New Building Construction and Major Permanent Improvements at Central Office Expand existing and construct new maintenance and administrative space.	KH7905	SOC 220	
	Design	SOC	15	C
	Construction		150	
	Total Funding		165C	

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					FY 1979-80 M F	FY 1980-81 M F	Total	
6.	Installation of Windbreak Walls at Kalih Valley Homes	KH7906	SOC 220					
	Installing concrete masonry walls and concrete walks.							
	Construction							
	Total Funding				20		20	
7.	Kitchens and Bathrooms Renovation at Lokahi Homes	KH7907	SOC 220	SOC	20C	C	20C	
	Installing new cabinets floor tiles ceramic tiles shower curtain rods medicine cabinets.							
	Design							
	Construction				8		8	
	Total Funding				80		80	
8.	Construction of Community Center Enclosure at Hauiki	KH7908	SOC 220	SOC	88C	C	88C	
	Replacing existing light fixtures with new vandal-proof fixtures constructing enclosing walls and gates around the building and installing new concrete walks.							
	Design							
	Construction				5		5	
	Total Funding				45		45	
9.	Kitchens and Bathrooms Renovation at Puahala Homes	KH7909	SOC 220	SOC	50C	C	50C	
	Replacing existing counter tops installing new cabinets ceramic tiles floor tiles plumbing fixtures and bathroom facilities.							
	Design							
	Construction				25		25	
	Total Funding				350		350	
					SOC		375C	

10.	Kitchens and Bathrooms Renovation at Palolo Homes I Replacing open shelves with new wall cabinets installing new floor tiles electrical fixtures and alteration to certain plumbing fixtures.	KH7910	SOC 220			
	Design			15		
	Construction			250		
	Total Funding			265C	C	
11.	Kitchen Renovation at Hauiki Installation of additional cabinets electrical fixtures floor tiles and plumbing fixtures alteration.	KH7911	SOC 220			
	Design			8		
	Total Funding			8C	C	
12.	Electrical Modernization at Lokahi Installing new light fixtures additional outlets partial rewiring and ground fault interrupters.	KH7913	SOC 220			
	Design			5		
	Total Funding			5C	C	
13.	Electrical Modernization at Palolo Valley Homes Partial rewiring of electrical system installing new light fixtures upgrading existing electrical devices and providing current interrupter.	KH7918	SOC 220			
	Design			12		
	Total Funding			12C	C	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80	FY 1980-81	Total M O F	
14.	Installation of Security and Emergency Call System at Punchbowl Homes	KH7919	SOC 220					
	Installing emergency buzzer signal panel security fence walls and telephone system.							
	Design			15		15		
	Construction				140		140	
	Total Funding		SOC	15C		140C		155C
14A.	Installation of Security and Emergency Call System at Makamae	KH7921	SOC 220					
	Installing emergency buzzers security walls and telephone system.							
	Design					10		
	Construction					45		
	Total Funding		SOC	C		55C		55C
14B.	Installation of Cathodic Protection and Replacement of Piping at Puahala Homes I to I	KH8001	SOC 220					
	Replacing existing water and gas lines and installing cathodic protection to the new lines.							
	Construction							
	Total Funding		SOC	C		550		550C

14C.	Mayor Wright Homes, Oahu Plans and construction of improvements for lighting of porch and stairway; installation of sidewalks; construction of retaining walls for buildings 29 and 50 for purposes of flood control; installation of additional parking stalls, and expansion of office and community facilities. Funds authorized under Item F-19, Section 120, Act 214, SLH 1979 may be used for the purposes of this project.	LH0127	SOC	220			
	Construction Total Funding		SOC	C	50 50C		
14D.	Kaahumanu Homes, Oahu Plans and construction of improvements for installation of rain gutters, sidewalks, fencing around individual yards; floor tiles for all rooms except bathrooms; site lighting for buildings 7 and 13, and of stairways; additional parking spaces; repair roofing; and relocation and replacement of mailboxes. Funds authorized under Item F-20, Section 120, Act 214, SLH 1979 may be used for the purposes of this proj.	LH0227	SOC	220			
	Construction Total Funding		SOC	C	50 50C		
14E.	Kalakaua Housing Project, Oahu Planning, design, and construction of federally-aided housing (including energy conservation measures) at the Kalakaua housing project.	LH0248	SOC	220			
	Construction Total Funding		SOC	C	100 100C	100 100C	

**ACT 300**

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80 F	M 1980 O	FY 1980-81 F	
14F.	Makua Alii Housing Project, Oahu Construction of general improvements and projects related to the Makua Alii housing project.	LH0312	SOC 220				50	50C
	Construction						50	50C
	Total Funding		SOC	C			50	50C
14G.	Kamehameha Homes, Oahu Plans and construction for completion of parking improvements; installation of floor tiles, sidewalks, front porch lights, fencing for Kalihii Street and service drives for King Street around individual yards; and renovation of maint. shop. Funds authorized under Item F-21, Section 120, Act 214, SLH 1979 may be used for the purposes of this project.	LH0327	SOC 220				50	50C
	Construction						50	50C
	Total Funding		SOC	C			50	50C
14H.	Paoakalani Housing Project, Oahu Construction of general improvements and projects related to the Paoakalani housing project.	LH0412	SOC 220				50	50C
	Construction						50	50C
	Total Funding		SOC	C			50	50C
14I.	Elderly Housing, Oahu Plans and design for elderly housing on the grounds of Windward Community College complex. (To be expended by the Hawaii Housing Authority).	LH0416	SOC 220				40	40C
	Plans						40	40C
	Total Funding		SOC	C			40	40C

14J.	Hawaii State Senior Citizens Center, Oahu Plans, design, and construction for the repair and renovation of existing facilities.	LH0834	SOC	220		
	Construction					
	Total Funding		SOC	C	20 20C	20 20C
15.	Kalakaua Homes, Oahu Demolition, relocation, planning, design, and construction of federally aided housing, including energy conservation devices. These funds may also be used to supplement federal funds and for community facilities at this site. Funds from Item III-K-5, Section 2, Act 9, SPSLH 1977, shall be used for this project.	LH1201	SOC	220		
	Construction				108	108C
	Total Funding		SOC	C	108 108C	108C
16.	Makua Aili, Oahu Plans and construction for installation of security and emergency call system.	LH1202	SOC	220		
	Construction				70	70C
	Total Funding		SOC	C	70 70C	70C
17.	Paoakalani, Oahu Plans and construction for installation of security system.	LH1203	SOC	220		
	Construction				20	20C
	Total Funding		SOC	C	20 20C	20C
18.	Puahala Homes, Oahu Plans and construction for installation of floor tiles in living areas.	LH1601	SOC	220		
	Design				10	10
	Construction				30	30
	Total Funding		SOC	C	40C	40C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1979-80 F	FY 1980-81 F	
19.	Mayor Wright Homes, Oahu	LH1701	SOC 220		1	24	25C	
	Plans and construction of improvements for lighting for porch and stairway; installation of sidewalks; construction of retaining walls for buildings 29 and 50 for purposes of flood control; installation of additional parking stalls; and expansion of office and community facilities.							
	Design				1			
	Construction					24		
	Total Funding				SOC	25C	C	
20.	Kaahumanu Homes, Oahu	LH1702	SOC 220					
	Plans and construction of improvements for installation of rain gutters, sidewalks, fencing around individual yards; floor tiles for all rooms except bathrooms; site lighting for buildings 7 and 13 and of stairways; additional parking spaces; repair roofing; and relocation and replacement of mailboxes.							
	Design				1			
	Construction					24		
	Total Funding				SOC	25C	C	
21.	Kamehameha Homes, Oahu	LH1703	SOC 220					
	Plans and construction for completion of parking improvements; installation of floor tiles, sidewalks, front porch lights, fencing for Kalihi Street and service drives for King Street around individual yards; and renovation of maintenance shop.							
	Design				1			
	Construction					24		
	Total Funding				SOC	25C	C	

22.	Kalanihua Homes, Oahu Plans and constructions of improvements to include installation of baffles for elevator lobbies; remodeling of front door and makai units; carpeting or non- skid floor covering; emergency alarm system and exterior lighting of individual apartments.	LH1704	SOC	220			
	Design			1			
	Construction			24			
	Total Funding		SOC	25C	C		
23.	Various Subdivisions (Addition) At Nanakuli Oahu, Molokai and Waimea, Hawaii subdivisions to put in roads, curbs, water and electrical lines for incremental development of 430 or more residence lots, to provide loan fund capita- lization and interim financing for construction of 112 or more homes in Nanakuli, 40 or more homes in Molokai, and 41 or more homes in Waimea, Hawaii.	H20	HHL	611			
	Design			70			
	Construction			1,330			
	Total Funding		HHL	1,330C	1,400C		
24.	Panaewa Residential Subdivision Panaewa, Hawaii to build roads, install utilities and survey and stakeout for incremental development of 120 or more residence lots at Panaewa, Hawaii. To provide loan fund capitalization for construction loans for 23 or more homes.	H21	HHL	611			
	Design			65			
	Construction			65C	C		
	Total Funding		HHL		65C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID HHL	Exp. Agy.	APPROPRIATIONS (\$1,000's)				Total Biennium M 1979-81 F
					FY 1979-80 F	M	FY 1980-81 F	M	
25.	Various Subdivisions (Addition) At Waianae, Oahu, Anahola, Kauai and Kekaha, Kauai, subdivisions to build roads and curbings, install utilities and stakeout for incremental development of 307 or more residence lots at Waianae, Oahu, to provide loan capitalization and interim financing for construction loans for 107 or more homes in Waianae, 70 or more homes in Anahola, and 30 or more homes in Kekaha.	H23	HHL 611		50		320		50 2,770 2,820C
	Design				50				
	Construction				2,450				
	Total Funding		HHL		2,500C		320C		
26.	Waimanalo Residential Subdivision Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.	H24	HHL 611						
	Plans								
	Design				195				
	Construction				120,				
	Total Funding				315C HHL HHL N		150C 150N		
26A.	Nanakuli Road Improvements (Makai) To improve and upgrade Pohakunui, Laumania, Keaulana, and Piliokahi Avenues to City and County standards—approximately 4,100 linear feet of roadway improvements, and install adequate off-site drainage facilities.	H31	HHL 611						
	Construction								
	Total Funding		HHL						

26B.	Paukukalo Residential Subdivision Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan.	H33	HHL	611			
	Construction		HHL			1,200	1,200C
	Total Funding					1,200C	1,200C
27.	Kawaihae Residential Subdivision Plans and construction for incremental development and improvements, onsite & offsite, including preparation of master plan for Kawaihae area.	H35	HHL	611			
	Construction		HHL			420	420C
	Total Funding					100	100C
28.	Keaukaha Residential Subdivision Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.	H36	HHL	611			
	Design					10	10
	Construction		HHL			380	380C
	Total Funding					C	390C
29.	Statewide Residential Loan Fund Capitalization To provide additional capitalization to the Hawaiian home general loan fund for the construction of homes.	H-34	HHL	611			
	Construction		HHL			1,900	1,900C
	Total Funding					3,200	3,200C
30.	Nanakuli Residential Subdivision Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.	H-37	HHL	611			
	Plans		HHL			100	100C
	Total Funding					C	100C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
					FY 1979-80 F	M 1980-81 F	Total Biennium 1979-81 F
31.	Anahola Residence Lots Drainage Improvements	H-42	HHL 611				
	Plans and construction of drainage improvements to alleviate existing flood hazard in vicinity of Kuhiale, Makao, and Manamanana Roads.						
	Design				10	10	
	Construction				70	70	
	Total Funding		HHL	80C	C	80C	
32.	Kekaha Residential Subdivision	H-44	HHL 611				
	Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.						
	Design				50	50	
	Total Funding		HHL	50C	C	50C	
33.	Anahola Residential Subdivision	H-46	HHL 611				
	Plans and construction for incremental development and improvements, onsite and offsite, including preparation of master plan.						
	Design				75	75	
	Total Funding		HHL	75C	C	75C	
34.	Waianae Residence Lots Park	H-48	HHL 611				
	Plans and construction necessary to develop a park at the Waianae residence lots. Improvements may include playfield, courts, comfort station, and other park amenities.						
	Design				20	20	
	Construction				180	180	
	Total Funding		HHL	200C	C	200C	

35.	Hawaiian Home Lands Project, Kalamaula, Molokai Plans for development of Hawaiian home lands in accordance with DHHL general plan.	H-49	HHL 611				
	Plans						
	Total Funding						
36.	Hawaiian Home Lands Project, Kawaihae, Hawai'i Plans for development of Hawaiian home lands in accordance with DHHL general plan.	H-50	HHL 611				
	Plans						
	Total Funding						
37.	Waianae Valley Road Widening, Oahu Plans and construction for widening and improvements to Waianae Valley Road from mauka McArthur Street to Kumaiapu Streets.	LH2150	HHL 611				
	Land Acquisition						
	Design						
	Construction						
	Total Funding						
38.	Makapuu Interceptor Sewer Lines, Waimanalo, Oahu Plans and construction of Makapuu interceptor sewer line.	LH2601	HHL 611				
	Construction						
	Total Funding						

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)				Total Biennium M 1979-81 F
					FY 1979-80 O F	FY 1980-81 O F	FY 1980-81 M O	Total Biennium M 1979-81 F	
39.	Private Housing Development & Ownership	COH01	SOC	225					
	Experimental Cost-Buster Houses								
	Development and construction of four experimental and demonstration houses to be constructed on each of the following islands: Oahu, Kauai, Maui, and Hawaii.								
	Design				60			60	
	Construction				120			120	
	Total Funding				180C		C	180C	
39A.	Manana Naval Housing Area	SL0401	SOC	225					
	Incremental acquisition of land for housing purposes.								
	Land Acquisition							960	
	Total Funding						A	960A	
39B.	Pearl City Junction Naval Supply Housing Area	SL0402	SOC	225					
	Incremental acquisition of land for housing purposes.								
	Land Acquisition							2,000	
	Total Funding						A	2,000A	
39C.	Hakawa Naval Laundry Facility Housing Area	SL0403	SOC	225					
	Incremental acquisition of land for housing purposes.								
	Land Acquisition							700	
	Total Funding						A	700A	

40.	Teacher Housing Lanai High and Elementary School, Lanai Plans and construction of improvements including re-roofing and termite treatment for teachers' cottages.	LH0601	SOC	807			
	Construction Total Funding		AGS		14	C	14C
41.	Maunaloa School, Molokai Plans and construction of improvements including exterior painting and termite treatment for teachers' cottage.	LH0602	SOC	807			
	Construction Total Funding		AGS		6	C	6C
42.	Housing Assistance Administration Brantley Center, Honokaa, Hawaii Design and construction for the renovation of windows, repair of leaking roof and extension of two classrooms. Unexpended balance from Act 244, SLH 1978, Sec. 2, Item I-K-1 shall be used to supplement this appropriation.	LS0112	SOC	229			
	Construction Total Funding		AGS		10	C	10C
43.	OVERALL PROGRAM SUPPORT FOR SOCIAL PROBLEMS Plan, Program Dev & Coord of Svcs for Elderly Hawaii State Senior Center, Lanakila, Oahu Plans, design and construction for the repairs and renovation to existing facilities. To be supplemented by prior appropriations.	LS0511	GOV	602			
	Construction Total Funding		AGS		45	C	45C

ACT 300

G. FORMAL EDUCATION  
LOWER EDUCATION

- |    | EDN | 105   |
|----|-----|---|
| 1. | 001 | Relocate and Construct Portable Classrooms<br>Relocation and construction of portables each school year to meet enrollment shifts among schools, consolidation of schools, unforeseen emergencies, and to provide temporary facilities while new schools are being planned and/or under construction. These funds are also for secondary schools. |

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2.	Minor Improvements Minor additions, renovations and improvement to buildings and school sites.	002	EDN 105				
	Design	25		75		100	
	Construction	475		225		700	
	Total Funding	AGS AGS	A 500C	300A C		300A 500C	
2A.	Removal of Architectural Barriers To provide ramps and other corrective measures for easy accessibility of school facilities to handi- capped persons. Design and construction of im- provements to accommodate pre-school handi- capped program.	005	EDN 105				
	Design	100		100		100	
	Construction	450		450		450	
	Total Funding	AGS	C	550C		550C	
3.	Lump Sum—Conversion of Classrooms Conversion of classrooms to improve the educa- tional program.	007	EDN 105				
	Design	50		50		100	
	Construction	50C		50C		100C	
	Total Funding	AGS					
4.	Lump Sum—Fire Protection Systems; Fire Alarm Systems Fire protection systems to meet water system stan- dards.	008	EDN 105				
	Design	50		50		100	
	Construction	500		500		1,000	
	Total Funding	AGS	550C			1,100C	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)			
				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium M 1979-81 F
5.	Lump Sum—Correction to Sound Problem To provide corrective measures on excessive exterior noise that affect classrooms.	009	EDN 105				
	Design			25	50	75	
	Construction			225	200	425	
	Total Funding		AGS 250C	250C	500C		
5A.	Lump Sum Capital Improvement Funds Correction to Asbestos Problem Improvements to existing schools—corrections and renovations to all school buildings with identified health and safety hazards.	012	EDN 105				
	Design			500	500	500	
	Construction			4,900	4,900	4,900	
	Total Funding		AGS 5,400A	5,400A	A	5,400A	
5B.	Kalaheo High School, Oahu Plans and construction of athletic facilities and ground improvements.	LH0102	EDN 105				
	Construction						
	Total Funding		AGS C	200	200	200C	
5C.	Stevenson Intermediate School Band Class- rooms, Oahu Construction and equipment for the renovation of the band classrooms.	LH0105	EDN 105				
	Construction						
	Total Funding		AGS C	90	90	90C	

5D.	Roosevelt High School, Oahu Plans and construction for the renovation of building A at Roosevelt High School.	LH0110	EDN	105			
	Construction						
	Total Funding						
5E.	Pearl City High School, Oahu Construction of roadway around the athletic field of Pearl City High School. Funds appropriated under Item G-276, Section 120, Act 214, SLH 1979 may be used for the purposes of this project.	LH0113	EDN	105			
	Construction						
	Total Funding						
5F.	Mililani High School Gymnasium, Oahu Plans, design and construction.	LH0121	EDN	105			
	Construction						
	Total Funding						
5G.	Waialua High School, Oahu Design and construction of an alignment rack enclosure for the automotive shop.	LH0128	EDN	105			
	Construction						
	Total Funding						
5H.	Highlands Intermediate School, Oahu Planning, design, and construction of renovations to the art and home economics classrooms.	LH0130	EDN	105			
	Construction						
	Total Funding						

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 M O F
					FY 1979-80 M O F	FY 1980-81 M O F	Total	
5I.	McKinley High School Academic Core Building, Oahu	LH0141	EDN 105					
	Construction and equipment for the academic core building.							
	Construction							
	Total Funding		AGS	C	283	283	283C	
5J.	Washington Intermediate School, Oahu	LH0148	EDN 105					
	Construction of noise abatement measures to wood and metal shop classrooms.							
	Construction							
	Total Funding		AGS	C	107	107	107C	
5K.	Pukalani School Playground, Maui	LH0203	EDN 105					
	Construction of stairway from school grounds to playgrounds.							
	Construction							
	Total Funding		AGS	C	74	74	74C	
5L.	Kuhio School Paving, Oahu	LH0212	EDN 105					
	Construction of pavement for areas near the cafeteria.							
	Construction							
	Total Funding		AGS	C	20	20	20C	

5M.	Konawaena High and Intermediate School, Hawai'i Improvements to Julian R. Yates Field, including plans and construction of bleachers, track, and expansion of field.	LH0218	EDN	105		
	Construction				100	100C
	Total Funding		AGS	C	100	100C
5N.	Laie Elementary School, Oahu Construction of paved playcourt.	LH0228	EDN	105		
	Construction				55	55C
	Total Funding		AGS	C	55	55C
5O.	Pope Elementary School, Oahu Design and construction of paved playcourt.	LH0236	EDN	105		
	Construction				50	50C
	Total Funding		AGS	C	50	50C
6.	Laupahoehoe High and Elementary School, Hawai'i Plans and construction of covered walkways.	LH0301	EDN	105		
	Design				5	5
	Construction				35	35
	Total Funding		AGS	40C	C	40C
6A.	Kula Elementary School Playcourt, Maui Design and construction to resurface playcourt.	LH0303	EDN	105		
	Construction				16	16
	Total Funding		AGS	C	16C	16C
6B.	Kahuku High School, Oahu Design and construction of shop facilities.	LH0328	EDN	105		
	Construction				58	58
	Total Funding		AGS	C	58C	58C

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Item No.	Program and Capital Project Name	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total M 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total M 1979-81 F	
6C.	Waimanalo Elementary and Intermediate School, Oahu	LH0336	EDN	105				
	Design and construction for the installation of security lights at Waimanalo Elementary and Intermediate School.							
	Construction		AGS	C	40	40		
	Total Funding				40C	40C		
6D.	Castle High School, Oahu	LH0345	EDN	105				
	Plans, design and construction of lights for the football field of Castle High School.							
	Construction		AGS	C	150	150		
	Total Funding				150C	150C		
6E.	Kuhio School, Oahu	LH0348	EDN	105				
	Construction of classroom partitions.							
	Construction		AGS	C	48	48		
	Total Funding				48C	48C		
7.	Konawaena High and Intermediate School, Hawa-i	LH0401	EDN	105				
	Plans and Construction of bleachers, tract and improvement to Julian R. Yates Field.							
	Design		AGS	25			25	
	Total Funding						C	25C
7A.	Kaiser High School Security, Oahu	LH0408	EDN	105				
	Plans and construction for installation of activity lights for security purposes at Kaiser High School.							
	Construction		AGS	C	250	250		
	Total Funding				250C	250C		

7B.	Kaimuki High School Music Building, Oahu Construction of music building at Kaimuki High School.	LH0432	EDN 105				
	Construction			AGS	C	600	600C
	Total Funding					600	600C
7C.	Schools in the Sixteenth Representative District, Oahu	LH0434	EDN 105				
	Planning and Construction for projects to be selected by the Department of Education for various schools in the sixteenth representative district in- cluding Kaewai Elementary; Kaihi Elementary; Kaihi-Uka School, Kapalama School; Lanakila School; Likeite School; Sanford B. Dole Interme- diate; Farrington High School; and Kalhi-Waena School.						
	Construction			AGS	C	50	50C
	Total Funding					50	50C
7D.	Nanakuli High School, Oahu Planning and design of a swimming pool.	LH0435	EDN 105				
	Plans			AGS	C	10	10C
	Total Funding					10	10C
7E.	Moanalua High School, Oahu Equipment for new gymnasium.	LH0449	EDN 105				
	Equipment			AGS	C	30	30C
	Total Funding					30	30C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID No.	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
					FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
7F.	Kaiser High School Stadium, Oahu Completion of stadium at Kaiser High School to include bleachers, women's restrooms, storage area, basket lockers, office space and security fence with gate.	LH0508	EDN 105				
	Construction			AGS	C	150	150
	Total Funding					150C	150C
7G.	Waialua High School, Oahu Construction and equipment for Waialua High School industrial and practical arts building.	LH0533	EDN 105				
	Construction			AGS	C	3	3
	Total Funding					3C	3C
7H.	Kalihi Elementary School, Oahu Construction of roof overhang to provide covered playcourt and of storage rooms and bathrooms.	LH0534	EDN 105				
	Construction			AGS	C	100	100
	Total Funding					100C	100C
7I.	Maili Elementary School, Oahu Design and construction of ground and site improvements and realignment of playground and park.	LH0535	EDN 105				
	Construction			AGS	C	20	20
	Total Funding					20C	20C

8.	Kula Elementary School, Maui Plans and construction of extension and improvements of sidewalks, driveway, and parking area. Design Construction Total Funding	LH0550	EDN 105	20 60 80C	C
9.	Lihikai School, Maui Plans and construction for an additional parking area with lights. Supplements prior appropriation. Construction Total Funding	LH0551	EDN 105	27 27C	C
10.	Maui High School, Maui Plans and construction of a chain-link fence around the agriculture department. Plans Total Funding	LH0552	EDN 105	1 1C	C
11.	Paia School, Maui Plans and construction of multi-purpose paved playcourt. Design Construction Total Funding	LH0553	EDN 105	17 33 50C	C
12.	Kilohana School, Molokai Plans and construction of a new kitchen/dining facility and other improvements. Construction Total Funding	LH0601	EDN 105	30 30C	C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agx.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY M O	FY M O	
13.	Wailuku Elementary School, Maui Plans and construction of bus loading and parking areas and administration building.	LH0602	EDN 105		25	C	25	25C
	Construction							
	Total Funding			AGS	25C	C	25C	
14.	Kaunakakai School, Molokai Plans and construction of custodial storage and work room and installation of sprinkler system and other improvements.	LH0603	EDN 105					
	Construction							
	Total Funding			AGS	10 10C	C	10 10C	
15.	Kamehameha III School, Lahaina, Maui Plans and construction of asphalt pavement adjacent to playcourt.	LH0604	EDN 105					
	Design							
	Construction				1 3	C	3	4C
	Total Funding			AGS	4C			
16.	Lahaina Intermediate School, Maui Plans and installation of sprinkler system and other improvements.	LH0605	EDN 105					
	Design							
	Construction				2 8	C	2 8	10C
	Total Funding			AGS	10C			
16A.	Kalakaua Intermediate School, Oahu Design and construction of improvements to buildings 0-7.	LH0627	EDN 105					
	Construction							
	Total Funding			AGS				

16B.	Waianae High School, Oahu Design and construction of lighting of the graduation and May Day ceremonial site on the football field, including ground and site improvements.	LH0635	EDN	105			
	Construction		AGS	C	7	7	7C
	Total Funding						
17.	Wailuku Elementary School, Maui Plans and construction of parking and bus-loading areas and administration building.	LH0650	EDN	105			
	Construction		25	25C	25	25	25C
	Total Funding						
18.	Lanai Elementary and High School, Lanai Plans and construction for reroofing and termite treatment of teachers' housing facilities and necessary equipment.	LH0651	EDN	105			
	Construction		14	14C	14	14	14C
	Total Funding		AGS				
19.	Maunaloa School, Molokai Plans and construction to include exterior painting and termite treatment of teachers' housing facilities.	LH0652	EDN	105			
	Construction		6	6C	6	6	6C
	Total Funding		AGS				
20.	Baldwin High School, Maui Plans, design and construction of physical education multi-purpose room and two paved play courts.	LH0653	EDN	105			
	Design				2	2	
	Construction				18	18	
	Total Funding		AGS				20C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
21.	Wailuku Elementary School, Maui Land acquisition for six-classroom building project. Supplements prior appropriation.	LH0654	EDN 105					
	Land Acquisition			15				15
	Total Funding			AGS	15C	C	15C	
22.	Kaunakakai School, Maui Plans and construction to include land site preparation and hauling of top soil and cinders to cover school recreation area.	LH0655	EDN 105					
	Construction			15				15
	Total Funding			AGS	15C	C	15C	
23.	Kioloana Elementary School, Molokai Plans and construction of administration and library facilities.	LH0656	EDN 105					
	Design							
	Construction			2				2
	Total Funding			AGS	14C	C	14C	
24.	Lanai Elementary and High School, Lanai Plans and construction to include exterior painting of teachers housing facilities.	LH0657	EDN 105					
	Construction							
	Total Funding			AGS	12C	C	12C	

25.	Iao School, Maui Plans, design and construction of physical education facilities, including lockers and shower rooms.	LH0658	EDN	105			
	Design				1	9	10C
	Construction						
	Total Funding						
26.	Iao School, Maui Plans, design and construction of one bandroom and paved play courts.	LH0659	EDN	105			
	Design				1	9	10C
	Construction						
	Total Funding						
27.	Kaunakakai School, Molokai Plans, design, land site preparation, construction and equipping of custodial storage and work room, toilet facilities and adjacent ramp.	LH0660	EDN	105			
	Design				1	9	10C
	Construction						
	Total Funding						
28.	Kamehameha III School, Lahaina, Maui Plans and construction to include ground site preparation and paving of cafeteria lot.	LH0661	EDN	105			
	Design				1	9	10C
	Construction						
	Total Funding						
29.	Kokohead Elementary School, Oahu Plans and construction for improvements including painting interior and exterior of all buildings except library.	LH0701	EDN	105			
	Construction				4	4C	
	Total Funding						

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Item No.	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
				FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 M	
30.	Kaiser High School, Oahu Plans, design, construction, and equipment for im- provements to include restroom facilities	LH0702	EDN 105				
	Design			3		3	
	Construction			28		28	
	Total Funding		AGS 31C		C	31C	
31.	Kaiser High School, Oahu Improvements to Kaiser High School Library in- cluding equipment	LH0703	EDN 105				
	Equipment			3		3	
	Total Funding		AGS 3C		C	3C	
31A.	Kalihi-Kai Elementary School, Oahu Design and construction of improvements to build- ing G, Administration.	LH0727	EDN 105				
	Construction						
	Total Funding		AGS C		36C	36C	
31B.	Nanakuli High School, Oahu Design and construction of a chain link fence around the perimeter of Nanakuli High School.	LH0735	EDN 105				
	Construction						
	Total Funding		AGS C		13C	13C	

32.	Kaiser High School, Oahu Plans and construction for the installation of activity lights for security.	LH0750	EDN	105			
	Design			20			20
	Construction			180			180
	Total Funding			200C			200C
33.	Kaiser High School, Oahu Plans and construction of the language arts/social studies classroom building	LH0751	EDN	105			
	Design			7			7
	Construction			58			58
	Total Funding			65C			65C
34.	Koko Head Elementary School, Oahu Plans and construction for the installation of tinted glass windows for 29 classrooms.	LH0752	EDN	105			
	Design			3			3
	Construction			22			22
	Total Funding			25C			25C
35.	Niu Valley Intermediate School, Oahu Plans and construction for the renovation of the cafeteria.	LH0753	EDN	105			
	Design			1			1
	Construction			9			9
	Total Funding			10C			10C
36.	Kalani High School, Oahu Plans and construction for renovations to the gymnasium for additional locker facilities needed to accomodate increased title IX demands.	LH0801	EDN	105			
	Design			25			25
	Construction			225			225
	Total Funding			250C			250C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M 1980-81 F	FY 1980-81 F	
37.	Kalani High School, Oahu Plans and construction for renovations to the cafeteria to accommodate school-wide performances.	LH0802	EDN 1G5		12	113	C	12
	Design							113
	Construction							125C
	Total Funding							125C
38.	Kaimuki Intermediate School, Oahu Plans and construction of improvements to facilities.	LH0803	EDN 105		25	25C	C	25
	Construction							25C
	Total Funding							25C
39.	Aina Haina School Library, Oahu Plans and construction for renovations of the library.	LH0804	EDN 105		74	74C	C	74
	Construction							74C
	Total Funding							74C
40.	Aliiolani Elementary School, Oahu Plans and construction for the demolition of the present auditorium. Construction of a hard-surface play area, and the expansion of the present cafeteria to provide a stage area. Supplements prior appropriation.	LH0901	EDN 105					
	Construction							
	Total Funding							

41.	Palolo Elementary School, Oahu Plans and construction of improvements to include covered walkways from the administration building to the cafeteria; from "L" building to the cafeteria; and from the covered playcourt to the existing covered walkway alongside the cafeteria.	LH0902	EDN 105				
	Construction			85			
	Total Funding			85			
42.	Hokulani Elementary School, Oahu Plans and renovation of existing facilities for art, science and teacher work centers.	LH0903	EDN 105				
	Construction			65			
	Total Funding			65			
43.	Kaimuki High School, Oahu Plans and construction for improvements to the swimming pool.	LH1001	EDN 105				
	Design			15			
	Construction			135			
	Total Funding			150			
44.	Liholiho Elementary School, Oahu Plans and construction for renovation to the existing cafeteria.	LH1002	EDN 105				
	Design			10			
	Construction			90			
	Total Funding			100			
45.	Waialae Elementary School, Oahu Plans, design and construction of a chain link fence along the 20th Avenue boundary of the school.	LH1003	EDN 105				
	Design			1			
	Construction			5			
	Total Funding			6			

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
46.	Waikiki Elementary School, Oahu Plans and construction for installation of additional outlets in 24 regular classrooms in buildings A, B, C to increase the basic educational program.	LH1004	EDN 105					
	Construction				50	C	50	
	Total Funding			AGS	50C	C	50C	
47.	Waikiki Elementary School, Oahu Plans and construction for installation of 12 fly repellent fans at entrances and exits of kitchen and dining room.	LH1005	EDN 105					
	Construction				20	C	20C	
	Total Funding			AGS	20C	C	20C	
48.	Waikiki Elementary School, Oahu Plans and construction of improvements to include painting exterior of classrooms in building A, B, C.	LH1006	EDN 105					
	Construction				25	C	25C	
	Total Funding			AGS	25C	C	25C	
49.	Roosevelt High School, Honolulu Plans, construction, and installation of steel covers for windows on 1st floor of the administration building and the replacement of doors to auditorium and gymnasium.	LH1301	EDN 105					
	Design							9
	Construction							21
	Total Funding			AGS	30C	C	30C	

50.	Roosevelt High School, Honolulu Plans and construction of stone wall and steps on the corner of Nehoa Street and Mott-Smith Drive to prevent erosion.	LHI302	EDN	105			
	Design				5		
	Construction				70		
	Total Funding				75C		
51.	Stevenson Intermediate School, Honolulu Plans and construction for renovation of art and home economics classrooms.	LHI303	EDN	105			
	Design				1		
	Construction				9		
	Total Funding				10C		
52.	Manoa School, Oahu Plans and construction to enlarge driveway and parking lot leading to administration building.	LHI304	EDN	105			
	Design				5		
	Construction				60		
	Total Funding				65C		
53.	Roosevelt High School, Honolulu Plans and construction to renovate gymnasium for soundproofing.	LHI305	EDN	105			
	Design				3		
	Construction				27		
	Total Funding				30C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			
					FY 1979-80 M F	FY 1980-81 M F	Total Biennium M Q 1979-81 F	Total Biennium M Q 1979-81 F
54.	Roosevelt High School, Honolulu Plans and construction to renovate auditorium in- cluding replacement of seats, doors, and acoustical improvements.	LH1306	EDN 105				10 20 C	10 20 30C
	Design				10			
	Construction				20			
	Total Funding		AGS		30C		C	
55.	Roosevelt High School, Honolulu Plans and construction of stairway, or additional overhead walkway from building C and G to build- ing A.	LH1307	EDN 105				5 20 C	5 20 25C
	Design				5			
	Construction				20			
	Total Funding		AGS		25C		C	
56.	Roosevelt High School, Honolulu Plans and construction to reopen, resurface and ex- tend the fireroad behind building N leading to building G and the reconstruction of parking lot adjacent to building G.	LH1308	EDN 105				4 36 C	4 36 40C
	Design				4			
	Construction				36			
	Total Funding		AGS		40C		C	
57.	Roosevelt High School, Honolulu Plans and construction for the expansion of band room and to include practice rooms.	LH1309	EDN 105				50 C	50 C
	Construction				50			
	Total Funding		AGS		50C		C	

58.	Roosevelt High School, Honolulu Plans and construction for improvements to lockers and storage rooms.	LH1310	EDN	105				
	Construction				10			10
	Total Funding				AGS	10C	C	10C
59.	Stevenson Intermediate School, Honolulu Plans and construction for remodeling of building A.	LH1311	EDN	105				
	Construction				60			60
	Total Funding				AGS	60C	C	60C
60.	Nuuanu Elementary School, Oahu Plans and construction for a covered gymnasium over present playcourt, chain link fence around playcourt area and improved lighting on campus.	LH1501	EDN	105				
	Design				7			7
	Construction				33			33
	Total Funding				AGS	40C	C	40C
61.	Kawanakanako School, Oahu Plans and construction for the installation of air conditioning in library.	LH1502	EDN	105				
	Design				1			1
	Construction				3			3
	Equipment				6			6
	Total Funding				AGS	10C	C	10C
62.	Pauoa Elementary School, Oahu Plans and construction to replace the present case- ment windows with wooden jalousies in buildings B and C.	LH1503	EDN	105				
	Design				2			2
	Construction				8			8
	Total Funding				AGS	10C	C	10C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium 1979-81	
63.	Roosevelt High School, Oahu Plans and construction for installation of steel window covers on the first level of the administration building.	LH1504	EDN 105				1 9	
	Design				1		1	
	Construction				9		9	
	Total Funding		AGS 10C		C		10C	
64.	Farrington High School, Oahu Plans and construction for improvement and renovation to weight room and locker room facilities.	LH1601	EDN 105				5 20	
	Plans				5		5	
	Construction				20		20	
	Total Funding		AGS 25C		C		25C	
65.	Farrington High School, Oahu Plans and construction for improvement and renovation of football field and facilities.	LH1602	EDN 105				10 20	
	Plans				10		10	
	Construction				20		20	
	Total Funding		AGS 30C		C		30C	
66.	Farrington High School, Oahu Plans and construction of a greenhouse.	LH1603	EDN 105				10 20	
	Plans				10		10	
	Total Funding		AGS 10C		C		10C	

67.	Kalihi Elementary School, Oahu Plans and construction for repainting and repairing of buildings.	LHI1604	EDN	105			
	Plans				10		
	Construction				20		
	Total Funding				30C		
68.	Dole Intermediate School, Oahu Plans for improvement of locker rooms.	LHI1605	EDN	105			
	Plans				10		
	Total Funding				10C		
69.	Kalihi Uka Elementary School, Oahu Plans for expansion and renovation of library.	LHI1606	EDN	105			
	Plans				10		
	Total Funding				10C		
70.	Kalihi Uka Elementary School, Oahu Plans and construction for installation of security screens.	LHI1607	EDN	105			
	Design				3		
	Construction				7		
	Total Funding				10C		
71.	Lanakila Elementary School, Oahu Plans and construction for installation of fence.	LHI1608	EDN	105			
	Plans				3		
	Construction				7		
	Total Funding				10C		
72.	Lanakila Elementary School, Oahu Construction of concrete loading zone.	LHI1609	EDN	105			
	Plans				3		
	Construction				7		
	Total Funding				10C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				
				Exp. Agy.	FY 1979-80 F	M	FY 1980-81 F	Total M 1979-81 F
73.	Farrington High School, Oahu Plans and construction for installation of security screens to buildings E, R, G, F, C, T, and student council room; and improvements to student council room.	LH1650	EDN 105		1			
	Design							
	Construction							
	Total Funding		AGS		34			
					35C			
						C		
74.	Farrington High School, Oahu Planning and engineering of gymnastics facility	LH1651	EDN 105					
	Design							
	Construction							
	Total Funding		AGS		14			
					15C			
						C		
75.	Kalihi Elementary School, Oahu Planning and construction of improvements.	LH1652	EDN 105					
	Design							
	Construction							
	Total Funding		AGS		24			
					25C			
						C		
76.	Kalihi-Waena Elementary School, Oahu Planning and construction of improvements.	LH1653	EDN 105					
	Design							
	Construction							
	Total Funding		AGS		1			
					9			
					10C			
						C		

77.	Aliamanu Elementary School, Oahu Design and construction for the renovation of the existing kitchen to classroom.	LH1701	EDN	105			
	Design						
	Total Funding						
		1	1C				
		C					
78.	Hickam Elementary School, Oahu Design and construction for the expansion and ren- ovation of the library and renovation of cafeteria dining room.	LH1702	EDN	105			
	Design						
	Total Funding						
		1	1C				
		C					
79.	Kaiulani Elementary School, Oahu Plans and construction for retroofing of building C and covered lanai.	LH1703	EDN	105			
	Design						
	Construction						
	Total Funding						
		1	19				
		20C					
80.	Makalapa Elementary School, Oahu Design and construction for administration build- ing.	LH1704	EDN	105			
	Design						
	Total Funding						
		1	1C				
		C					
81.	Mokulele Elementary School, Oahu Design and construction for ground improvement for new play area. Unencumbered balances from Item III-E-152, Section 2, Act 9, SPSLH 1977 may be used to supplement this appropriation.	LH1705	EDN	105			
	Construction						
	Total Funding						
		1	1C				
		C					

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					FY 1979-80	M O F	FY 1980-81	
82.	Pearl Harbor Elementary School, Oahu	LH1706 EDN 105						
	Design and construction for the expansion and renovation of the library including air conditioning and carpeting.							
	Design			1				1
	Total Funding		AGS	1C		C	1C	
83.	Moanalua High School, Oahu	LH1707 EDN 105						
	Plans, design, and construction of auditorium and swimming pool.							
	Design			50				50
	Total Funding		AGS	50C		C	50C	
84.	Kauluweia Elementary School, Oahu	LH1708 EDN 105						
	Plans and construction for installation of security screens for cafeteria and construction of fence separating school from apartments.							
	Construction			20				20
	Total Funding		AGS	20C		C	20C	
85.	Kalihii-Kai Elementary School, Oahu	LH1709 EDN 105						
	Plans and construction for renovations and soundproofing of library and soundproofing of buildings B, C, F, G, H, I and J.							
	Construction			1				1
	Total Funding		AGS	1C		C	1C	

86.	Puuhale Elementary School, Oahu Plans and construction of overhangs for walkways from administration building and cafeteria and extension of chain link fence.	LH1710	EDN	105			
	Design				1	19	
	Construction				19	20C	
	Total Funding				C		
87.	Farrington High School, Oahu Plans and construction for improvements to include a retaining wall facing freeway, security screens for buildings E, R, G, F, Q, and T, additional student visitor parking stalls in Gordon Field, a greenhouse and gymnastic facility.	LH1711	EDN	105			
	Design				1	4	
	Construction				4	5C	
	Total Funding				C		
88.	Farrington High School, Oahu Plans and construction for improvements to include library, student council room, social studies, English, business education, administration building, photography room, registrar's and business office.	LH1712	EDN	105			
	Design				1	4	
	Construction				4	5C	
	Total Funding				C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID No.	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80 M O F	FY 1980-81 M O F	Total	
89.	Kalakaua Intermediate School, Oahu	LHI713	EDN 105					
	Plans and construction of improvements to include installation of removable pipe barriers between front campus and side of administration building; security screens on second floors of buildings E, L, O, and Q; security screen over glass for administration building; chain link fence between school and gym; asphalt pavement for building K; and fence on school campus.							
	Design				1		1	
	Construction				9		9	
	Total Funding			AGS	10C	C	10C	
90.	Kalakaua Intermediate School, Oahu	LHI714	EDN 105					
	Plans and construction for improvements to include creation of supports for building G and J; resurfacing of basketball courts and cracked walkways; improvement to grounds, sprinkler system, landscaping, walkways, demolition of building D, replacement of door locks to dead bolt locks; and replacement of wooden louvers with glass louvers for building L.							
	Design							
	Construction							
	Total Funding			AGS	10C	C	10C	
91.	Radford High School, Oahu	LHI715	EDN 105					
	Plans, design and construction for auditorium and swimming pool; replacement of obsolete temporary buildings; and landscaping/paving.							
	Design							
	Construction							
	Total Funding			AGS	1C	C	1C	

92.	Pearl City High, Oahu Plans and construction of a new horticulture room including ground and site improvements.	LH1901	EDN	105		
	Design				50	50C
	Total Funding				50C	
93.	Waimalu Elementary School, Oahu Plans and construction of a new administration building, including ground and site improvements.	LH1902	EDN	105		
	Design				75	75C
	Total Funding				75C	
94.	Waimalu Elementary School, Oahu Plans and construction for renovation and expan- sion of the library.	LH1903	EDN	105		
	Design				20	20C
	Total Funding				20C	
95.	Waiau II Elementary School, Oahu Plans and construction of a new serving kitchen and dining room, including ground and site improve- ments.	LH1904	EDN	105		
	Design				50	50C
	Total Funding				50C	
96.	Morilani Elementary School, Oahu Plans and construction of covered walkway from classrooms to the dining room, including new con- crete steps.	LH1905	EDN	105		
	Design				50	50C
	Total Funding				50C	

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					FY 1979-80 M F	FY 1980-81 O F	Total Biennium M 1980-81 O F	
97.	Highlands Intermediate School, Oahu Plans and construction for renovation of class- rooms for the science program.	LH1906	EDN 105		55	55C	C	55
	Design							
	Total Funding			AGS				
98.	Pearl City High School, Oahu Plans and construction of bleachers with a 5,000 seating capacity, including ground and site im- provements.	LH1907	EDN 105					
	Design							
	Total Funding			AGS				
99.	Pearl City High School, Oahu Plans and construction of varsity locker room, in- cluding ground and site improvements.	LH1908	EDN 105					
	Design							
	Total Funding			AGS				
100.	Pearl City Highlands Elementary School, Oahu Plans and construction for renovation of the ad- ministration facility and library.	LH1909	EDN 105					
	Design							
	Total Funding			AGS				
101.	Palisades Elementary School, Oahu Plans and construction of a parking lot, including ground and site improvements.	LH1910	EDN 105					
	Design							
	Total Funding			AGS				

102.	Waipahu High and Waipahu Community School, Oahu	LH2001	EDN 105				
	Plans and construction of security screens and parking lot lighting. Unexpended balances from Item IV G-1, Act 226, SLH 1976, shall be used to supplement this appropriation.						
	Construction			1		1	
	Total Funding			1C		1C	
103.	Hale Kula Elementary School, Oahu	LH2002	EDN 105				
	Design and construction for the expansion and improvement of library.						
	Design			29		29	
	Total Funding			29C		29C	
104.	Mililani High School, Oahu	LH2003	EDN 105				
	Plans, design and construction of athletic field rest-rooms.						
	Design			4		4	
	Construction			25		25	
	Total Funding			29C		29C	
105.	Waipahu High School, Oahu	LH2004	EDN 105				
	Plans, design and engineering of auditorium.						
	Design			50		50	
	Total Funding			50C		50C	
106.	Nanaikapono Elementary School, Oahu	LH2101	EDN 105				
	Plans and construction of covered bus shelter and bus boarding area.						
	Plans			2		2	
	Design			2		2	
	Construction			11		11	
	Total Funding			15C		15C	

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				Exp. Agv.	FY 1979-80 F	FY 1980-81 F	M	
107.	Mauka Lani Elementary School, Oahu Plans, construction and installation of security window screens for library and administration buildings.	LH2102	EDN 105					
	Plans			1				1
	Construction			4				4
	Total Funding			5C			C	5C
108.	Makakilo Intermediate School, Oahu Plans, design and construction of intermediate school complex including administration, library, multi-purpose dining room, classrooms, grounds and site improvements.	LH2103	EDN 105					
	Plans			5				5
	Design			5				5
	Construction			69			C	69
	Total Funding			79C				79C
109.	Ilima Intermediate School, Oahu Plans and construction for security lights, screens and fencing.	LH2104	EDN 105					
	Plans			5				5
	Construction			15				15
	Total Funding			20C			C	20C

110.	Nanakuli High School, Oahu Plans and construction of facilities and improvements to include chain link fencing, landscaping, and grounds. Unexpected balances in Items G-29, G-30, 91E-IV-F-156, 91E-IV-F-157, and 91F-III-F-48 of Act 226/76; Item III-E-153 of Act 9/77; and Item III-E-103 of Act 244/78 may be used to supplement this appropriation.	LH2150 Design Construction Total Funding	EDN 105 5 45 50C	C	5 45 50C
111.	Nanakapono Elementary School, Oahu Plans and construction of facilities and improvements to include security screening and lighting.	LH2151 Design Construction Total Funding	EDN 105 1 9 10C	C	1 9 10C
112.	Kaimiloa Elementary School, Oahu Plans and construction of facilities and improvements to implement master plan, including administration, library, new classrooms, renovations, ground and site improvements. Unexpected balances in Item III-E-51 of Act 226/76 and Item IV-E-86 of Act 244/78 may be used to supplement this appropriation.	LH2152 Design Construction Total Funding	EDN 105 3 22 25C	C	3 22 25C

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					FY 1979-80 F	FY 1980-81 F	Total	
113.	Makakilo Elementary School, Oahu	LH2153	EDDN 105					
	Plans and construction of facilities and improvements to include security screening and lighting. Unexpended balances in Item IV-E-135 of Act 226/76 and Item IV-E-86 of Act 244/78 may be used to supplement this appropriation.							
	Design				1		1	
	Construction				9		9	
	Total Funding			AGS	10C	C		
114.	Waianae High School, Oahu	LH2154	EDDN 105					
	Plans and construction of facilities and improvements to include chain link fencing for football field. Unexpended balances in Items G-40, G-41, 91E-IV-F-194 & 91E-IV-F-195 of Act 226/76; Items III-E-184 and III-E-185 of Act 9/77; and Items G-56, and G-19 of Act 243/78 may be used to supplement this appropriation.							
	Design				3		3	
	Construction				22		22	
	Total Funding			AGS	25C	C		
115.	Nanakuli High School Swimming Pool, Oahu	LH2155	EDDN 105					
	Plans and construction of a swimming pool.							
	Design				24		24	
	Construction				1		1	
	Total Funding			AGS	25C	C		

116.	Waianae Elementary School, Oahu Plans and construction of facilities to implement master plan, including administration building, special education classrooms, including parking lot, bus loading zone, ground and site improvements.	LH2156	EDN	105			
	Design				2		
	Construction				18		
	Total Funding				20C		
117.	Haleiwa Elementary School, Oahu Design and construction of a chain link fence.	LH2201	EDN	105			
	Design				2		
	Construction				5		
	Total Funding				7C		
118.	Waialua High and Intermediate School, Oahu Plans and construction for renovations to science classrooms including renovations to four science classroom laboratories.	LH2203	EDN	105			
	Design				27		
	Construction				140		
	Total Funding				167C		
119.	Waialua High and Intermediate School, Oahu Plans and construction for paving of 20 feet by 185 feet area adjacent to Kahuku-end of wood shop by custodians cottage for security of school vehicles.	LH2204	EDN	105			
	Design				3		
	Construction				17		
	Total Funding				20C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
120.	Waialua High and Intermediate School, Oahu Plans and construction for improvements to auto shop including construction of a hollow tile enclosure for existing compressor located at auto shop as required by OSHA.	LH2205	EDN 105		3	3	7	10C
	Design			AGS	3	7	7	C
	Construction				4	4	24	28C
	Total Funding				24	28C		
121.	Leilehua High School, Oahu Plans and installation of a public address system for the athletic field.	LH2250	EDN 105					
	Plans			AGS	4	4	24	28C
	Construction				24	28C		
	Total Funding							
122.	Leilehua High School, Oahu Plans for a multi-purpose theater auditorium.	LH2251	EDN 105					
	Plans			AGS	50	50C	50	50C
	Construction							
	Total Funding							
123.	Wahiawa Elementary School, Oahu Plans and construction of a chain link fence.	LH2252	EDN 105					
	Plans			AGS	4	4	22	22
	Construction				22	26C		C
	Total Funding							

124.	Castle High School, Oahu Plans and reconstruction of the fire damaged agricultural shop.	LH2301	EDN	105			
	Construction						
	Total Funding				AGS	100 100C	C 100C
125.	Castle High School Redevelopment Study, Oahu Plans for a campus redevelopment study for Castle High School.	LH2302	EDN	105			
	Construction						
	Total Funding				AGS	40 40C	C 40C
126.	Castle High School, Oahu Plans, design, and construction of lights for football field.	LH2401	EDN	105			
	Construction						
	Total Funding				AGS	150 150C	C 150C
127.	Castle High School, Oahu Plans and construction of security fence and gates.	LH2402	EDN	105			
	Construction						
	Total Funding				AGS	35 35C	C 35C
128.	Kapunahala Elementary School Library, Oahu Plans and construction for installation of air conditioner at the library.	LH2403	EDN	105			
	Construction						
	Total Funding				AGS	10 10C	C 10C
129.	King Intermediate School, Oahu Plans and construction to install security screens at auto mechanics shop.	LH2404	EDN	105			
	Construction						
	Total Funding				AGS	10 10C	C 10C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	FY 1979-80 M	FY 1980-81 F	
130.	King Intermediate School, Oahu Plans and construction for restoration of agricultural department.	LH2405	EDN 105			5		
	Construction					5		
	Total Funding			AGS		5C		5C
131.	Castle High School, Oahu Plans for a campus redevelopment study.	LH2450	EDN 105					
	Plans				40			
	Total Funding			AGS	40C	C		40C
132.	Castle High School, Oahu Design and construction of security gates and fence around school campus.	LH2451	EDN 105					
	Construction				70			
	Total Funding			AGS	70C	C		70C
133.	Kailua High School, Oahu Plans and construction for fire damaged lecture hall.	LH2452	EDN 105					
	Construction				50			
	Total Funding			AGS	50C	C		50C
134.	Kailua High School, Oahu Design and construction of security flood light system.	LH2453	EDN 105					
	Construction				20			
	Total Funding			AGS	20C	C		20C

136.	Kailua High School, Oahu Plans and construction of covered shelter in front of band room.	LH2455	EDN	105			
	Plans				1	4	5C
	Construction				1	4	5C
	Total Funding				AGS	5C	C
137.	Kailua High School, Oahu Plans and construction of covered shelter for security guard at entrance to school.	LH2456	EDN	105			
	Plans				1	4	5C
	Construction				1	4	5C
	Total Funding				AGS	5C	C
138.	Kailua High School, Oahu Plans and construction of covered walkways between buildings.	LH2457	EDN	105			
	Plans				5	15	20C
	Construction				5	15	20C
	Total Funding				AGS	5C	C
139.	Puuhala Elementary School, Oahu Plans and construction for sliding door to convert existing 3-on-2 classroom to separate rooms. Unencumbered funds from Item III-E-115, Section 2 of Act 244, SLH 1978, may be used to supplement this appropriation.	LH2458	EDN	105			
	Construction				AGS	5C	C
	Total Funding				AGS	5C	C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80 F	M O	FY 1980-81 F	
140.	Kalaheo High School, Oahu Plans and construction of athletic facilities and ground improvements.	LH2501	EDN 105					
	Design				20		20	
	Construction					80		
	Total Funding		AGS		100C	C	100C	
141.	Kaiua High School, Oahu Plans and reconstruction of the multi-purpose building damaged by fire to include its use as a lecture hall.	LH2502	EDN 105					
	Design							
	Construction							
	Total Funding		AGS		100C	C	100C	
142.	Mokapu Elementary School, Oahu Plans and construction of a paved playcourt.	LH2503	EDN 105					
	Design							
	Construction							
	Total Funding		AGS		40C	C	40C	
143.	Mokapu Elementary School, Oahu Design and construct renovations to library.	LH2504	EDN 105					
	Design							
	Construction							
	Total Funding		AGS		150C	C	150C	

144.	Aikahi Elementary School, Oahu Plans and construction of improvements including but not limited to security gates, security screen, barrier walls and fencing.	LH2505	EDN	105			
	Design				8		
	Construction				42		
	Total Funding				50C		
145.	Lanikai Elementary School, Oahu Design and construction of a dining room facility.	LH2506	EDN	105			
	Design				8		
	Construction				42		
	Total Funding				50C		
146.	Kalaheo High School, Oahu Plans and construction of security screens.	LH2507	EDN	105			
	Design				10		
	Construction				10C		
	Total Funding				10C		
147.	Kailua High School, Kailua, Oahu Plans and construction for improvements to the athletic field, including public restroom facilities, electric scoreboard, improved floodlighting, locker and shower facilities, press box, grading of football field and improvement of drainage on track field; and reconstruction of fire damaged lecture hall.	LH2601	EDN	105			
	Design				3		
	Construction				17		
	Total Funding				20C		
	Design				5		
	Construction				45		
	Total Funding				50C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				
				Exp. Agy.	FY 1979-80 F	M 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
148.	Kaelepulu Elementary School, Kailua, Oahu Plans and construction of traffic pedestrian safety, and parking improvements, including a second driveway for the purpose of dropping off and picking up of children, and enlarging the existing parking lot.	LH2602	EDN 105					
	Design			2				2
	Construction				8			8
	Total Funding		AGS		10C		C	10C
149.	Pope Elementary School, Waimanalo, Oahu Plans and construction for improvements to Pope Elementary School.	LH2603	EDN 105					
	Design					1		
	Construction					9		9
	Total Funding		AGS		10C		C	10C
150.	Waimanalo Elementary School, Waimanalo, Oahu Plans and construction for improvements to Waimanalo Elementary School.	LH2604	EDN 105					
	Design					10		10
	Construction							10C
	Total Funding		AGS		10C		C	10C
151.	Enchanted Lakes Elementary School, Kailua, Oahu Plans and construction for improvements to Enchanted Lakes Elementary School.	LH2605	EDN 105					
	Design					2		
	Construction					8		8
	Total Funding		AGS		10C		C	10C

152.	Keolu Elementary School, Kailua, Oahu Plans and construction for improvements to Keolu Elementary School.	LH2606	EDN 105			
	Design			10	10	
	Construction			60	60	
	Total Funding	70C		70C		
153.	Kahului Elementary School, Maui Design and construct security fencing.	LS0202	EDN 105	AGS	C	
	Design			15	15	
	Construction			15C	15C	
	Total Funding					
154.	Kiolahana Elementary School, Molokai Design and construct cafeteria, including kitchen and multi-purpose dining room.	LS0203	EDN 105	AGS	C	
	Design			15	15	
	Construction			15C	15C	
	Total Funding					
155.	Kula Elementary School, Maui Design and construct extension to paved driveway and sidewalk.	LS0204	EDN 105	AGS	C	
	Design			50	50	
	Construction			50C	50C	
	Total Funding					
156.	Lanai High and Elementary School, Lanai Design and install dust collection system in wood- shop.	LS0205	EDN 105	AGS	C	
	Design			21	21	
	Construction			77	77	
	Total Funding	98C		98C		
157.	Waihee School, Maui Design and construct three classroom building and playcourt.	LS0206	EDN 105	AGS	C	
	Design			6	6	
	Construction			29	29	
	Total Funding	35C		35C		
	Construction			50	50	
	Total Funding	50C		50C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 M O F
					FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium M O F	
158.	Aikahi Elementary School, Oahu  Design and construction for security gates, fencing and screens. Unexpended balances from Act 9, Special Session 1977, Section 2, Items III-E-5, 6, 7 and 8 may be used to supplement this appropriation.	LS0301	EDN 105		20	20	20	20C
	Construction Total Funding			AGS	20	C		20C
159.	Castle High School, Kaneohe, Oahu  Campus redevelopment study.	LS0302	EDN 105		40	40	40	40C
	Plans Total Funding			AGS	40	C		40C
160.	Castle High School, Kaneohe, Oahu  Design and construction for general improvements including but not limited to security gates, fences, and screens around and within school campus. Unexpended balances from Act 244, Session Laws of Hawaii 1978, Section 2, Items III-E-13, 14, 15, 16, 17, and Act 9, Special Session 1977, Section 2, Item III-D-2, may be used to supplement this appropriation.	LS0303	EDN 105					
	Construction Total Funding			AGS	80	C	80	80C
161.	Castle High School, Oahu  Design and construction for reconstruction of fire damaged agriculture shop.	LS0304	EDN 105					
	Construction Total Funding			AGS	5	C	5	5C

162.	Kailua High School, Kailua, Oahu Design and construction for access road from Kalanianaole Highway on state lands bordering the Hawai'i Correctional Facility.	LS0305	EDN 105				
	Construction			AGS	50	C	50
	Total Funding				50C		50C
163.	Kailua High School, Oahu Design and construction for campus security light system.	LS0306	EDN 105				
	Construction			AGS	20	C	20
	Total Funding				20C		20C
164.	Keolu Elementary School, Kailua, Oahu Design and construction for improvements to fire alarm and electrical system.	LS0307	EDN 105				
	Construction			AGS	20	C	20
	Total Funding				20C		20C
165.	Mokapu Elementary School, Oahu Design and construction for paved playcourt. Unexpended balances from Act 9, Special Session 1977, Section 2, Items III-E-149, 150, and 151 may be used to supplement this appropriation.	LS0308	EDN 105				
	Construction			AGS	40	C	40
	Total Funding				40C		40C
166.	Blanche Pope Elementary, Waimanalo, Oahu Design and construction for walkway and improvements.	LS0309	EDN 105				
	Construction			AGS	15	C	15
	Total Funding				15C		15C

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				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total C	
167.	Sunset Beach Elementary School, Oahu Design and construction for installation of campus security lights.	LS0310	EDN 105		10		10	
	Construction			AGS	10C		C	10C
	Total Funding							
168.	Maili Elementary School, Oahu Design and construction for security screens, secu- rity lights and grounds and site improvements.	LS0401	EDN 105		30		30	
	Construction			AGS	30C		C	30C
	Total Funding							
169.	Mililani High School, Oahu Design and construction for restrooms for the ath- letic field including grounds and site improve- ments.	LS0402	EDN 105		35		35	
	Construction			AGS	35C		C	35C
	Total Funding							
170.	Pearl City High School, Oahu Design and construction for facilities in accordance with the master plan, including varsity locker room and restrooms, classrooms, athletic field bleachers, lighting and parking facilities and grounds and site improvements. Supplements prior appropriations.	LS0403	EDN 105		135		135	
	Construction			AGS	135C		C	135C
	Total Funding							

171.	Waipahu High School, Oahu Planning, design and construction for permanent athletic spectator bleachers to replace the present temporary wooden facilities which may be a hazard to public safety.	LS0404	EDN 105			
	Plans			100		
	Design			300		
	Construction			300		
	Total Funding			700C		
				C		
172.	Farrington High School, Oahu Design and construct retaining wall facing freeway, prevention of hazardous conditions, and noise pollution for students in martial arts, ROTC, and industrial arts classes.	LS0502	EDN 105			
	Construction			85		
	Total Funding			85C		
				C		
173.	Kaewai Elementary School, Oahu Design and construction for improving school grounds. Move existing chain link fence parallel to Kalihi recreation center playground; building retaining wall; filling in needed soil; and relocating fence on wall for safety.	LS0503	EDN 105			
	Construction			30		
	Total Funding			30C		
				C		

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					FY 1979-80 F	FY 1980-81 F	Total	
174.	Kalihi Elementary School, Oahu Design and construction to improve existing facilities-install security screens in library, cafeteria, administration building and building B ground floor and second floor. Burglarized often. Proper security measures must be provided.	LS0504	EDN 105		50	50	50	M O F
	Construction			AGS			C	
	Total Funding				50	50C	C	
175.	Kalihi-Kai Elementary School, Oahu Design and construction to improve, renovate, and repair library. Present library is sub-standard in size. Improvement is needed to meet program needs of media center and to accommodate the large enrollment of students. The existing facility lacks adequate space for reading and browsing, individual study and learning, instruction, and storage and work area. Sound proof to eliminate noise pollution.	LS0505	EDN 105					
	Construction			AGS			C	
	Total Funding				150	150C	C	
176.	Kalihi-Uka Elementary School, Oahu Design and construction to expand library from substandard size to standard 6,000 square feet, to provide program needs of students' media center and adequate space for storage, reference and instructional areas. Renovate library including carpeting and expand into adjacent classroom and an enclosed kiln area. Fire marshall declared present location of kiln in library storage room hazardous.	LS0506	EDN 105					
	Construction			AGS			C	
	Total Funding				50	50C	C	

177.	Kalihi-Waena Elementary School, Oahu Design and construction for campus improvement, including playground and parking facilities.	LS0507	EDN	105				
	Construction				15			15
	Total Funding				15C			15C
178.	Linapuni Elementary School, Oahu Design and construction to improve existing facil- ties. Install security screens for windows and doors to curb break-ins.	LS0508	EDN	105				
	Construction				10			10
	Total Funding				10C			10C
179.	Maema Elementary School, Oahu Plans, design and construction for an olympic-size swimming pool. Unexpended balance in Item IV- N-47 of Act 226 SLH 1976 shall be used to supple- ment this appropriation.	LS0509	EDN	105				
	Construction				75			75
	Total Funding				75C			75C
180.	Mokulele Elementary School, Oahu Plans, design and construction for the installment of air conditioning systems in ten classrooms in conformance to state noise pollution standards.	LS0510	EDN	105				
	Construction				45			45
	Total Funding				45C			45C
181.	Campus Lighting, Roosevelt High School, Oahu Design and construct improved lighting throughout entire campus.	LS0601	EDN	105				
	Construction				39			39
	Total Funding				39C			39C

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					FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 M	
182.	Field Lighting, Washington Inter School, Oahu Correct and coordinate two existing athletic field lighting systems.	LS0602	EDN 105				4	4C
	Construction				4		C	
	Total Funding		AGS		4C		C	
183.	Smoke Detectors, Roosevelt High School, Oahu Design and construct smoke detector system for hallways in administrative building.	LS0603	EDN 105				7	7C
	Construction				7		C	
	Total Funding		AGS		7C		C	
184.	Stevenson Intermediate School, Oahu Design, construction, purchase and placement of a windbreaker surrounding the tennis courts at Stevenson Intermediate School.	LS0604	EDN 105				2	2C
	Equipment				2		C	
	Total Funding		AGS		2C		C	
185.	Washington Intermediate School, Oahu Design and construction for general improvements to include replacement of glass jalouises with wooden louvers.	LS0605	EDN 105				2	2C
	Construction				2		C	
	Total Funding		AGS		2C		C	
							30	30C

186.	Aina Haina Elementary School, Oahu Design and construction for library renovation. To supplement prior appropriations.	LS0702	EDN 105			
	Design			10		10
	Construction			247		247
	Total Funding			257C	C	257C
187.	Aina Haina Elementary, Oahu Design and construction for paving of the back parking lot.	LS0703	EDN 105			
	Design			11		11
	Construction			11C	C	11C
	Total Funding					
188.	Aina Haina Elementary School, Oahu Design and construction for site improvement and repainting of entire school. To supplement prior appropriations.	LS0704	EDN 105			
	Design			33		33
	Construction			33C	C	33C
	Total Funding					
189.	Aliiolani Elementary School, Oahu Design and construction for new playcourt including demolition of existing auditorium. To supplement prior appropriations.	LS0705	EDN 105			
	Design			5		5
	Construction			58		58
	Total Funding			63C	C	63C
190.	Aliiolani School, Oahu Design and construction to demolish auditorium.	LS0706	EDN 105			
	Design			18		18
	Construction			18C	C	18C
	Total Funding					

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					FY 1979-80 F	M 1980-81 F	FY M 1980-81 F	
191.	Anuenue Elementary School, Oahu Design and construction for carpentry repairs and replacement of the previously painted louvers with new opaque glass louvers.	LS0707	105					
	Construction			AGS	1		C	1 1C
	Total Funding				IC			
193.	Hokulani Elementary School, Oahu Design and construction for art and science building and teacher work centers. To supplement prior appropriations.	LS0709	105					
	Construction			AGS	60		C	60 60C
	Total Funding				60C			
194.	Hokulani Elementary School, Oahu Design and construction for improvement to and extension of library facilities.	LS0710	105					
	Construction			AGS	170		C	170 170C
	Total Funding				170C			
195.	Kaimuki Intermediate School, Oahu Design and construction for renovation of the public address system.	LS0711	105					
	Construction			AGS	1		C	1 1C
	Total Funding				1C			

196.	Kaimuki Intermediate School, Oahu Design and construction for removal of the wooden structures of four classrooms in "S" building and rooms M-101 and M-102.	LS0712	EDN 105				
	Construction			AGS	2	C	
	Total Funding				2C		2C
197.	Kaimuki Intermediate School, Oahu Design and construction for the renovation of four classrooms in "R" building to eliminate acoustical and ventilation problems.	LS0713	EDN 105				
	Construction			AGS	3	C	
	Total Funding				3C		3C
198.	Kaimuki High School, Oahu Design and construction for redoing circulation system in the swimming pool.	LS0714	EDN 105				
	Construction			AGS	38	C	
	Total Funding				38C		38C
199.	Kaiser High School, Oahu Design and construction for renovation of A-203 into a biology laboratory.	LS0715	EDN 105				
	Design			AGS	5	C	
	Construction				111		
	Total Funding				116C		116C
200.	Kaiser High School, Oahu Design and construction for activity lights for secu- rity.	LS0716	EDN 105				
	Construction			AGS	2	C	
	Total Funding				2C		2C

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					FY 1979-80 F	FY 1980-81 F	Total	
201.	Kaiser High School, Oahu Design and construction for extension of administration building.	LS0717	EDN 105					
	Construction				14		C	
	Total Funding			AGS	14C			14C
202.	Kaiser High School, Oahu Design and construction for improvements to band and choir buildings.	LS0718	EDN 105					
	Design				1			
	Construction				12			
	Total Funding			AGS	13C		C	13C
203.	Kaiser High School, Oahu Design and construction for a language arts/social studies classroom building.	LS0719	EDN 105					
	Design				10			
	Construction				152			
	Total Funding			AGS	162C		C	162C
204.	Kaiser High School, Oahu Design and construction for repair of M building.	LS0720	EDN 105					
	Design				8			
	Construction				76			
	Total Funding			AGS	84C		C	84C

205.	Kaiser High School, Oahu Design and construction for a sidewalk between building A and cafeteria.	LS0721	EDN 105				
	Construction			AGS	4	C	4
	Total Funding				4C		4C
206.	Kaiser High School, Oahu Design and construction for a sidewalk from Pakala St. to the tennis courts.	LS0722	EDN 105				
	Construction			AGS	22	C	22
	Total Funding				22C		22C
207.	Kalani High School, Oahu Design and construction for the renovation of the cafeteria to accomodate school-wide perfor- mances.	LS0723	EDN 105				
	Construction			AGS	88	C	88
	Total Funding				88C		88C
208.	Kalani High School, Oahu Design and construction for general improvements to water lines, and lighting.	LS0724	EDN 105				
	Construction			AGS	40	C	40
	Total Funding				40C		40C
209.	Kalani High School, Oahu Design and construction for the renovation of the gymnasium for additional locker room facilities, in- cluding showers, to meet title IX requirements.	LS0725	EDN 105				
	Construction			AGS	113	C	113
	Total Funding				113C		113C

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					FY 1979-80 F	M O	FY 1980-81 F	
212.	Liliuokalani Elementary School, Oahu Design and construction for improvement to existing facilities, including painting of school buildings. To supplement prior appropriations.	LS0728	EDN 105					
	Construction				2		C	2
	Total Funding			AGS	2C			2C
213.	Liliuokalani Elementary School, Oahu Design and construction for improvements, including soundproofing and airconditioning of classrooms reducing wind under breezeways, raising the fence, covering walkway to the admin. bldg. and to cafeteria, and closing Mahina Street for parking. Unencumbered balances from Item 3E078 of 244/78 may be used to supplement this appropriation.	LS0729	EDN 105					
	Construction							
	Total Funding			AGS	50		C	50C
214.	Niu Valley Intermediate School, Oahu Design and construction for replacement of cafeteria louvres from glass to wood.	LS0730	EDN 105					
	Construction							
	Total Funding			AGS	50		C	50C
215.	Palolo Elementary School, Oahu Design and construction for repairs and renovation of building B.	LS0731	EDN 105					
	Construction							
	Total Funding			AGS	11		C	11C

216.	Waialae Elementary School, Oahu Design and construction for a chain-link fence along the 20th Avenue boundary.	LS0732	EDN	105			
	Construction			10			
	Total Funding			10C			
216A.	Aliamanu Elementary School Design and construct for parking and bus loading zone.	203003	EDN	105			
	Design			25			
	Construction			225			
	Total Funding			250C			
217.	Mililani High, Oahu Design & construct gymnasium.	215001	EDN	105			
	Design			115			
	Construction			1,466			
	Equipment			7			
	Total Funding			1,588C			
218.	Mililani High, Oahu Design & construct classroom building.	215004	EDN	105			
	Design			210			
	Construction			5			
	Equipment			215C			
	Total Funding			C			
219.	Mililani High School Design and construct eight classrooms, drama, newsriting, languages lab, and teachers workroom.	215007	EDN	105			
	Design			210			
	Total Funding			5			
				215C			

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				Total Biennium M 1979-81 F
				Exp. Agy.	FY 1979-80 F	M O	Total Biennium M 1980-81 F	
220.	Moanalua Elementary School Design and construct paved play court.	218004	EDN 105					
	Design							
	Construction							
	Total Funding							
220A.	Mokulele Elementary School Design and construct for a sprinkler system and ground improvement for a new playground.	221001	EDN 105					
	Design							
	Construction							
	Total Funding							
221.	Mokulele Elem Design and construct paved play court.	221002	EDN 105					
	Design							
	Construction							
	Total Funding							
222.	Wheeler Elementary School Design and construct paved play court.	237004	EDN 105					
	Design							
	Construction							
	Total Funding							

222A.	Milliani 4th Elem., Oahu Design & construct sixteen classrooms, playfield parking and site improvements. Land acquisition.	241001	EDN 105				
	Plans			20	20		
	Land Acquisition			200	200		
	Design			100	100		
	Construction			1,780	1,780		
	Equipment			20	20		
	Total Funding			2,120C	2,120C		
222B.	August Ahrens E.S. Sewer connection, ground & site improvements for sewer & drainage.	300001	EDN 105				
	Construction			140	140		
	Total Funding			140C	140C		
222C.	Campbell High School Design and construct paved playcourt, fencing, drainage and other site improvements.	302005	EDN 105				
	Construction			300	300		
	Total Funding			300C	300C		
223.	Kaimiloa E.S. Plan and construct classroom bldg, ground and site improvements.	309003	EDN 105				
	Design			54	54		
	Total Funding			54C	54C		
224.	Pearl City H.S. Design and construct sewer system, ground and site improvements.	321007	EDN 105				
	Design			55	55		
	Total Funding			55C	55C		

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agg.	APPROPRIATIONS (\$1,000's)		
					FY 1979-80 M F	FY 1980-81 O F	Total Biennial M 1979-81 F
225.	Waianae Elem. Design and construct classroom building, fire hydrants, ground and site improvements.	324002	EDN 105				
	Construction			337	1,169	1,506	
	Equipment			11		11	
	Total Funding			348C	1,169C	1,517C	
226.	Waianae High Design and construct industrial education and arts and crafts classrooms, ground and site improvements.	325007	EDN 105				
	Construction			840	370	1,210	
	Equipment			6		6	
	Total Funding			846C	370C	1,216C	
228.	Crestview Elem. Site selection study, land acquisition, master planning.	340001	EDN 105				
	Plans				30	30	
	Land Acquisition				480	480	
	Total Funding				510C	C	510C
229.	Crestview Elem. D and C classroom building, temporary administration, library, serv. kitchen, health rm., parking, playfield, ground and site improvements-1st increment.	340002	EDN 105				
	Design				92	50	
	Total Funding				92C	50C	142C

229A	Crestview Elem. Design and construct classroom building, ground and site improvements.	340003	EDN 105				
	Design					135	135C
	Total Funding			AGS	C	135C	135C
230.	Kahuku High School D and C for three shops and renovations to auto metal shop.	410005	EDN 105				
	Design					42	42C
	Total Funding			AGS	C	42	42C
230A.	Kalaheo High School Design and construct new athletic field.	415001	EDN 105				
	Construction					755	755C
	Total Funding			AGS	C	755C	755C
231.	Laie Elementary Design and construct regular classrooms.	420004	EDN 105				
	Design					30	60
	Construction					765	765
	Equipment					3	3
	Total Funding			AGS	30C	798C	828C
232.	Hilo High School, Hilo, Hawaii Design and construction: physical education locker shower building and covered walkway, equipment and appurtenances. Demolish old building.	502003	EDN 105				
	Design					102	102C
	Total Funding			AGS	C	102	102C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M 1980-81 F	FY 1980-81 F	
233.	Hilo High School, Hilo, Hawaii Design and construction-renovate track and infield. Design and construction, outdoor paved courts.	502004	EDN 105					
	Design				36		C	36
	Total Funding			AGS	36C			36C
234.	Hilo Union Elementary School, Hilo, Hawaii Design and construction renovation of main building, old office space to lavatory facilities and workroom; demolish old toilets.	504001	EDN 105					
	Design				21		C	21
	Total Funding			AGS	21C			21C
235.	Kau High and Pahala Elem School Kau Hawaii Design and construction of vo-tech shop, equipment and appurtenances. Demolish old structure.	511002	EDN 105					
	Design				60			60
	Construction				322			322
	Equipment				13			13
	Total Funding			AGS	395C		C	395C
236.	Kealakehe Elel & Inter School, N. Kona Design and construction of PE locker shower facility, paved playcourts, equipment and appurtenances.	514001	EDN 105					
	Design				12			12
	Total Funding			AGS	12C		C	12C

237.	Kealakehe Elem School Design and construct intermediate classroom building, equipment and appurtenances, workroom, toilets.	514002	EDDN	105			
	Design				48		48C
	Total Funding		AGS	48C		C	
238.	Keaukaha Elem School Hilo Hawaii Design and construction—Elementary classroom building, covered walkway, toilets, equipment and appurtenances.	515001	EDDN	105			
	Design				29		44
	Construction					500	
	Equipment					3	
	Total Funding		AGS	29C		518C	547C
239.	Konaawa High and Inter Kona, Hawaii Design and construction-music building equipment and appurtenances.	518002	EDDN	105			
	Design				46		46
	Total Funding		AGS	46C		C	46C
239A.	Pahoa High and Elementary School Pahoa, Puna, Hawaii Design and construction-athletic field, paved playcourts for secondary, equipment and appurtenances.	523004	EDDN	105			
	Design				54		70
	Total Funding		AGS	54C		70C	124C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID EDN 105	APPROPRIATIONS (\$1,000's)				Total Biennium 1979-81 F
				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F	
240.	Pahoa High and Elemt. Puna, Hawaii Design and construction classroom bldg; renovate bldg N and C.	523005						
	Design		57					57
	Construction				500	5		500
	Equipment							5
	Total Funding		AGS	57C		505C		562C
241.	Pahoa High and Elementary School Design and construction physical education locker- shower facility; equipment and appurtenances; covered walkway.	523006	EDN 105					
	Design							
	Total Funding		AGS		54	C		54C
242.	Waiakea High Hilo, Hawaii Design and construction of gymnasium, and park- ing; covered walkway; equipment and appur- tenances.	525003	EDN 105					
	Design							
	Total Funding		AGS		107	C		107C
242A.	Waiakea High School Design & construction, secondary classrooms, equipment and appurtenances, covered walkway.	525004	EDN 105					
	Design							
	Total Funding		AGS					
								120
								120C

243.	Waimea Elementary and Intermediate School Waimea, S. Kohala, Hawaii	528001	EDN 105				
	Design and construction—classroom building, covered walkway, equipment and appurtenances.						
	Design			40		40	
	Total Funding			40C		40C	
244.	Keaohou-Kailua Elementary School Kona Ha- waii	532002	EDN 105				
	Design and construction—land clearing, increment I; classroom buildings; playground; equipment and appurtenances; parking.						
	Design			129		169	
	Construction				40	3,500	
	Equipment					20	
	Total Funding			AGS 129C		3,560C	
						3,689C	
244A.	Baldwin High School, Maui	600013	EDN 105				
	Design and construct physical education multi- purpose room and paved playcourts.						
	Design			50		50	
	Construction			401		401	
	Equipment			7		7	
	Total Funding			AGS 458C		458C	
245.	Haiku School, Maui	601003	EDN 105				
	Design and construct four regular classrooms.						
	Design			45		45	
	Total Funding			AGS 45C		45C	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)			
				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
245A.	Hana High and Elementary School, Maui Design and construct gymnasium.	602004	EDN 105				
	Construction			615			615
	Equipment			7			7
	Total Funding			622C		C	622C
246.	Iao School, Maui Design and construct P.E. locker/shower facility.	603003	EDN 105				
	Design			48		10	58
	Total Funding			48C		10C	58C
247.	Iao School, Maui Design and construct bandroom and paved play- courts.	603004	EDN 105				
	Design			40		C	40C
	Total Funding			40C		C	40C
248.	Maui High School, Maui Design and construct athletic field with storage & toilet facilities.	616002	EDN 105				
	Design			54		C	54C
	Total Funding			54C		C	54C
248A.	Molokai High & Inter School, Molokai Design and construct playfield and parking.	618002	EDN 105				
	Design			50		C	50C
	Total Funding			AGS		C	50C

249.	New Pukalani Elem. School, Maui Design and construct classroom building and parking.	620001	EDN 105				
	Construction			634			
	Equipment			12			
	Total Funding			646C			
				634			
				12			
				646C			
249A.	Pukalani Elementary School, Maui, Playground Design and construction for playground and site improvements.	620004	EDN 105				
	Construction			350			
	Total Funding			350C			
				350			
				350C			
250.	Pukalani Elementary School, Maui Design and construct paved playcourt.	620005	EDN 105				
	Design			6			
	Construction			43			
	Total Funding			49C			
				6			
				43			
				49C			
251.	Lahaina Intermediate and Elementary School, Maui Design and construct playfield and paved playcourts.	624003	EDN 105				
	Design			45			
	Total Funding			45C			
				45			
				45C			
251A.	Makawao Inter School, Maui Acquisition of land for an intermediate school and park site.	625001	EDN 105				
	Land Acquisition			260			
	Total Funding			260C			
				260			
				260C			

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Item No.	Program and Capital Project	Cap. Proj. No.	Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
						FY 1979-80 M F	FY 1980-81 O F	Total Biennium M O F 1979-81
251B.	Paia-Puunene Schools	699003	EDN 105			70	70	
	Improvements to water systems.					700	700	
	Design					770C	770C	
	Construction							
	Total Funding			AGS	C			
252.	Kalaheo School	702003	EDN 105					
	Design and construct classroom building with teacher work room and toilets.							
	Design					26	26	
	Total Funding			AGS	26C	C	26C	
253.	Kauai High and Inter	705004	EDN 105					
	Construction of 11 classroom building.							
	Construction					673	673	
	Total Funding			AGS	673C	C	673C	
254.	Kauai High And Inter	705005	EDN 105					
	Renovation and improvement of the former KCC facilities for the intermediate level.							
	Construction					651	975	
	Equipment						25	25
	Total Funding			AGS	651C	1,000C		1,631C

254A.	Waimea High	Design and construct physical education locker/ shower & athletic lockers including 2-classrooms.	712003	EDN	105			
	Design			AGS	C	150	150C	
	Total Funding					150C	150C	
255.	Exceptional Child Program Campbell Educational Complex, Oahu	Design and construction of new facilities and renovation of existing facilities for special education programs and for orthopedically handicapped students; to include paved courts and accesses and grounds and site improvements.	LS0405	EDN	107			
	Design			AGS	C	60	60	
	Construction					40	40	
	Total Funding					100C	100C	
256.	Hawaii School for the Deaf and Blind, Oahu	Design and construction for covered walkways. To supplement prior appropriations.	LS0733	EDN	107			
	Design			AGS	C	1	1	
	Construction					35	35	
	Total Funding					36C	36C	
257.	Hawaii School for the Deaf and Blind, Oahu	Design and construction for a gymnasium. To supplement previous appropriation in Act 9, Special Session Laws of Hawaii 1977.	LS0734	EDN	107			
	Design			AGS	C	4	4	
	Construction					4C	4C	
	Total Funding							

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)			
				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
258.	Hawaii School for the Deaf and Blind, Oahu	LS0735	EDN 107				
	Design and construction for a covered lanai.						
	Construction					14	
	Total Funding			AGS	14	C	14C
259.	Central Oahu District	299001	EDN 107				
	Design and construct and or renovate district SMH center.						
	Design				25	C	25
	Total Funding			AGS	25C		25C
259A.	Waipahu Intermediate	331001	EDN 107				
	Design and construct classroom building, ground and site improvements.						
	Design				50		50
	Construction				498		498
	Equipment				10		10
	Total Funding			AGS	558C	C	558C
260.	Leeward Oahu District Schools	397001	EDN 107				
	Design and construct special education classrooms (SMH & MRT), ground and site improvements.						
	Design						
	Total Funding			AGS	29	C	29C

261.	Windward District	Design and construct renovations of classrooms for SMH special education program.	499001	EDN 107		
	Design					
	Total Funding					
262.	Hilo Union Elementary School, Hilo, Hawaii	Design and construction—special education classrooms for MRT, LD, and orthopedically handicapped; toilets; covered walkway; equipment and appurtenances; custodial room; demolish old facility.	504002	EDN 107	AGS 29C	C 29C
	Design					
	Total Funding					
263.	Konaawaena Eleem School, North Kona, Hawaii	Design and construction of 3 special education classrooms, covered walkway, access road, parking, equipment, and appurtenances.	517003	EDN 107		
	Design					
	Total Funding					
264.	Hawaii District	Design and construction—renovate and convert regular classrooms to special education classrooms for severely mentally handicapped.	599001	EDN 107		
	Design					
	Total Funding					
265.	Maui School District	Design and construct SMH center.	699002	EDN 107	AGS 25C	C 25C
	Design					
	Total Funding					

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)			
				Exp. Agv.	FY 1979-80 F	FY 1980-81 F	Total M 1979-81 F
266.	Kauai High and Intermediate	705006	EDN 107				
	Design and renovate existing classrooms in bldg I from special classroom to special education center.						
	Design			29			29
	Total Funding		AGS	29C		C	29C
267.	Compensatory Education						
	Storefront School Program, Wahiawa, Oahu	LS0421	EDN 108				
	Plans, land, design, construction, and equipment for alternative educational facilities, storefront school program, Wahiawa, Oahu.						
	Construction			292			292
	Total Funding		AGS	292C		C	292C
	Instructional Administration and Support						
	School Administration						
267A.	Farrington High School, Oahu	LH0427	EDN 203				
	Design and construction of improvements to building A, administration.						
	Construction			18			18
	Total Funding		AGS	C		18C	18C
267B.	Moanalua High School, Oahu	LH0827	EDN 203				
	Design and construction of administration building.						
	Construction						
	Total Funding		AGS	C			270C

268.	Milliani Hi, Oahu	Design & construct administration bldg, convert temporary administration building to classrooms.	215002	EDN 203			
	Construction				173		173
	Equipment				2		2
	Total Funding				175C		175C
269.	Moanalua High, Oahu	Design & construct administration building.	219001	EDN 203			
	Construction				473		473
	Equipment				2		2
	Total Funding				475C		475C
270.	Waiakea High	Supplementary funds for administration bldg.	525007	EDN 203			
	Construction				375		375
	Equipment				25		25
	Total Funding				400C		400C
271.	Kihei School, Maui	Design and construct library bldg.	608002	EDN 203			
	Design				65		65
	Construction				667		667
	Equipment				12		12
	Total Funding				744C		744C

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					FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium M O F 1979-81
272.	Instructional Media						
	Heeia Elementary School, Oahu	LH2301	EDN 204				
	Design and construction of renovations to the library.						
	Construction			AGS 35		35	
	Total Funding			35C	C	35C	
273.	Highlands Intermediate	305004	EDN 204				
	D and C new library, renovate existing library into classrooms, ground and site improvements.						
	Design			AGS 57		57	
	Total Funding			57C	C	57C	
274.	Kaimiloa E.S.	309001	EDN 204				
	Design & construct library ground & site improvements.						
	Design			AGS 48		48	
	Total Funding			48C	C	48C	
275.	Pohakea E.S.	323001	EDN 204				
	Design & construct library, renovation of temporary library to classrooms, ground and site improvements.						
	Design			AGS 51		51	
	Total Funding			51C	C	51C	

	<b>Student Activities</b>						
276.	Pearl City High School, Oahu Athletic Complex	321001	EDN 207				
	Design and construction for athletic complex including locker/shower facilities, equipment, and appurtenances for athletic field, and access roadway.						
	Design		100			100	
	Construction		900			900	
	Total Funding		1,000C		C	1,000C	
	<b>Institutional Administration and Support</b>						
	<b>School Food Services</b>						
279A.	Kaiulani Elementary School, Oahu	LH0527	EDN 305				
	Design and construction of improvements to the cafeteria.						
	Construction					48	
	Total Funding				C	48C	
279B.	Wilcox Elementary School, Kauai	LH0600	EDN 305				
	Purchase and installation of equipment which will convert the kitchen at Wilcox Elementary School from conventional cooking to steam cooking.						
	Construction					55	
	Total Funding				C	55C	
	<b>Public Service</b>						
	<b>Public Libraries</b>						
279C.	Mililani Community Library, Oahu	LH0239	EDN 407				
	Plans, design, and construction.						
	Construction					50	
	Total Funding				C	50C	

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
279D.	Stevenson Intermediate School Library, Oahu	LH0307	EDN 407					
	Construction and renovation of library in building A.							
	Construction							
	Total Funding			AGS	C		10 10C	
279E.	Waipahu Community Library, Oahu	LH0339	EDN 407					
	Plans, design, and land acquisition.							
	Construction							
	Total Funding			AGS	C		100 100C	
279F.	Waiakea Elementary School Library, Hawaii of a Library.	LH0551	EDN 407					
	Plans and specifications for the construction.							
	Plans							
	Total Funding			AGS	C		15 15C	
279G.	Waiakeawaea School Library, Hawaii	LH0651	EDN 407					
	Plans and specifications for improvements, expansion, and construction of library.							
	Plans							
	Total Funding			AGS	C		65 65C	

280.	McCully-Moiliili Library, Oahu Plans and construction for installation of carpeting in meeting room, staircase, and storywell of the library.	LH1201	EDN 407			
	Construction					
	Total Funding					
281.	Manoa Library, Oahu Plans and installation of carpet to control noise factor.	LH1301	EDN 407			
	Construction					
	Total Funding					
282.	Manoa Library, Oahu Plans and construction for expansion of existing facilities.	LH1302	EDN 407			
	Construction					
	Total Funding					
283.	Kaneohe Regional Library, Oahu Plans, design and construction for driveway widening.	LH2401	EDN 407			
	Construction					
	Total Funding					
286.	Waikiki-Kapahulu Library, Oahu Design and construction for air conditioning of library building, including carpeting.	LS0607	EDN 407			
	Construction					
	Total Funding					

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					FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium M O F	
286A.	Mililani Community Library Design and construct a community library facility to serve community of Mililani.	820001	EDN 407					
	Design			AGS	C	100	100	100C
	Total Funding							
286B.	Hana Community-School Library Design and construction of a community-school li- brary located on school campus to serve commu- nity and school.	857001	EDN 407					
	Construction			AGS	C	1,100	1,100	1,100
	Equipment					.25	.25	.25
	Total Funding							1,125C
287.	HIGHER EDUCATION University of Hawaii, Manoa Instruction—UOH, Manoa Medical School Development Development of facilities for a 4-year medical school at community hospitals in accordance with long-range development plans and affiliation agreements (Kapiolani-Children's Hosp. 6th floor and Kuakini Hospital).	039	UOH 101					
	Design			AGS	C	36	36	36C
	Total Funding							

288.	Agricultural Sciences Facilities, Phase 2A Construction and furniture and equipment for facilities for agronomy, soil science, and agricultural services center.	043	UOH 101			
	Construction Total Funding			AGS	4,955 4,955C	C 4,955C
289.	Greenhouse Facilities, Phase 4 Construction and equipment for greenhouses to replace those scattered around the Manoa campus which will be demolished to make way for construction of major new facilities.	047	UOH 101			
	Design Total Funding			AGS	17 17C	C 17C
290.	Swimming Pool Complex Completion Construction and furniture and equipment of locker-showers, offices, classroom-meeting room, training room, etc. to complete the state swimming pool complex.	049	UOH 101			
	Design Construction Total Funding			AGS	2,000 2,000C	120 2,000 2,120C
290A.	Law School Facilities University of Hawaii at Manoa Law School Facilities	052	UOH 101			
	University of Hawaii at Manoa Construction of classrooms, seminar rooms, offices, library and other appurtenant facilities required by the law school, and purchase of furniture and equipment. Approx. 52,600 ASF; 84,160 GSF.			AGS	6,971 6,971C	C 6,971C

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					FY 1979-80 F	FY 1980-81 F	Total	
291.	Webster Hall Renovations for Dental Hygiene University of Hawaii, Manoa campus Renovations to Webster Hall for the dental hygiene program.	061	UOH 101		25	25	25	
	Design							
	Construction				150	150	150	
	Total Funding			AGS	175C	C	175C	
291A.	Oceanographic and Marine Laboratory Construction and furniture and equipment of offices, classrooms laboratories for the department of oceanography, dean of marine programs and Sea Grant College.	113	UOH 101					
	Equipment							
	Total Funding			AGS	C	C	C	
291B.	Medical School Development Development of facilities for a four-year medical school at community hospitals in accordance with long-range development plans and affiliation agreements. (Kapiolani-Children's Hospital, sixth floor).	LH0247	UOH 101					
	Design							
	Construction							
	Equipment							
	Total Funding			AGS	C	C	C	

292.	Baseball Stadium, Oahu Plans and construction to complete grandstand, bleachers, dugouts, locker/shower/restroom facilities. Supplements prior appropriation.	LH1301	UOH 101			
	Construction			AGS	50	C
	Total Funding				50	50C
	Organized Research—UOH, Manoa					
292A.	MEC—Core Storage Building University of Hawai'i, Snug Harbor Construction of a core storage building to house cores presently housed in various leased locations.	122	UOH 102			
	Construction			AGS	734	734C
	Total Funding				734	734C
293.	Mauna Kea Obs. Mid-level Facilities, Phases 1 and 2. Plans, construction and furniture and equipment for housing, office and laboratory facilities on the slopes of Mauna Kea to accommodate observatory personnel.	123	UOH 102			
	Design			AGS	915	175
	Construction			AGS	85	4,177
	Equipment			C	350	5,092
	Total Funding			AGS	1,000E	435
						937C
						4,765E
294.	Snyder Hall Renovations Design, construction and equipment for animal care facilities.	126	UOH 102			
	Design			AGS	45	45
	Construction				435	435
	Equipment				20	20
	Total Funding				45C	500C

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					FY 1979-80 M F	FY 1980-81 O F	Total	
295.	Hawaii Institute of Marine Biology, Coconut Island, Seawall Improvements. Construction of seawall improvements at HIMB, Coconut Island.	129	UOH 102					
	Design			AGS	20	C	20	
	Total Funding			TRN	C	75C	20C	
295A.	Improvements to the Mauna Kea Observatory Access Road, Mauna Kea, Hawaii	131	UOH 102					
	Access road improvements from Hale Pohaku to the summit including safety improvements and stabilization of embankment slopes and shoulders to meet health and safety standards. (Funds to be expended by the Department of Transportation).							
	Design			TRN	C	75	75	
	Total Funding			TRN	C	75C	75C	
296.	Hawaii Natural Energy Institute Facilities and Research Projects	146	UOH 102					
	Design and construction for research and development and demonstration projects toward the development of alternate energy resources. To include projects in the areas of geothermal, otec, biomass, wind energy, solar energy, and other energy programs.							
	Plans				1	1	1	
	Land Acquisition					1	1	
	Design					1	1	
	Construction					4,996	4,996	
	Equipment					1	1	
	Total Funding			UOH	5,000C	C	5,000C	

296A.	Mauna Kea Observatory, Power Line University of Hawaii Plans and construction for a permanent electrical transmission and distribution system from the saddle road to the summit of Mauna Kea, including substations and switchgear and underground power lines.	149	UOH 102				
	Design	100					
	Total Funding	100C					
297.	Tropical Crop Facilities in Hilo, Hawaii Construction and equipment for facilities to accommodate the crop programs of the Hawaii branch station.	681	UOH 102	AGS	C	100	100C
	Construction	642					
	Equipment	60					
	Total Funding	702C					
298.	Sinclair Library Basement Renovation Renovation to Sinclair Library basement and adjoining areas to consolidate various components of the instructional assistance unit.	179	UOH 104	AGS	C	21	21C
	Design	21					
	Total Funding	21C					
299.	Learning Assistance Center, University of Hi. Manoa Campus, Oahu Design and construction for renovation of existing facilities and purchase of equipment for a learning assistance center in support of students, to be located in a facility available to students for general study.	LS0618	UOH 104	AGS	C	20	20 90 110C
	Construction	20					
	Equipment	90					
	Total Funding	110C					

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				Total
				Exp. Agg.	FY 1979-80 F	FY M 1980-81 F	FY M 1980-81 F	
300.	Cooke Field Improvements University of Hawaii, Manoa Campus Replacement of artificial turf and track and other related work.	220	UOH 105			84	84	Biennium O 1979-81 F
	Design							
	Construction							
	Total Funding							
301.	KTUH Radio Station, University of Hawaii Manoa Equipment for completion of KTUH studios.	LS0420	UOH 105	AGS	1,100 1,184A	A	A	1,100 1,184A
	Equipment							
	Total Funding							
302.	University of Hawaii Baseball Stadium, Manoa Campus, Oahu Design and construction for grandstand, bleachers, locker/ shower/ restroom facilities. Unexpended funds from Item 5E003 of 226/76 and Item 3F001 of 244/78 shall be used to supplement this appropriation.	LS0619	UOH 105					
	Construction							
	Total Funding							
303.	Modifications to Existing Facilities to Meet Hoshia and Other Code Requirements Modifications to existing facilities to meet HOSHA and other code requirements.	250	UOH 106	AGS	130 300	C	C	130 300C
	Design							
	Construction							
	Total Funding							

304.	Campus Drainage System, Dole St. Construction of campus drainage system along Dole Street.	259	UOH 106				
	Construction						
	Total Funding						
305.	Minor Cip Projects	263	UOH 106	AGS 1,500 1,500C	700 700C	700 700C	2,200 2,200C
	Design						
	Construction						
	Equipment						
	Total Funding						
306.	Manoa Stream Park, Oahu Design and construction of Phase I of the Manoa stream park.	LH1201	UOH 106	AGS AGS	300A 500C	300A 500C	686 39 300A 300C
	Design						
	Construction						
	Total Funding						
307.	Aggee House, Manoa, Oahu Design and construction for restoration of Aggee house and access road (old Manoa Loop road). Un- encumbered balances Item 91E4E001 of 226/76 may be used to supplement this appropriation.	LS0620	UOH 106	AGS 100C	5 95	C	95 100C
	Design						
	Construction						
	Total Funding						

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total
					FY 1979-80	FY 1980-81	Biennium 1979-81	
307A.	University of Hawaii, Hilo Instruction—University of Hawaii, Hilo							
	College of Agriculture Facilities	315	UOH 211					
	Plans, construction and furniture, and equipment for classrooms, laboratories and offices for the college of agriculture, University of Hawaii at Hilo.							
	Construction							
	Equipment							
	Total Funding			AGS	C	1,022C	C	1,022C
308.	New Shops & Classroom Blds on Hilo Campus U of H at Hilo, Hawaii Community College	317	UOH 211					
	Construction of new mechanical trades, building trades, business and distributive education, restaurant training and other para-technical trades buildings on the Hilo campus site.							
	Construction							
	Equipment							
	Total Funding			AGS	1,419C		C	1,419C
309.	UHH-Agriculture Farm Laboratory University of Hawaii at Hilo	322	UOH 211					
	Plans, construction, furniture and equipment for the University of Hawaii at Hilo agriculture farm laboratory.							
	Design							
	Construction							
	Total Funding			AGS	277C		C	277C

309A.	Renovation to Wentworth Hall University of Hawaii at Hilo Plans and construction to repair or modify the roof of Wentworth Hall.	325	UOH 211			
	Design	20	20			
	Construction	80	80			
	Total Funding	100A	100A			
309B.	Renovation of College Hall and Other Existing Buildings, University of Hawaii at Hilo Plans, construction, furniture and equipment to improve college hall and other existing buildings and provide new space to accommodate changing and expanding programs.	326	UOH 211			
	Design	A	A			
	Construction					
	Total Funding					
310.	Academic Support—UOH, Hilo Learning Resources Center Plans, construction and furniture and equipment for the learning resources center which will include the library, learning assistance center and media center.	385	UOH 214			
	Design	C	C			
	Construction					
	Equipment					
	Total Funding					
310A.	Institutional Support—UOH, Hilo General Utilities, Roads & Site Improvements Plans and construction of sitework and utilities for the University of Hawaii at Hilo campus.	433	UOH 216			
	Design	40	40			
	Construction	376	376			
	Total Funding	416C	416C			

ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				Total 1979-81 F
				Exp. Agy.	FY 1979-80 F	M 1980-81 F	Total M 1980-81 F	
310B.	Access for the Handicapped, Safety and Health Requirements, University of Hawaii at Hilo	438	UOH 216					
	Plans and construction to complete the corrective work required to provide an accessible campus for the physically handicapped.							
	Design							
	Total Funding		AGS		C	25	25	25C
311.	Honolulu Community College Instruction—Honolulu Community College	A09	UOH 301					
	Honolulu CC-Modernization and Renovation							
	Plans, construction, furniture and equipment to modify, renovate and improve existing facilities to meet program requirements and provide for the expansion of the college programs.							
	Design							
	Construction							
	Equipment							
	Total Funding		AGS		414C	695C	1,109C	
312.	Honolulu CC-Electricity-Electronics Build	A14	UOH 301					
	Plans, construction, furniture and equipment for the expansion of the existing electricity-electronics bldg to provide additional laboratories, classrooms, storage and faculty offices.							
	Design							
	Construction							
	Total Funding		AGS		73	34	107C	

313.	Honolulu CC-Vocational-Technical Facilities, Including Site Development	A15	UOH	301		
	Plans, construction, furniture and equipment to provide shops, classrooms, specialized facilities and offices for the auto mechanics and diesel mechanics programs, and parking lot, including general utilities, street lighting, Kokea Street turnaround and landscaping.					
	Design	100			100	
	Construction				240	
	Total Funding		AGS	100C	240C	
					100	
					240	
					340C	
314.	Honolulu Community College, Oahu	LH1701	UOH	301		
	Plans and construction of a human resources building, including necessary equipment and a botanical garden laboratory.					
	Design				1	
	Construction				49	
	Total Funding		AGS	50C	C	
					1	
					49	
					50C	
315.	Institutional Support—Honolulu CC	A74	UOH	305		
	Honolulu CC-Site Development					
	Demolition of existing facilities, clearing, grading, improvements to drainage and utilities, landscaping additional parking facilities, and service roadways.					
	Design				16	
	Construction				108	
	Total Funding		AGS	124C	C	
					16	
					108	
					124C	

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1979-80 F	FY 1980-81 F	
315A.	Kapiolani Community College Institutional Support—Kapiolani CC	B04	UOH 315		100	100	94	194C
	Plans							
	Design							
	Total Funding			AGS	C			
316.	Leeward Community College Instruction—Leeward Community College Leeward Comm. Coll Renovations of Existing Facilities.	L05	UOH 321		10	51	61	444
	Renovations of existing facilities, Leeward Com- munity College conversion, modifications renova- tions, and improvements to existing facilities.				74	370	30	31
	Design				1			
	Construction							
	Equipment							
	Total Funding			AGS	85C	451C	536C	
316A.	Windward Community College Institutional Support—Windward CC Windward Community College, Oahu	LH0316	UOH 335					
	Plans and design for new facilities.							
	Plans							
	Total Funding			AGS	C			
								45 45C

**Maui Community College  
Instruction-Maui Community College**

317.	<b>Maui CC-Fine Arts Facilities</b> Fine arts facilities—Maui Community College plans, construction, furniture and equipment to provide classrooms, laboratories, special classrooms, offices and support facilities for the fine arts program.	M05	UOH 501				
	Design	AGS	60	C	60	60C	
	Total Funding		60C				
318.	<b>Maui Community College—Nursing Laboratory and Learning Skills Laboratory</b> Plans, construction, furniture and equipment for laboratories, classrooms, special classrooms, offices and support spaces for the nursing and learning skills programs.	M09	UOH 501				
	Design	AGS	40	C	40	40C	
	Total Funding		40C				
319.	<b>Maui Community College—Agriculture Facilities</b> Plans, construction, furniture and equipment to provide laboratories, classrooms, offices and support spaces for the agriculture program.	M10	UOH 501				
	Design	AGS	25	C	25	25C	
	Total Funding		25C				

ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M 1979-80 F	FY 1980-81 F	
319A.	Student Services-Maui Community College Maui Community College Student Housing Plans, construction and furnishings for a housing complex to include site development and laundry and recreational building.	LH0147	UOH 504					1,695
	Construction			AGS		C	1,05	1,695
	Equipment						1,800C	1,05
	Total Funding							1,800C
320.	Institutional Support-Maui Community College Maui CC Minor Capital Improvements Minor capital improvements-Maui Community College plans and construction furniture and equipment for new construction and modifications and improvements to existing facilities.	M50	UOH 505					10
	Design							10
	Construction						115	115
	Equipment						5	5
	Total Funding			AGS		130C		130C
321.	Maui CC-Site Development Site development-Maui Community College clearing, grading and landscaping of undeveloped lands, including additional parking, roadways, lighting, and utilities. Road.	M75	UOH 505					18
	Design							90
	Construction							108C
	Total Funding			AGS				108C

Kauai Community College  
Instruction-Kauai Community College

321A.	Kauai CC-Social Sciences Laboratory Plans, construction, furniture and equipment to provide laboratories, offices and support spaces for the social sciences program, approximate area 6,000 GSF.	K07 UOH 601						
	Construction		AGS	C				
	Equipment				630	60	10	
	Total Funding				690C	60	116	126C
321B.	Kauai Community College-Extension to Weldin Shop Design and construction for the extension of welding shop building to house machine shop.	LH0800 UOH 601						
	Construction		AGS	C				
	Total Funding				200	200C	C	
322.	Institutional Support-Kauai CC Kauai CC-Minor Capital Improvements Kauai Community College-minor capital improvements. Plans and construction of minor improvements, including new facilities and modifications and improvements to existing facilities and purchase of furniture and equipment.	K82 UOH 605						
	Design		AGS					
	Construction				10	10		
	Total Funding				116	116		

ACT 300

H. CULTURE AND RECREATION

CULTURAL ACTIVITIES

Collections, Historical Sites and Studies

1. Cultural History & Humanities

Hawaii Sports Hall of Fame, Oahu  
Plans and construction of a sports hall of fame museum, Aloha Stadium. Supplemental appropriation.

## Construction Total Funding

Hawaii Public Broadcasting

Extend Statewide Public Television Transmission Coverage  
Extend statewide public television transmission by installing translators on islands of Oahu, Hawaii and Kauai

Design  
Construction  
Equipment  
Total Funding

2.	Hawaii Public Television Expansion of Production Facilities, Oahu Design and construction for expansion of Hawaii Public Broadcasting Authority facilities.	LS0513	REG	701			
	Construction	AGS			350	587	937
	Total Funding				350C	587C	937C
3.	Hawaiian Islands Public Radio, Oahu  To provide 25% matching funds (federal government pays other 75%) for purchase of radio broadcasting equipment (life expectancy approximately 20 years). Hawaiian Islands Public Radio is a private nonprofit corporation organized to provide a noncommercial radio broadcasting station in Hawaii. Grant-in-aid.	LS0610	REG	701			
	Equipment	AGS			52	C	52C
	Total Funding				52C		52C
	<b>Historical &amp; Archaeological Places</b>						
3A.	Statewide Historic Preservation Program  Incremental development of comprehensive statewide historic preservation survey, plans, research, interpretation, acquis and preservation of Hawaii's historic places, structures and objects. To include appraisal and acquisition of significant sites threatened by development.	F10	LNR	801			
	Land Acquisition	LNR			A	500	500A
	Total Funding					500	500A
3B.	Iolani Palace Restoration  Restoration of coronation stand and partial wall and iron fence surrounding this historic site.	F11	LNR	801			
	Construction	LNR			C	500	500C
	Total Funding					500	500C

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
					FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
3C.	Russian Fort Restoration of Russian Fort Elizabeth, a national historical landmark, including incremental planning and restoration, stabilization, construction and interpretive features including public access and use of the facilities.	F12	LNR 801				
	Plans				100	100A	100A
	Total Funding						
4.	Lapakahi North Kohala State Park Complex	F13	LNR 801				
	Land acquisition, planning, research, and incremental development of the North Kohala archaeological and historic sites. Includes Lapakahi, archaeological which offers an opportunity for public interpretation of early Hawaiian fishing & farm system. Other features include Kamehameha's birth place, Mookini Heiau & other features in the area.						
	Plans				30	30	30
	Land Acquisition				430	430	430
	Design				30	30	30
	Construction				480	950	950
	Total Funding				670A 270C	670A 270C	670A 270C
4A.	Kealakekua Bay Incremental acquisition, planning and research for a major park comprising the most important historic and archaeologic place in the entire state, planning and research will be followed by park development, continued research and interpretive facilities.	F14	LNR 801				
	Plans						
	Total Funding						
					LNR LNR	A C	200 50A 150C

4B.	Royal Mausoleum—Niuanu Petroglyphs Acquisition of additional land for public access and some archaeological features. Plans and research of site including interpretation of historic and archeologic values in Niuanu Valley. Renovation of chapel and other improvements at Royal Mausoleum State Monument.	F15	LNR	801
	Land Acquisition	100	100	
	Design	100	100	
	Construction	500	500	
	Total Funding	100A 600C	100A 600C	
4C.	Illiopae Heiau Large, spectacular Heiau with scenic views of nearby fishponds, access road, and parking required as well as some landscaping and picnic facilities. Trail HUB park for Waialu trail.	F16	LNR	801
	Plans	10	10	
	Land Acquisition	10A LNR	10A LNR	
	Total Funding	10C	10C	
4D.	Halekii—Pihana Heiau Planning and research for archaeological features and their interpretation. Landscaping, stabilization, restoration and construction of interpretive facilities as determined by planning.	F21	LNR	801
	Plans	25	25	
	Design	25	25	
	Total Funding	A LNR	A 50A	

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
					FY 1979-80 F	M 1980-81 F	Total M 1979-81 F
4E.	Halawa Valley	F22	LNR 801				
	Land acquisition, research, plans, and development of a major state park. Preservation of scenic and historic values. Development of interpretive program and recreation facilities for hiking, camping, picnicking and some water recreation activities. Terminus of scenic coastal road and gateway to a rich wilderness area.						
	Plans				150	150	
	Land Acquisition				500	500	
	Total Funding			A	650A	650A	
4F.	Puu O Mahuka Heiau	F23	LNR 801				
	Research & interpretation of existing park- landscaping and access improvement. Land ac- quisition to maintain the integrity of the site.						
	Plans				50	50	
	Design				30	30	
	Construction				300	300	
	Total Funding			A	380A	380A	
4G.	Kamehameha Post Office Restoration	H12	LNR 801				
	Preservation and restoration with interior alteration and modification.						
	Design				10	10	
	Construction				100	100	
	Total Funding			C	110C	110C	

4H.	Hale Pa'i (Printing House) Restoration Preservation and restoration with replacement of rotted timbers and repointing of masonry.	H13	LNR	801			
	Design				30	30	
	Construction				300	300	
	Total Funding				300A	300A	
					30C	30C	
4I.	Kanoa Point Archeological Complex	H18	LNR	801			
	Land acquisition by direct purchase or condemnation, planning; archaeological research, stabilization, restoration and interpretation; development and protection of TMK 7-7-4. Parcels 12, 51 and 52 of approximately 12.5 acres at Kanoa Point, South Kona, Hawaii. Provided that \$5.4 million hereby appropriated may be matched by federal funds as available and shall be used in conjunction with this appropriation.				5,400	5,400	
	Land Acquisition				5,400A	5,400A	
	Total Funding						
4J.	Hale Pa'i (Printing House) Restoration, Maui	LH0144	LNR	801			
	Construction for renovations and stabilization of Hale Pa'i. Grant-in-aid to supplement prior appropriations made under item H-5, section 120, Act 214, SLH 1979.				250	250	
	Construction				250C	250C	
	Total Funding						
5.	Hale Pai Restoration, Lahaina, Maui	LH0601	LNR	801			
	Plans and construction for renovations and stabilization of Hale Pai. Grant-in-aid.				5	5	
	Design				45	45	
	Construction				50C	50C	
	Total Funding						

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M O F	Total M O F	
6.	Kuilioaloa Heiau, Oahu Plans and construction for historic restoration of Heiau. Grant-in-aid.	LH2101	LNR 801		2	5	7	
	Plans					5	5	
	Design					50	58	
	Construction					60C	70C	
	Total Funding		LNR		8			
7.	King Kamehameha I Birth Site, Hawaii Design and construction for restoration of and im- provements to the birth site of King Kamehameha I. Including rock and wrought iron enclosures.	LS0140	LNR 801					
	Construction					75	75C	
	Total Funding		LNR			C	75C	
8.	Hawaii Game Management Facilities Plans & construction of warehouse-wkshop and utility line.	C02	LNR 804					
	Plans					1	12	
	Construction					13C	C	
	Total Funding		LNR					13C

## RECREATIONAL ACTIVITIES

Outdoor Activities

Forest Recreation

9.	Forest Trails	D02	LNR	804				
	Forest trails. Trails are constructed. On an incremental basis. Trails are at least 2 ft. wide and cleared for easy access. Trails provide; remote outdoor recreation opportunities, access for control of fire and pests, route for rescue operations. Program breakdown: other inland-based outdoor activities—75%. Forests and open spaces—25%.							
	Plans	1			1			
	Land Acquisition				38			
	Construction					38		
	Equipment					23		
	Total Funding					1		
						38A		
						C		
						25C		
10.	Picnic Ground Development	D20	LNR	804				
	Develop picnic facilities at Puu Huluhulu. Includes: Two Wooden tables, toilet, 1000 gallon wooden water tank, 100 fett wooden rail, parking area and landscaping.							
	Construction				9			
	Equipment					3		
	Total Funding					12C		
						C		
16.	Aquarium, East Hawaii	LS0106	LNR	805				
	Feasibility study to include but not limited to type of aquarium, site, management arrangement, size, capital improvement cost and operational cost estimate. To be supplemented from Act 244, SLH 1978, Sec. 2, Item 1-C-3.							
	Construction				9			
	Total Funding					1C		
						C		

**ACT 300**

Item No.	Program and Capital Project	Cap. Proj. No.	Proj. ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total M O	
17A.	Parks Recreation							
	Akaka Falls	F35	LNR	806				
	Develop a master plan for this existing park. Consider improvements such as park expansion to a new lookout area. An interpretive program, redesign of existing lookout and further trail development.							
	Construction							
	Total Funding							
18.	Wahiawa Fresh Water Park	F50	LNR	806				
	Incremental development of fresh water park per master plan.							
	Design							
	Total Funding							
19.	Kahana Valley State Park	F57	LNR	806				
	Incremental development including historic restoration, water features, and other recreation and cultural and heritage opportunities per master plan. Also includes housing for valley resident families involved in park programs.							
	Design							
	Total Funding							
19A.	Sand Island State Recreation Area	F70	LNR	806				
	Incremental development of beach park, plans and construction.							
	Construction							
	Total Funding							

20.	Kaena Point State Park Incremental acquisition of private lands, development of beach parks from Makua to Mokuleia. Also includes funds for temporary management of shoreline areas to control existing public use. Includes upland peacock flats area as per master plan.	F72	LNR 806				
	Land Acquisition		700				
	Design		150				
	Construction		100				
	Total Funding		950C	C			
21.	Makena-Laperouse State Park Incremental acquisition of land as per conceptual plan, protection of archaeological and biological features. Development to include interpretation of these features as well as to provide facilities for recreation opportunities.	F73	LNR 806				
	Land Acquisition		500				
	Design		50				
	Construction		5,000A				
	Total Funding		500C	A			
22.	Hapuna Beach State Park. Plans and construction, including acquisition of land to supplement prior appropriations.	F75	LNR 806				
	Design		50				
	Construction		250				
	Total Funding		300C	C			

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 1980-81 F	Total M 1980-81 F	
23.	Waimea Pier	F82	LNR 806					
	Plans and construction for the reconstruction of Waimea Landing for recreational purposes. Includes land acquisition onshore for parking and restroom facilities.							
	Design				15			15
	Construction				150			150
	Total Funding				165C	C		165C
23A.	Rainbow Bay	F83	LNR 806					
	Background investigation and planning for conversion of Aiea Bay into "Rainbow Bay"—a kokua concept" as requested by the Pearl Harbor Task Force. Funding included for anticipated first phase development of land area bordering Aiea Bay. Maximum of 40 acres available. One parcel to be acquired.							
	Land Acquisition							
	Total Funding					A		1,500
								1,500A
24.	Kona Airport Park	H47	LNR 806					
	Incremental design and construction for shoreline park development as determined by master plan.							
	Construction							
	Total Funding					LNR 1,000C	C	1,000
								1,000C
25.	Kapoho Tide Pools	H77	LNR 806					
	Feasibility study followed by plans, land acquisition design, and construction for development of shoreline park.							
	Plans							
	Total Funding					LNR 40C	C	40C

25A.	Waimanalo Bay State Park, Oahu Construction of improvements and expansion of the Waimanalo Bay State Park.	LH0136	LNR	806			
	Construction				C	100	100C
	Total Funding		LNR		C	100	100C
25B.	Waimea Recreational Pier Extension, Waimea, Kauai. Planning and construction of Waimea recreational pier extension.	LH0200	LNR	806			
	Construction				C	50	50C
	Total Funding		LNR		C	50	50C
25C.	Makiki-Tantalus State Park, Oahu Plans and construction, including space for parking and restroom facilities.	LH0207	LNR	806			
	Construction				C	75	75C
	Total Funding		LNR		C	75	75C
25D.	Waahila Ridge State Park, Oahu Plans and design for custodian residence for Waahila Ridge State Park.	LH0237	LNR	806			
	Construction				C	25	25C
	Total Funding		LNR		C	25	25C
25E.	Wailoa Boat Ramp Pavilion, Hawaii Plans and construction of Wailoa boat ramp pavil- ion.	LH0250	LNR	806			
	Construction				C	10	10C
	Total Funding		LNR		C	10	10C
25F.	Hanalei Recreational Pier, Hanalei, Kauai Repair and maintenance of Hanalei Recreational Pier.	LH0300	LNR	806			
	Construction				C	70	70C
	Total Funding		LNR		C	70	70C

# ACT 300

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80	M O	FY 1980-81	
25G.	Safety Improvement at Opaekaa Falls Lookout Park, Kauai.	LH0400	LNR	806				
	Construction		LNR	C	30		30	
	Total Funding				30C		30C	
25H.	Diamond Head Crater Park Trails, Oahu	LH0426	LNR	806				
	Improvement of existing and construction of new trails in Diamond Head Crater Park.							
	Construction		LNR	C	60		60	
	Total Funding				60C		60C	
25I.	Safety Improvement at Wailua Marina Park, Kauai	LH0500	LNR	806				
	Reconstruction of intersection at Kuhio highway and Wailua Marina entrance.							
	Construction		LNR	C	60		60	
	Total Funding				60C		60C	
25J.	Mauka Kaliihi Valley Recreation Area, Oahu	LH0634	LNR	806				
	Plans for the construction and development of a recreational system of trails, swimming pools, and facilities in the Kaliihi Valley Mauka area.							
	Construction		LNR	C	20		20	
	Total Funding				20C		20C	

25K.	Halawa Valley Park, Molokai Plans, land acquisition, land site preparation and design for the development of a major state park to include facilities for hiking, camping, picnicking and water recreation activities.	LH0650	LNR	806			
	Design				10	C	
	Total Funding				10	10C	
25L.	Sand Island, Oahu Planning and design for non-live-in cultural center on Sand Island.	LH0734	LNR	806			
	Plans				5	5C	
	Total Funding				5	5C	
26.	Kakaako Waterfront Park, Oahu Plans and construction for the development of a waterfront park and recreational facilities on the Fort Armstrong-Kewalo peninsula. Supplements prior appropriation.	LH1401	LNR	806			
	Construction				600	600C	
	Total Funding				600	600C	
27.	Waimanalo State Park, Oahu Plans and construction of improvements and expansion to the Waimanalo State Park.	LH2601	LNR	806			
	Construction				20	20C	
	Total Funding				20	20C	
27A.	Happiness Garden Project, Hilo, Hawaii Land acquisition, design and construction for landscaping, equipment and other appurtenances. Supplements prior appropriations.	LS0105	LNR	806			
	Construction				10	10C	
	Total Funding				10	10C	

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Item No.	Cap. Proj. No.	Program and Capital Project	Program ID	APPROPRIATIONS (\$1,000's)				Total Biennium M 1979-81 F
				Exp. Agy.	FY 1979-80 F	M O	FY 1980-81 F	
27B.		Boating and Canoe Storage Facilities, Kawaiaha South Kohala, Hawaii	LS0107	LNR	806			
		Design and construction of toilet and shower facil- ties. To be supplemented by Act 9, SSLH 1977, Sec. 2, Item I-C-3.						
		Construction			20		C	20
		Total Funding		LNR	20C			20C
28.		Hapuna Beach State Park, Hawaii	LS0108	LNR	806			
		Land acquisition, plans and construction for a beach park on certain lands designated as TMK: 6- 6-02-37 and 38 together with the beach fronting these lands at Hapuna, Hawaii.						
		Plans			1			1
		Land Acquisition		LNR	49		C	49
		Total Funding			50C			50C
29.		Motorcycle Training Facility, Hawaii	LS0109	LNR	806			
		Planning, land acquisition, design and construction for a motorcycle rider's training and recreation area with some overnight camping and related facilities. To be supplemented by Act 9, SSLH 1977, Sec. 2, Item I-C-1; and Act 226, SLH 1976, Sec. 91F, Item I-B-4.						
		Construction		LNR	50C		C	50C
		Total Funding						

30.	Wailoa River Basin Marine and Park-Related Facilities, Hawaii	LS0110	LNR	806				
Design and construction for marine-related facilities which shall include a covered structure to house marine related activities, parking facilities capable of handling large vehicles, restroom facilities and other appurtenances. To be supplemented from Act 9, SSLH 1977, Sec. 2, Item I-D-1; Act 226, SLH 1976, Sec. 91F, Item I-B-4; and Act 244, SLH 1978, Sec. 2, Item I-C-5.								
	Plans				1 LNR	1 IC	C	
	Total Funding							
31.	Wailoa River State Park, Hilo, Hawaii	LS0111	LNR	806				
	Land acquisition, design, construction, and equipment for development, including site improvement, a double ramp, wash down facilities, connecting roads to nearby state parking lots and other appurtenances. Unexpended balances in Act 226, SLH 1976, Sec. 91E, Item II-C-4 and 91F, Items I-B-5 and I-C-1; Act 9, SSLH 1977, Sec. 2, Item I-C-2; and Act 244, SLH 1978, Sec. 2, Item I-C-6 to supplement this appropriation.				5 LNR	100 A 5C LNR	100 5 100A 5C	
	Land Acquisition							
	Construction							
	Total Funding							
31A.	Windward Oahu Trail System, Oahu	LS0312	LNR	806				
	Design and construction for trail system to accommodate bikes, horses and/or hikers in windward Oahu.							
	Construction							
	Total Funding							

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32C.	Queen's Beach State Park, Oahu Incremental acquisition of land for a beach park at Queen's Beach.	SL0701	LNR	806				
	Land Acquisition	LNR			1,000			
	Total Funding		A		1,000A			
	Ocean-Based Recreation	F30	LNR	806				
32E.	Nununu Pali State Park Park expansion to include the area between Pali Golf Course and the existing overlook.	LNR			500			
	Land Acquisition	LNR			500A			
	Total Funding		A		500A			
32F.	Poipu Beach Park Land Acquisition Grant-in-aid to the County of Kauai for incremental purchase of land for expansion of Poipu Beach Park, Kauai	SL0859	LNR	806				
	Land Acquisition	LNR			500			
	Total Funding		A		500A			
33.	Lanai Boat Harbor Lanai Paving, drainage, dredging, construction of revetment and other improvements.	01M	TRN	801				
	Design	TRN			40			
	Construction				280			
	Total Funding		D		320D			
33A.	Statewide Improvements to Boating Fac. Improvements to existing boat harbors and boat refuge areas.	01S	TRN	801				
	Design	TRN			10			
	Construction				40			
	Total Funding		D		50D			

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Item No.	<b>Program and Capital Project</b>	Cap. Proj. No.	Program ID	Exp. Agy.	<b>APPROPRIATIONS (\$1,000's)</b>			<b>Total Biennium M 1979-81 F</b>
					FY 1979-80 F	M	FY 1980-81 F	
33B.	Honokohau Boat Harbor Hawaii Incremental development of Honokohau boat harbor including electric and telephone lines, berthing facilities, and back up area improvements.	02H	TRN 801		50		50	
	Design						679	
	Construction						729D	
	<b>Total Funding</b>							
34.	Statewide Boat Launching Fac. Program New and additional improvements to boat launching facilities this project qualifies for fed aid financing/reimbursement.	03S	TRN 801		80		80	
	Plans						40	
	Design						491	
	Construction						531A	
	<b>Total Funding</b>						B	
34A.	Mala Pier Facility, Maui Feasibility study and reconstruction and/or improvements to Mala Wharf and related improvements to the surrounding areas.	12M	TRN 801					
	Design						30	
	<b>Total Funding</b>						30A	
35.	Kā'u District Boat Ramp, Hawaii Plans and construction of a boat ramp.	LH0101	TRN 801					
	Design						5	
	Construction						45	
	<b>Total Funding</b>						C	

35A.	Heeia-Kea Boat Launching Facility, Oahu Construction of modification to the Heeia-Kea boat launching facility.	LH0145	TRN	801				
	Construction							
	Total Funding		TRN		C	50	50	50C
35B.	Harris and Ski Islands, Oahu Planning and construction for recreation facilities for Harris Island and Ski Island off Sand Island Park.	LH0334	TRN	801				
	Construction					25	25	25C
	Total Funding		TRN		C	25C		
35C.	Iroquois Point Small Boat Ramp, Oahu Design and construction of a small boat launching ramp at Iroquois Point, Lima Landing in Ewa Beach, Oahu.	LH0335	TRN	801				
	Construction					20	20	20C
	Total Funding		TRN		C			
36.	Honouliwai Boat Ramp, Molokai Plans and construction of a boat ramp and other improvements.	LH0601	TRN	801				
	Design					5	5	5C
	Total Funding		TRN		C			
37.	Kaunakakai Small Boat Harbor, Molokai Plans and construction for improvements to Kauna- kakai small boat harbor. Unexpended balances in Item IVA-H-30 of Act 226, SLH 1976; and Item II- D-10 of Act 9, SLH 1977 may be used for this project.	LH0602	TRN	801				
	Design					1	1	1C
	Total Funding		TRN		C			

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Item No.	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
				FY 1979-80 M F	FY 1980-81 M F	Total Biennium M O 1979-81 F
38.	Kaunakakai Small Boat Harbor, Molokai	LH0650	TRN 801			
	Planning, design, land site preparation and construction of general improvements to include dredging, mooring facilities, widening of inlet, and other improvements.					
	Design			2	2	
	Construction			13	13	
	Total Funding		TRN	15C	C	15C
39.	Honouliiwa Boat Launching Ramp, East Molo-kai	LH0651	TRN 801			
	Plans, design and construction of boat ramp.					
	Construction					
	Total Funding		TRN	10C	C	10C
40.	Haleiwa Small Boat Harbor, Oahu	LH2250	TRN 801			
	Plans and construction for the installation of a gate and night lights and repairs of the vehicle approach to the harbor.					
	Plans			2	2	
	Construction			14	14	
	Total Funding		TRN	16C	C	16C
41.	Hanalei Pier Project, Kauai	LH2701	TRN 801			
	Reconstruction of Hanalei Pier					
	Construction					
	Total Funding		TRN	100C	C	100C

42.	Waiakea Canal, Kauai Survey, soundings, plans, and dredging of Waiakea canal for boat traffic.	LH2702	TRN	801			
	Plans				4		
	Construction				36		
	Total Funding				40C		
43.	Port Allen Small Boat Harbor, Kauai Plans and construction of catwalk for launching ramp.	LH2703	TRN	801			
	Plans				1		
	Construction				34		
	Total Funding				35C		
44.	Boat Ramp Kā'ū, Hawaii Design and site location of a boat ramp at Kā'ū, Hawaii	LS0133	TRN	801			
	Design				10		
	Total Funding				10C		
45.	Wailoa River and Hilo Bay Area, Hawaii Design, construction, equipment and other appurtenances for emergency drydocking facility, mooring facilities, bulk heads and repair and maintenance of existing facilities. To be supplemented from Act 244, SLH 1978, Sec. 2, Item I-D-5.	LS0134	TRN	801			
	Construction				5		
	Total Funding				5C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total M 0	
46.	Small Boat Launching Ramp, Molokai Design and construct a small boat launching ramp at Molokai. Funds appropriated in Section 2, Item II-D-1, and 2 in Act 244 SLH 1978 may be used for this project.	LS0214	TRN 801					
	Construction				5	C	5	
	Total Funding		TRN		5C	C	5C	
47.	Kukuiula Small Boat Harbor, Kauai Plans and construction of a parking area.	LS0809	TRN 801					
	Construction				10	10C	10	
	Total Funding		TRN		10C	C	10C	
48.	Kukuiula Small Boat Harbor, Kauai Plans, design and construction to alleviate the surge in the harbor.	LS0810	TRN 801					
	Construction				25	25C	25	
	Total Funding		TRN		25C	C	25C	
	<b>Spectator Events &amp; Shows—Aloha Stadium</b>							
49.	Air Bearings for Movement System Replacement air bearings for movement system.	B19	BUF	889				
	Design						30	
	Construction						320	
	Total Funding		AGS		350C	C	350C	

50.	Corrosion Protection of Metal Decking Restoration and corrosion protection of structural metal decking.	B20	BUF	889			
	Design			30	30		
	Construction			375	375		
	Total Funding			405C	405C		
51.	Embankment Stabilization on Aloha Stadium Grounds Stabilization and restoration of embankments on stadium grounds.	B21	BUF	889			
	Design			35	35		
	Construction			230	230		
	Total Funding			265C	265C		
52.	Roof Drainage Improvements Modification of roof gutter drains.	B22	BUF	889			
	Design			6	6		
	Construction			41	41		
	Total Funding			47C	47C		
53.	Salt Lake Boulevard Improvements Improvements to Salt Lake Boulevard from the improved portion at Aloha Stadium to Kahuapaani Street. This project receives federal aid financing/reimbursement.	B25	BUF	889			
	Design			41	41		
	Construction			170	1,300		
	Total Funding			211C	431C		
				910M	910M		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)			
				Exp. Agy.	FY 1979-80 M F	FY 1980-81 M O	Total Biennium M 1979-81 F
53A.	Renovation of Aloha Stadium	B26	BUF 889				
	Renovation through rust-proofing of seat plates, bleacher units, rails, walls, sidings, seating standards and other areas.						
	Design				15	15	
	Construction				600	600	
	Total Funding			AGS	A	615A	615A
53B.	Replacement of Artificial Turf	B27	BUF 889				
	Replacement of stadium artificial playing surface and pad.						
	Design				20	20	
	Construction				1,160	1,160	
	Total Funding			AGS	A	1,180A	1,180A
GENERAL ADMIN FOR CULTURE & RECREATION							
54.	Statewide Interpretive Planning	F02	LNR 809				
	There is no interpretive program for existing state parks. Historic-archaeologic projects underway involve major interpretive programs. These projects should be coordinated. Other state park historic and natural features can be interpreted but these features must be evaluated to determine the need and priority for interpretation.						
	Plans				10	10	
	Design				5	5	
	Construction				10	10	
	Total Funding			LNR	25A	A	25A

54A.	Scorp (State Comprehensive Outdoor Recreation Plan)	F05	LNR	809				
	Updating of inventory demand and action program for outdoor recreation to qualify for continuous receipt of federal grants for acquisition and development of recreational areas. This project receives federal aid financing/reimbursement.							
	Plans							
	Total Funding							
55.	Hawaii Natural Heritage Program: Planning & Protective Fencing, Signs, and Trails	F06	LNR	809				
	To classify, inventory, evaluate and install and manage a data bank of the ecosystems, flora, fauna and geological features of Hawaii, and where areas are being protected and preserved as natural area reserves, erect required fences and signs, and construct trails. This project receives federal aid financing/reimbursement.							
	Plans							
	Total Funding							
55A.	Waianae Hawaiian Heritage and Cultural Center, Oahu	LH0235	LNR	809				
	Plans, design and construction of comfort station and restroom.							
	Construction							
	Total Funding							
55B.	Windward Community Complex, Oahu	LH0516	LNR	809				
	Plans and coordination for the overall development of the Windward Community Complex which will include the Windward Community College, Hawaii State Hospital, and elderly housing.							
	Plans							
	Total Funding							

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)						
					FY 1979-80 M F	FY 1980-81 M F	Total Biennium M 1979-81 F				
<b>I. PUBLIC SAFETY</b>											
<b>SAFETY FROM CRIMINAL ACTIONS</b>											
Confinement											
Juvenile Correctional Facilities											
1.	Hilltop Reroofing	CD7901	SOC	401							
	Hilltop Reroofing	CD7901	SOC	401							
	Reroof of hilltop cottage and related work.										
	Design				6						
	Total Funding			AGS	6A	A					
2.	Replacing and Servicing Telephone Poles and Electrical Lines	CD7902	SOC	401							
	Replacing up to twenty telephone poles and servicing transformers and electrical lines on the Mauka side of the facility.										
	Design				6						
	Construction			AGS	6A	24					
	Total Funding					24A					
3.	Shop Building Repairs, Termite Damage Repair pairs	CD7904	SOC	401							
	Repairs to wooden structural damages. Repair or replace damaged truss work.										
	Design				6						
	Total Funding			AGS	7A	A					

4.	Repair Gym Repair floors, walls, ceiling, repaint interior and exterior fumigate building and ground treat premise.	CD7906	SOC 401				
	Design			AGS	16	A	16
	Total Funding				16A		16A
5.	Repairs and Restoration of Cottages—Kaala, Oiolana and Maunawili Reroof of cottages. Replacement of all security windows, rerouting of all cold water supply plumbing, to overhead. Replace all clerestory windows with security louvres. Replace all lighting fixtures with fluorescent. Replace all deteriorated floor covering. Replace all security type rails and fencing on roofs.	CD7910	SOC 401				
	Design			AGS	128		128
	Construction				509		509
	Total Funding				509A		637A
6.	Hawaii Youth Correctional Facility, Oahu Plans and construction of a parking lot	LH2401	SOC 401				
	Construction			AGS	1	C	1C
	Total Funding						
7.	Hawaii Youth Correctional Facilities, Kailua, Oahu Design and construction for general improvements and renovations to the Hawaii youth correctional facilities for future permanent use by state agencies. Unexpended balances from Act 9, Special Session 1977, Section 2, Item III-K-3 may be used to supplement this appropriation.	LS0313	SOC 401				
	Construction			AGS	100	C	100C
	Total Funding						

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 0	FY 1980-81 F	
8.	High Security Facility							
	Construction of Module-C-High Security Facility		CD7912	SOC 402				
	Construction of Module-C.							
	Design			20				
	Construction				1,200			
	Equipment				30			
	Total Funding				AGS	1,250C	C	1,250C
9.	Halawa Sewer Tie in to Honouliuli Sewage Treatment Works		CD7916	SOC 402				
	Plan, design and construction of a sewer trunk line from Halawa correctional facility to an interceptor sewer to carry untreated effluent to the Honouliuli Sewage Treatment Works in compliance with Federal Water Pollution Control Act (PL92-500).							
	Design							
	Construction							
	Total Funding				AGS	7C	75	75C
10.	Oahu Community Correctional Center		CD7913	SOC 407				
	Renovation of Oahu CCC Dorms, Cells, Adm Bldg							
	The renovation of existing dorms, cell block & adm bldg at Oahu CCC.							
	Design							
	Construction							
	Total Funding				AGS	1,400C	1,300	1,300
								100
								2,600
								2,700C

10A.	Furniture and Equipment for Oahu CCC Furnitures and equipment for modules 17, 18, and 19 at Oahu CCC.	CD7917	SOC 407				
	Equipment			AGS	A	100 100A	100 100A
	Total Funding						
	General Support—Criminal Action						
	General ADM—Confinement						
11.	Plan & Design for Additional New Facilities a Oahu CCC	CD7914	SOC 493				
	Plan for the best utilization on a short & long range basis of the existing state property at the Oahu CCC. Plan/design additional bed spaces with maintenance & program support components.						
	Plans			AGS		50	50
	Design					450	450
	Total Funding					50C	50C
12.	Plan and Design for Additional Facilities for Neighbor Island ISC/CCCs.	CD7915	SOC 493				
	To plan and design a prototype structure for three neighbor island ISC/CCCs to be utilized by three service delivery agencies: intake service centers, Hawaii paroling authority and corrections division. The structure will provide housing and program- matic services to offenders.						
	Plans			AGS		50	50
	Design					100	100
	Total Funding					150C	C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				Total Biennium 1979-81				
				FY 1979-80 Agy.	M	FY 1980-81	M					
<b>SAFETY FROM PHYSICAL DISASTERS</b>												
Prevention of Natural Disasters												
12A.	Flood Control Projects—Various Areas, Island of Hawaii	SL0105	LNR	810								
	Acquisition of land for flood control measures to ensure public safety and promote disaster prevention in various areas of Hawaii County: Hamakua, Kona, South Kohala, Waiakea-uka.											
	Land Acquisition											
	Total Funding				LNR	A						
						1,000 1,000A		1,000 1,000A				
12B.	Flood Control—Kapalama Canal Improvement of canal banks along Kapalama Canal for flood control measures to ensure public safety. Includes beautification.	SL0512	LNR	810								
	Design											
	Construction				LNR	A						
	Total Funding											
						50 450 500A		50 450 500A				
Amelioration of Natural Disasters												
12C.	Waiawa Army National Guard Armory Addition	A25	DEF	110								
	Planning and construction of an addition to the existing Waiawa Armory at Pearl City, Hawaii. Addition will be of permanent masonry construction, including all utilities, access road, parking areas, fencing, and other supporting features required to complete the facility for occupancy.											
	Design											
	Total Funding				AGS AGS	C N		107 57C 50N				



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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total M 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total M 1979-81 F	
15.	Additional Disaster Warning Sirens	C13	DEF 110					
	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			AGS	312			
	Total Funding			AGS	156C	312		
				AGS	156N	156C	156N	
16.	Improvements to Puu Manawaha Communications Site	C19	DEF 110					
	Plans and construction of security fencing, high security doors and windows, and other improvements to upgrade the site to a secure, useable communications facility.							
	Design				4			
	Construction				4	16		
	Total Funding				8A	16A	24A	
16A.	Fort Ruger, Oahu Demolition of buildings at Fort Ruger.	LH0626	DEF 110					
	Construction							
	Total Funding							

17.	Wahiawa National Guard Armory, Oahu Plans and construction for general improvements of facilities. Unexpected balance from Item IV-M-4, Act 226, SLH 1976, shall be used to supplement this appropriation.	LH2001	DEF	110
	Construction	AGS	1C	C
	Total Funding			
		1	1C	1C

**J. INDIVIDUAL RIGHTS  
PROTECTION OF THE CONSUMER**

Regulation of Services

Banking Services

1.	Insurance Guaranty Program Insurance guarantee program for industrial loan companies.	RB1	REG	104
	Plans	AGS	D	12,000
	Total Funding			12,000D
				12,000D

**K. GOVERNMENT-WIDE SUPPORT  
EXEC DIRECCTN, COORD., & POLICY DEVELOPMENT**

Office of the Governor

G01

GOV 100

- Project Adjustment Fund  
To establish a contingency fund for project adjustment purposes subject to the provisions of the Appropriations Act (to be expended by the office of the Governor).

Design	GOV	1,000	3,000	4,000
Total Funding		1,000C	3,000C	4,000C

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Item No.	Program and Capital Project Title	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M 1980-81 F	Total Biennium M 1979-81 F	
2.	Policy Development and Coordination BUF—Prgm Planning, Analysis & Budgeting							
2.	Renovation of the Former Marks Estate for HIMAG	HIM001	BUF	101				
	Renovation of the former Marks residence at 3860 Old Pali Road, Nuuanu, to a state center for ana- lytic training for the Hawaii Institute for Manage- ment and Analysis in Government (HIMAG).							
	Design				5			
	Construction	AGS			150			
	Total Funding				155C	C	155C	
3.	Land Use, Statewide Plan and Coordination Kaka'ako Community Development District, Oahu	HCD001	PED	103				
	Plans and designs for development of the Kaka'ako area, including addressing present needs as well as long-range potentials. May be used to match fed- eral and non-state funds, as may be available.							
	Design				1,862	A	800	2,662
	Total Funding				1,862C	C	800A	1,862C



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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total M FY 1980-81 F	
5.	Water Line, Mokanea Island, Oahu Design and construction for installation of a water line to Mokanea Island. To supplement prior appro- priations.	LS0512	LNR 101					
	Construction				16		16	
	Total Funding		LNR		16C	C	16C	
7.	Peekauai Ditch Project, Kauai Plans for reconstruction of Peekauai Ditch along Menehune Road in Waimea Valley Road.	LS0804	LNR 101					
	Construction				25		25	
	Total Funding		LNR		25C	C	25C	
7A.	Beach Rights of Way, Kauai Survey, appraisals and acquisition of land for beach rights of way on Kauai.	SL0802	LNR 101					
	Land Acquisition							
	Total Funding		LNR		A	330	330	330A
	Facilities Construction and Maintenance							
	Construction							
8.	Pearl City Civic Center Annex A state office building and parking facility.	A30	AGS 221					
	Construction							
	Equipment							
	Total Funding		AGS		1,573 15	C	1,588C	1,588C

9.	Kaunakakai Civic Center Land acquisition and state office building for Kaunakakai civic center.	A39	AGS 221		239	25	239 25 264C
	Land Acquisition				239	25	
	Design				25		
	Total Funding				264C	C	
10.	New State Office Bldg. No. 2 Des. and Const A new state office building in the Mililani Mall block to include renovation of temporary facilities demolition and landscaping.	A40	AGS 221		20	20	
	Plans				660	660	
	Design				1,536	2,101	
	Construction				15	15	
	Equipment						
	Total Funding				565C	2,796C	
11.	Renovation of Kamamalu Bldg Renovation for existing & new office space occupancies improvement of air conditioning system and lighting system including the replacement of major components. Also work to upgrade the building.	B04	AGS 221		47	47	
	Design				547	547	
	Construction				594C	594C	
	Total Funding						
12.	Advance Planning, Statewide To prepare reports, studies, inventories, reviews, and perform all necessary activities to carry-out DAGS functions.	B27	AGS 221		70	100	170 170A
	Plans						
	Total Funding						

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81
					FY 1979-80 M O	FY 1980-81 M O	Total	
13.	Remodeling State Office Spaces	B28	AGS 221					
	Remodeling and upgrading state office spaces, statewide. To include the old federal courthouse building. Funds from Item K-16, Act 243, SLH 1978; Item K-16, Act 10, SPSLH 1977; and Item K-19, Act 226, SLH 1976 may be used to supplement this appropriation.							
	Design			80		100	180	
	Construction			438		649	1,087	
	Total Funding			518C		749C	1,267C	
14.	State Capitol Improvements and Renovations	B41	AGS 221					
	Improvements to the building systems including roof, air conditioning, office renovations, pool improvements, and other facilities improvements and renovations for the state capitol.							
	Design			200		200	200	
	Construction			1,800		1,800	1,800	
	Total Funding			2,000C		C	2,000C	
15.	Makai Land Acquisition—State Capitol Complex	501	AGS 221					
	Land acquisition and site preparation on site adjacent to state judiciary complex (Reed Block TMK: 2-1-30. Purchase of parcel to be utilized for future expansion of the state judiciary complex or state office building.							
	Land Acquisition						4,944	4,944
	Design						15	15
	Construction						41	41
	Total Funding						C	5,000C

15A.	Hawaiian Railway Society Improvements, Oahu Construction of improvements to various areas of railroad track in the twenty-first representative district.	LHA301	AGS 221				
	Construction	AGS	C	20	20C		
	Total Funding	AGS	C	20	20C		
15B.	Kapahulu Multi-Purpose Senior Center, Oahu Land acquisition, planning and construction of senior center in Kapahulu, Oahu.	LH0122	AGS 221				
	Construction	AGS	C	100	100C		
	Total Funding	AGS	C	100	100C		
15C.	Old Haleiwa Elementary School, Oahu Design and construction for the preservation and restoration of the old Haleiwa Elem. School building.	LH0133	AGS 221				
	Construction	AGS	C	10	10C		
	Total Funding	AGS	C	10	10C		
15D.	Waianae Senior Citizens Center, Oahu Plans, design, and construction of a senior citizens center in Waianae, Oahu. State funds authorized under Item K-64, Section 120, Act 214, SLH 1979 may be used for the purpose of this project.	LH0135	AGS 221				
	Construction	AGS	C	75	75C		
	Total Funding	AGS	C	75	75C		
15E.	Waipahu Civic Center, Oahu Plans, engineering; and land acquisition for the Waipahu Civic Center.	LH0139	AGS 221				
	Construction	AGS	C	125	125C		
	Total Funding	AGS	C	125	125C		

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					FY 1979-80 F	FY M O	FY 1980-81 F	
15F.	Booth District Park, Oahu	LH0142	AGS 221					
	Plans and construction for the renovation of Booth district park including, but not limited to, the expansion of facilities for relaxation and recreation and for the purchasing of equipment, if needed, and for the landscaping of the area.							
	Construction			AGS	C	100	100C	
	Total Funding							
16.	Easter Seal Society for Crippled Children and Adults of Hawaii, Hilo, Hawaii	LH0201	AGS 221					
	Plans and construction of new Easter Seal facilities. Grant in aid. Supplements prior appropriation.							
	Construction			AGS	50	C	50	
	Total Funding							
16A.	Hawaii State Senior Citizen Center, Oahu	LH0214	AGS 221					
	Construction of additional bathrooms and a ramp to the library annex.							
	Construction			AGS	C			
	Total Funding							
16B.	Wheelchair Ramps for Non-Ambulatory Swimmers, Oahu	LH0219	AGS 221					
	Planning (including feasibility study of alternate sites in Waikiki) and construction of wheelchair ramps for non-ambulatory swimmers to provide accessibility to beaches for the handicapped.							
	Construction			AGS	C			
	Total Funding							

17.	Hilo Civil Air Patrol Hangar, Hawaii Plans, construction and installation of a sliding door.	LH0250	AGS	221			
	Construction	5	5C		C	5	5C
	Total Funding	AGS					
18.	Honokaa Civic Center, Hawaii Plans and construction for renovations and restorations of the cottage at the Honokaa Civic Center, Hawaii.	LH0301	AGS	221			
	Design	2	2		C	2	2
	Construction	8	10C			8	10C
	Total Funding	AGS					
18A.	Statue of the 'Spirit of Liliuokalani', Oahu Construction, casting, transporting, landscaping, and finishing of the statue of the 'Spirit of Liliuokalani' which shall be situated at the site presently occupied by the replica of the Liberty Bell at the state capitol complex.	LH0342	AGS	221			
	Construction	25	25C		C	25	25C
	Total Funding	AGS					
18B.	Waimanalo Community Multi-Purpose Center, Oahu Design and construction of a community center. Funds authorized under Item K-69, Act 214, SLH 1979 may be used for this project.	LH0436	AGS	221			
	Construction	40	40C		C	40	40C
	Total Funding	AGS					

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					FY 1979-80 F	M 1980-81 F	Total Biennium M 1979-81 F
19.	YMCA Camp Keanae, Maui  Plans and construction to expand the outdoor education program by improving the campsite, including construction of additional cabins, improving existing facilities and landscaping. Grant-in-aid.	LH0501	AGS 221				
	Design			10			10
	Construction			90			90
	Total Funding		AGS	100C	C		100C
19A.	Kualoa-Heeia Ecumenical Youth Project, Oahu  Equipment for new building planned for construction for the Kualoa-Heeia Ecumenical Youth project, Kahaluu, Oahu.	LH0545	AGS 221				
	Equipment					35	35
	Total Funding		AGS		C	35C	35C
20.	Hawaii State Senior Center  Design and construction of improvements.	LH1650	AGS 221				
	Construction				17		17
	Total Funding		AGS		C		17C
21.	Palama Settlement, Oahu  Plans and construction for development and improvement of Palama settlement. Unexpended balance in Item IV-N-2, Section 91E, Act 226, SLH1976 may be used for this appropriation. Grant-in-aid.	LH1750	AGS 221				
	Construction						
	Total Funding		AGS		C	300	300C

22.	Kaewai Stream Improvements, Oahu Plans, design and construction for flood erosion-control improvements adjacent to Kaewai Elementary School. Item IV-E-24 of Act 244 Session Laws of Hawaii 1978 shall be used for this appropriation.	LS0501	AGS	221				
	Plans				20	20C		
	Total Funding		AGS		20	20C	C	20C
23.	Kapahulu Multipurpose Senior Center, Oahu Design and construction of Kapahulu multipurpose senior center as a community facility for delivery of, but not limited to health, social, educational and recreational activities for the elderly.	LS0701	AGS	221				
	Construction		AGS		30	30C	C	30C
	Total Funding		AGS		30	30C	C	30C
Subsidies To Counties								
County Capital Improvement Projects City & County of Honolulu								
23A.	Outdoor Roller Rinks, Oahu Plans, design, and construction of outdoor roller rinks in Ewa Beach and Waianae.	LH0101	SUB	201				
	Construction		CCH		100	100C	C	100C
	Total Funding		CCH		100	100C	C	100C
23B.	Booth District Park Multi-Purpose Building, Oahu Construction and renovation of multipurpose building at Booth district park.	LH0104	SUB	201				
	Construction		CCH		200	200C	C	200C
	Total Funding		CCH		200	200C	C	200C

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					FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium M O F
23C.	Makiki District Park, Oahu Construction of site improvements including building renovations for arts and crafts building, Agee Hall, administration building, volleyball and basketball courts, and general grounds improvements and landscaping.	LH0107	SUB 201	CCH	100 100C	100 100C	100 100C
	Construction						
	Total Funding						
23D.	Maunalua Bay Beach Park Parking, Oahu Plans and construction of more parking spaces near the boat ramps at Maunalua Bay Beach Park, Oahu.	LH0108	SUB 201	CCH	25 25C	25 25C	25 25C
	Construction						
	Total Funding						
23E.	McCully Recreation Center, Oahu Construction and installation of outdoor flood-lights.	LH0112	SUB 201	CCH	20 20C	20 20C	20 20C
	Construction						
	Total Funding						
23F.	Kamehameha Field, Oahu Construction and installation of lights at Kamehameha field (to be matched by the City and County of Honolulu)	LH0114	SUB 201	CCH	50 50C	50 50C	50 50C
	Construction						
	Total Funding						

23G.	Multi-Purpose Community Center, Waikiki, Oahu	LH0119	SUB 201					
Planning and design for a new multi-purpose community center in Waikiki, including a community health center, community mental health clinic, and community meeting place with facilities for child day care and for day activities for the elderly.								
	Construction	CCH	C	150	150C	150	150C	
<b>Total Funding</b>								
23H.	Paoakalani Avenue Drainage, Waikiki, Oahu	LH0125	SUB 201					
Construction and installation of drainage pipe between Lemon Road and Kuhio Avenue connecting to a concrete box drain on Kuhio Avenue.								
	Construction	CCH	C	200	200C	200	200C	
<b>Total Funding</b>								
23I.	Pukele Stream Lining, Oahu	LH0132	SUB 201					
Construction of improvements and lining of Pukele Stream (to be supplemented with additional funds from the City and County of Honolulu).								
	Construction	CCH	C	200	200C	200	200C	
<b>Total Funding</b>								
23J.	Maunalani Heights Park, Oahu	LH0137	SUB 201					
Construction of improvements to upgrade Maunalani Heights Park, Oahu (to be matched by the City and County of Honolulu).								
	Construction	CCH	C	50	50C	50	50C	
<b>Total Funding</b>								
23K.	Aiea Senior Citizen Center, Oahu	LH0146	SUB 201					
Plans and construction for a multipurpose facility adjacent to the existing Aiea recreational center.								
	Construction	CCH	C	250	250C	250	250C	
<b>Total Funding</b>								

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					FY 1979-80 F	M 1980-81 F	Total M 1980-81 F	
23L.	Moanalua Recreation Center, Oahu Construction and equipment for basketball courts at the new Moanalua recreation center, Oahu. Funds authorized for project, Item K-53, Section 120, Act 214, SLH 1979 may be used for the purposes of this project; provided that funds authorized under this item are to be matched by the City and County of Honolulu.	LH0149	SUB 201					
	Construction			CCH				
	Total Funding				50	50C	50	50C
23M.	Maunalua Bay Beach Park Development, Oahu Plans and construction for the further development of Maunalua Bay Beach Park.	LH0208	SUB 201					
	Construction			CCH				
	Total Funding				25	25C	25	25C
23N.	Kalakaua Avenue Relief Drain, Oahu Installation of drainage pipe starting at the intersection of Kuhio and Kalakaua Avenues and connecting with the pipe presently on Kalakaua Avenue.	LH0225	SUB 201					
	Construction			CCH				
	Total Funding				100	100C	100	100C
23O.	Drainage Improvements on 22nd Avenue, Oahu Construction of drainage improvements on 22nd Avenue between Kilauea and Puu Panini Avenues.	LH0226	SUB 201					
	Construction			CCH				
	Total Funding				145	145C	145	145C

23P.	Kanewai Field, Oahu Planning and design for the development of additional lands for Kanewai Field, Oahu (to be supplemented with additional funds from the City and County of Honolulu).	LH0232	SUB	201				
	Construction		CCH			50	50	
	Total Funding		C			50C	50C	
23Q.	Moanalua Recreation Center, Oahu Construction and equipment, including kitchen facilities, kiln, and furnishings for the new Moanalua recreation center, Oahu. Funds authorized for project, Item K-53, Section 120, Act 214, SLH 1979 may be used for the purposes of this project; provided that funds authorized under this item are matched by the City and County of Honolulu.	LH0249	SUB	201				
	Construction		CCH			50	50	
	Total Funding		C			50C	50C	
23R.	Hawaii Kai Youth Center, Oahu Land acquisition, design, and construction of a community center for youths at Hawaii Kai, Oahu.	LH0308	SUB	201				
	Construction		CCH			50	50	
	Total Funding		C			50C	50C	
23S.	Drainage Improvements at 18th and Harding Avenues, Oahu Design and construction of drainage improvements at 18th and Harding Avenues.	LH0326	SUB	201				
	Construction		CCH			115	115	
	Total Funding		C			115C	115C	

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					FY 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F	
23T.	Palolo Valley Field, Oahu Construction of improvements to upgrade Palolo Valley field, Oahu (to be matched by the City and County of Honolulu).	LH0332	SUB 201					
	Construction			CCH	C	75	75	
	Total Funding				75C		75C	
23U.	Moanalua Playgrounds, Oahu Construction of improvements to playground areas in the vicinity of Moanalua High and intermediate school including the resurfacing of playcourts and upgrading of the baseball field (to be matched by the City and County of Honolulu).	LH0349	SUB 201					
	Construction			CCH	C	50	50	
	Total Funding				50C		50C	
23V.	Waipahu Recreation Center, Oahu Plans, design, and construction of two tennis courts including fencing and lighting.	LH0421	SUB 201					
	Construction			CCH	C	80	80	
	Total Funding				80C		80C	
23W.	Exploratory Wells at Mokuleia, Oahu Drilling of exploratory wells in Mokuleia, Oahu.	LH0428	SUB 201					
	Construction			CCH	C	150	150	
	Total Funding				150C		150C	

23X.	Bus Shelters on Kaheka Street and Kalakaua Avenue, Oahu Construction of bus shelters along Kaheka Street and Kalakaua Avenue near the Paoakalani and Ma-kua Alii senior citizens homes.	LH0512	SUB	201			
	Construction						
	Total Funding		CCH		C		
24.	Private Sewer System, Oahu Acquisition of private sewer system in Hawaii Kai.	LH0701	SUB	201			
	Construction						
	Total Funding		86C		C		
25.	22nd Avenue Improvements, Oahu Plans and construction of sidewalk along the Koko Head side of 22nd Avenue between Diamond Head and Kilauea Ave; and realignment and diversion of storm drain water of the same area of 22nd Avenue.	LH0801	SUB	201			
	Design						
	Construction						
	Total Funding		86C		C		
26.	Diamond Head Crater Park, Oahu Plans and construction of a park facility.	LH0802	SUB	201			
	Construction						
	Total Funding		125C		C		
27.	Kanewai Field, Oahu Plans and construction of general improvements to facilities provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation.	LH0901	SUB	201			
	Construction						
	Total Funding		100		C		
			50C		S		
			50S				

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					FY 1979-80 F	M 1979-80 F	FY 1980-81 F	Total Biennium 1979-81 F
28.	Palo Neighborhood Playground, Oahu  Plans and construction of tennis courts provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation. Supplements prior appropriation.	LH0902	SUB 201		160	C CCH	C 80C 80S	160 80C 80S
	Construction							
	Total Funding							
29.	Maunalani Heights Playground, Oahu  Plans and construction for general improvements provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation. Supplements prior appropriation.	LH0903	SUB 201		100	C CCH	C 50C 50S	100 50C 50S
	Construction							
	Total Funding							
30.	Pukele Playground, Oahu  Plans and construction of a chain-link fence and general improvements, provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation.	LH0904	SUB 201					
	Design							10
	Construction							90
	Total Funding							50C 50S

31.	Pukele Stream, Oahu Plans and construction of a retaining wall to prevent erosion along Pukele stream, from Keanu Street to St. Louis Drive, provided that no funds be made available unless the City and County of Honolulu provides matching funds for the purpose of this appropriation. Supplemental appropriation.	LH0905	SUB	201				
	Construction	CCH		180				
	Total Funding	CCH		90C				
		CCH		90S				
			C		180			
			S		90C			
					90S			
32.	Kalakaua Avenue 16" Water Main, Part II— Waikiki, Oahu Plans and construction for installation of 1,750 linear feet of 16" water main and appurtenances along Kalakaua Avenue from Uluniu Avenue to Seaside Avenue.	LH1101	SUB	201				
	Design			30				
	Construction	CCH		301				
	Total Funding	CCH		331C				
			C		30			
					301			
					331C			
33.	Kapiolani Park, Oahu Plans and construction of a new tennis center facilities located in Kapiolani Park, including tennis center building, bleachers, and parking area.	LH1102	SUB	201				
	Construction	CCH		200				
	Total Funding	CCH		200C				
			C		200			
34.	Gateway Park, Oahu Plans and construction of improvements including landscaping, walkways and fountain.	LH1103	SUB	201				
	Design			10				
	Construction	CCH		59				
	Total Funding	CCH		69C				
			C		10			
					59			
					69C			

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				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	Total Biennium M 1979-81 O	
35.	McCully Recreation Center, Oahu Plans, design, and construction of a meeting and general purpose room.	LH1201	SUB 201				15	15
	Design						125	125
	Construction						10	10
	Equipment						150C	150C
	Total Funding			CCH	150C	C		
36.	Recreational Facilities, 12th Representative Oahu Plans, construction, and installation of recreational facilities in all state and city parks in the 12th representative district.	LH1202	SUB 201				35	35
	Design						78	78
	Construction						35	35
	Equipment						148C	148C
	Total Funding			CCH	148C	C		
37.	Huelani Drive, Manoa, Oahu Plans and construction for drainage improvements.	LH1301	SUB 201				2	2
	Design						18	18
	Construction						20C	20C
	Total Funding			CCH	20C	C		
38.	Makiki District Park, Oahu Plans and construction of jogging paths and installation of informational plaques along route.	LH1302	SUB 201				5	5
	Construction						5C	5C
	Total Funding			CCH	5C	C		

39.	Manoa Recreation Center, Oahu Plans and construction of 80 parking stalls mauka of baseball field along Kahala Drive and including plans and installation of lights for lot.	LHI303	SUB	201			
	Design				20	20	
	Construction				50	50	
	Total Funding	CCH			70C	70C	
40.	Lower Manoa, Oahu Plans and construction of improvements to Metcalf Avenue between Wilder Avenue and University Avenue. Supplements prior appropriation.	LHI304	SUB	201			
	Design				15	15	
	Construction				15C	15C	
	Total Funding	CCH			C	C	
41.	Papakolea Recreational Center, Oahu Plans and construction for roof over bleachers; in- stallation of gutters to improve drainage; and con- struction of steps from Kauhane Street and Tantalus Drive to the center.	LHI501	SUB	201			
	Design				130	130	
	Construction				130C	130C	
	Total Funding	CCH			C	C	
42.	Booth Park, Oahu Plans and design for a new multi-purpose senior community center.	LHI502	SUB	201			
	Plans				10	10	
	Design				60	60	
	Total Funding	CCH			70C	70C	
43.	Na Pueo Park, Alewa Heights, Oahu Plans and construction for development of pre- viously acquired site.	LHI503	SUB	201			
	Design				25	25	
	Construction				25C	25C	
	Total Funding	CCH			C	C	

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44.	Star Road 8-Inch Water Main, Pauoa, Oahu Plans and construction for installation of 1,500 linear feet of 8-inch water main and appurtenances along Star Road from Kaneohe Avenue to Pacific Heights Road.	LH1504	SUB 201					
	Land Acquisition				7		7	
	Design				23		23	
	Construction				142		142	
	Total Funding		CCH		172C		C	172C
45.	Twin View Drive 8-Inch Water Main, Puunui, Oahu Plans and construction of 800 linear feet of 8-inch water main along Twin View Drive from Waolani Avenue.	LH1505	SUB 201					
	Design					2		2
	Construction					70		70
	Total Funding		CCH		72C		C	72C
46.	Lanakila Park, Oahu Plans and design of swimming pool complex.	LH1601	SUB 201					
	Plans					25		25
	Total Funding		CCH		25C		C	25C
47.	Mauka Kalihii Valley Recreation Area, Oahu Plans and construction for a recreation area in Mauka Kalihii Valley.	LH1602	SUB 201					
	Plans					50		50
	Total Funding		CCH		50C		C	50C

48.	Lanakila Playground, Oahu Construction of swimming pool.	LH1650	SUB	201			
	Construction				28		
	Total Funding				28C		
49.	Kamehameha Field, Oahu Plans and construction of two biddy basketball courts.	LH1651	SUB	201			
	Construction				25		
	Total Funding				25C		
50.	Numana Road, Kalihi, Oahu Plans, engineering, land acquisition and construction for the realignment of Numana Road.	LH1652	SUB	201			
	Land Acquisition				15		
	Design				15		
	Construction				10		
	Total Funding				40C		
51.	Kalakaua Recreation Center, Oahu Plans and construction for a master plan, pool, and courtlighting.	LH1701	SUB	201			
	Construction				1		
	Total Funding				1C		
52.	Halawa District Park, Oahu Plans and construction of baseball dugouts and other facilities to field No. C at Halawa district park and expansion and relocation of ball field.	LH1801	SUB	201			
	Design				5		
	Construction				45		
	Total Funding				50C		

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53.	Moanalua Recreational Center, Oahu Plans and construction of a recreational center in the vicinity of Moanalua intermediate and elemen- tary school.	LH1850	SUB 201						
	Construction			CCH	200	200C	C	200	
	Total Funding								200C
54.	Moanalua Sub-Division Park, Oahu Plans and construction of a community park located within the vicinity of the Moanalua golf course.	LH1851	SUB 201						
	Construction			CCH	50	50C	C	50	
	Total Funding								50C
55.	Halawa Community Regional Park, Oahu Plans and construction of a gym for the Halawa community regional park. Supplemental appro- priation.	LH1852	SUB 201						
	Construction			CCH	50	50C	C	50	
	Total Funding								50C
56.	Pearl City Skateboard Rink, Oahu Plans, land acquisition, and construction of a skate- board rink, including ground and site improve- ments.	LH1901	SUB 201						
	Construction			CCH	15	15C	C	15	
	Total Funding								15C

57.	Mahoe Street, Waipahu, Oahu Plans and construction for the widening of Mahoe Street, from the entrance of August Ahrens School to Haipo Street.	LH2001	SUB	201				
	Design				5			
	Construction				45			
	Total Funding				50C			
58.	Ewa Beach Community Park, Oahu Plans and installation of night lights.	LH2101	SUB	201	CCH	50C		
	Plans						2	
	Construction						8	
	Total Funding					10C		
59.	Ewa Community Center, Oahu Plans and construction for a multi-purpose facility. Grant in aid.	LH2102	SUB	201	CCH	10C		
	Plans						2	
	Construction						8	
	Total Funding						10C	
60.	Maile Senior Citizens Center and Recreational Park. Plans and construction for renovation of existing structure of the former Voice of America property for use as a senior citizens center including grounds and site improvements. Grant-in-aid.	LH2103	SUB	201	CCH	30C		
	Plans						15	
	Construction						15	
	Total Funding						30C	
61.	Roads, 21st Representative District, Oahu Plans and installation of mercury vapor street lights on Kunale Road and Luahalei Homestead Road. Grant-in-aid.	LH2104	SUB	201	CCH	15C		
	Plans						5	
	Construction						15	
	Total Funding						20C	

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62.	Alta Street, Waianae, Oahu Plans and construction for installation of 800 linear feet of 8-inch water main and appurtenances along Alta Street from Glennmonger Street to Pokai Street.	LH2105	SUB 201		64	64C	
	Construction						
	Total Funding			CCH	64C	C	
63.	Farrington Highway, Waili, Oahu Plans and construction for installation of 1,900 linear feet 12-inch water main and appurtenances along Farrington Highway from Mainili Road to Kauakamana Street.	LH2106	SUB 201		12	12C	
	Construction						
	Total Funding			CCH	12C	C	
64.	Waianae Senior Citizen Center Building, Oahu Plans and construction to land fronting Farrington Highway, TMK 85-02-5411. State funds to be matched by City and County of Honolulu.	LH2150	SUB 201				
	Design						
	Construction						
	Total Funding			CCH	2	C	
				CCH	18C	S	
					18S		
65.	Dole Road Water Main, Oahu Plans and construction for installation of 700 linear feet of 8-inch water main and appurtenances along Dole Road from Hoi Place to Kiekie Place.	LH2201	SUB 201				
	Design						
	Construction						
	Total Funding			CCC	6	C	
					50		
					56C		
						50	
						C	
						56C	

66.	Malunui Street Extension, Oahu Plans and construction for paving of both sides of road leading into Kailua Library parking lot.	LH2450	SUB	201			
	Construction				5	C	5C
	Total Funding				5	C	5C
67.	Kailua Field, Oahu Plans and construction of a gymnasium. To be matched by funds from the City and County of Honolulu.	LH2501	SUB	201			
	Construction				260	C	260
	Total Funding				CCCH	130C	130C
					CCCH	130S	130S
68.	Waimanalo Community Services Center, Waimanalo, Oahu Plans and construction for emergency repairs and maintenance.	LH2601	SUB	201			
	Construction				5	C	5C
	Total Funding				CCCH		
69.	Waimanalo Community Multi-Purpose Center, Waimanalo, Oahu Plans and construction of new facilities.	LH2602	SUB	201			
	Design				7	C	7C
	Total Funding				CCCH		
70.	Flamingo Street Water Main, Waimanalo, Oahu Design and construction for installation of 1700 linear feet of 8-inch water main and appurtenances along Flamingo Street from Kalanianaole Highway to the end of Flamingo Street.	LS0315	SUB	201			
	Construction				173	C	173
	Total Funding				CCCH	173C	173C

Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
71.	Kamehameha Hwy Drainage Project, Oahu Land acquisition, design and construction for Ka- mehameha Highway drainage system from below Lulani Street to Kahekili Highway intersection.	LS0316	SUB 201					
	Construction				150	C	150C	
	Total Funding		CCH		150C	C	150C	
72.	Kalakaua School Playground, Oahu Design and construction for the repair of windbreakers at the tennis courts.	LS0514	SUB 201					
	Construction				60	C	60C	
	Total Funding		CCH		60C	C	60C	
73.	Kohou Street Improvements, Oahu Plans, design and construction of roadway im- provements between Vineyard Boulevard and Houghtailing Street behind Damien High School.	LS0516	SUB 201					
	Construction				20	C	20C	
	Total Funding		CCH		20C	C	20C	
74.	Gateway Park, Waikiki Oahu Construction of Gateway Park in Waikiki. City Project No. 712523, P.738 City Budget FY 79/80. State Requirement.	LS0611	SUB 201					
	Construction				200	C	200C	
	Total Funding		CCH		200C	C	200C	

75.	Honolulu Zoo, Oahu Construction of lion cage.		LS0612	SUB	201			
	Construction			CCH		36	C	36C
	Total Funding					36C		
76.	Huelani Drive, Oahu Design and construction for drainage improvement including new pipe drain. Unencumbered balances in Item 91E-IV-N-63 of Act 226, Session Laws of Hawaii 1976, may be used for this appropriation.		LS0613	SUB	201			
	Construction			CCH		90	C	90C
	Total Funding					90C		
77.	McCully Recreation Center, Oahu Plans, design and construction of a meeting and general purpose room. (To be expended by the City and County of Honolulu.)		LS0615	SUB	201			
	Construction			CCH		28	C	28C
	Total Funding					28C		
78.	Tennis Facilities, Kapiolani Park Oahu Construction of additional tennis courts, night lighting and parking facilities, City Project No. 716432 P.590 City Budget FY 79/80 state requirement.		LS0616	SUB	201			
	Construction			CCH		200	C	200C
	Total Funding					200C		
79.	Woodlawn Extension Bridge, Oahu Design and construction for flood control at Manoa Stream on the roadway fronting Manoa Library/Noelani School/Long's Manoa to protect public safety and state lands.		LS0617	SUB	201			
	Construction			CCH		150	C	150C
	Total Funding					150C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)		
					FY 1979-80 F	M 1980-81 F	Total Biennial M 1979-81 F
80.	Kalama Valley, Oahu Design and construction for park, recreational and other public facilities and improvements for Kalama Valley Park, Oahu.	L.S0737	SUB 201				
	Construction				50	50	
	Total Funding		CCH		50C	C	50C
81.	Kapahulu Avenue, Oahu Design and construction for traffic signal lights at Kapahulu Avenue and Charles Street.	L.S0738	SUB 201				
	Construction				15		
	Total Funding		CCH		15C	C	15C
81A.	County of Hawaii Emergency Light Beacons, Hawaii Plans, equipment, and construction of emergency light beacons on Waianuenue Avenue in front of Kaumana Fire Station and at Kalanianaole and Keaa Street.	LHA251	SUB 301				
	Construction				20		
	Total Funding		COH		20C		20C
82.	Kā'ū Community Center Renovations, Hawaii Plans and construction to existing facility in Naalehu.	LH0101	SUB 301				
	Design				5		
	Construction				45		
	Total Funding		COH		50C	C	50C



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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	M O	FY 1980-81 F	
86B.	Hilo Storm Drainage, Hawaii Plans, land acquisition and construction of flood control measures in Hilo, Hawaii.	LH0138	SUB 301					
	Construction		COH	C	65		65	
	Total Funding				65C		65C	
86C.	Pahoa Playground, Hawaii Construction of park facilities on an approximately 6.5-acre site in Pahoa adjacent to the Pahoa Com- munity Center.	LH0140	SUB 301					
	Construction		COH	C	90		90	
	Total Funding				90C		90C	
86D.	Hamakua Water System Development, Hawaii Plans and construction for incremental develop- ment of water system, including source develop- ment, pipelines, booster pump stations, and storage facilities; and land and source acquisition at the Hamakua water system which is Project Item I- WW-1, Section 2, Act 244, SLH 1978.	LH0143	SUB 301					
	Construction		COH	C	75		75	
	Total Funding				75C		75C	
86E.	Waiakea-uka Flood Control, Hawaii Plans, land acquisition, and construction of flood control measures in Waiakea-Uka.	LH0151	SUB 301					
	Construction		COH	C	60		60	
	Total Funding				60C		60C	

87.	Hilo Civic Auditorium Improvement, Hawaii Plans and construction for expansion of existing facility including necessary renovation work. Supplements prior appropriation.	LH0201	SUB	301			
	Construction				40	40C	40
	Total Funding				C	C	40C
88.	Hilo Storm Drainage, Hawaii Plans, land acquisition and construction of flood control measures in Hilo. Supplements prior appropriation.	LH0202	SUB	301			
	Construction				25	25C	25
	Total Funding				C	C	25C
89.	Hilo Streets Improvements, Hawaii Plans and construction for improvements to existing streets in the Hilo area. Supplements prior appropriation.	LH0203	SUB	301			
	Construction				40	40C	40
	Total Funding				C	C	40C
90.	Hoolulu Park Improvements, Hawaii Plans and construction for improvements to existing Hoolulu Park multi-purpose stadium including seating, electrical work and other appurtenant items. Supplements prior appropriation.	LH0204	SUB	301			
	Construction				25	25C	25
	Total Funding				C	C	25C
91.	Keaukaha Gymnasium, Hawaii Plans for development of Keaukaha gymnasium complex.	LH0205	SUB	301			
	Plans				20	20C	20
	Total Funding				C	C	20C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 F
					FY 1979-80 F	M 0	FY 1980-81 F	
92.	Old Waiakea Mill Sewerage System, Hawaii Plans, land acquisition and construction of sewage system to service the old Waiakea Mill area in Hilo. Supplements prior appropriation.	LH0206	SUB 301					
	Construction			25				25
	Total Funding				COH	25C	C	25C
92A.	Easter Seal Facilities, Hawaii Construction for new Easter Seal facilities in Hilo, Hawaii.	LH0238	SUB 301					
	Construction				COH	C		
	Total Funding						100	100C
92B.	Keau Community Center, Hawaii Land acquisition and planning for a community center in Keau, Hawaii.	LH0240	SUB 301					
	Land Acquisition				COH	C		
	Total Funding						85	85C
92C.	Pepeekeo Water Development, Hawaii Plans and construction for incremental development of water system, including source development, pipelines, booster pump stations, and storage facilities; improvement and replacement of existing facilities and appurtenances; and land and source acquisition which is Project Item I-WW-9, Section 2, Act 9, SPSLH 1977.	LH0243	SUB 301					
	Construction				COH	C		
	Total Funding						50	50C

93.	Youth Shelter, Hilo, Hawaii Plans and construction of Hilo youth shelter facility.	LH0250	SUB	301			
	Design				5		5
	Construction				95		95
	Total Funding				100C		100C
94.	Panaewa Well No. 3, Hawaii Plans and construction for incremental development of the Panaewa well source including drilling and casing of deep well and installation of deep well pump.	LH0251	SUB	301			
	Construction				20		20
	Total Funding				20C		20C
95.	Haihai Reservoir, Hawaii Plans and construction of a 0.5-mg reservoir.	LH0252	SUB	301			
	Construction				25		25
	Total Funding				25C		25C
96.	Waianuenue Bridge, Hawaii Plans and construction for bridge widening.	LH0253	SUB	301			
	Construction				50		50
	Total Funding				50C		50C
97.	Aquarium, Hawaii Plans and construction of an aquarium. Shall be supplemented by Item I-W-2, Section 2, Act 244/78.	LH0254	SUB	301			
	Construction				50		50
	Total Funding				50C		50C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				Total Biennium 1979-81 F
				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	M	
98.	Keaukaha Gymnasium, Hawaii Plans and construction for development of Keaukaha gymnasium complex.	LH0255	SUB 301					
	Plans				15			15
	Total Funding			COH		15C	C	15C
99.	Cultural Center, Hilo, Hawaii Plans and construction of a cultural center in Hilo. Shall be supplemented by Section 91F, Item I-M-1 of Act 226, SLH 1976, Section 2, Item I-W-10 of Act 9, SPSLH 1977, and Section 2, Item I-W-4 of Act 244, SLH 1978.	LH0256	SUB 301					
	Construction							25
	Total Funding			COH		25C	C	25C
100.	Hamakua Source Development, Hawaii Plans and construction for incremental development of a water system including deep well source, pipeline, booster pump stations, and storage facilities.	LH0301	SUB 301					
	Design							4
	Construction							76
	Total Funding			COH		80C	C	80C
101.	Hamakua Trunk Line Development, Hawaii Plans and construction for incremental development of the water system including plans and improvement of the transmission mains.	LH0302	SUB 301					
	Construction							4
	Total Funding			COH		25C	C	25C

102.	Street Lights, 3rd Representative District, Hawai'i Plans and construction for installation of street lights in the third representative district, Hawaii.	LH0303	SUB 301				
	Construction			COH	20	C	20
	Total Funding				20C		20C
102A.	Kā'u Public Safety Building, Hawaii Land acquisition and planning for a police station on an approximately one-acre site in Naalehu, Hawai'i.	LH0340	SUB 301				
	Land Acquisition			COH	35	35C	35C
	Total Funding				35C		35C
102B.	Laupahoehoe Well No. 2, Hawaii Plans and construction for incremental development of water system including installation of deep well pump and controls.	LH0343	SUB 301				
	Construction			COH	50	50C	50C
	Total Funding				50C		50C
102C.	Haihai Reservoir, Hawaii Plans and construction of a 0.5-mg reservoir.	LH0351	SUB 301				
	Construction			COH	35	35C	35C
	Total Funding				35C		35C
103.	Kuakini Highway-Hualalai Road Traffic Signal Lights, Hawaii Plans and construction of traffic control signal lights at the intersection of Kuakini Highway and Hualalai Road in Kailua-Kona.	LH0401	SUB 301				
	Design			COH	15		15
	Construction				35		35
	Total Funding				50C	C	50C

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium M 1979-81 F
					FY 1979-80 F	FY 1980-81 F	Total	
104.	South Kona Water System Extension, Hawaii	LH0402	SUB 301					
	Plans and construction for incremental development of water system, including source development, pipelines, booster pump stations, storage facilities and land and source acquisition from Captain Cook to Napoopoo.							
	Construction			COH	200	C	200	
	Total Funding							
104A.	Makapala-Keokea Water System, Hawaii	LH0443	SUB 301					
	Plans and construction for extending Halaula water system to Makapala-Keokea.							
	Construction			COH	C		55	55C
	Total Funding							
104B.	Piihonua Well No. 2, Hawaii	LH0451	SUB 301					
	Plans and construction for the incremental development of the Piihonua well source including drilling and casing of deep well and installation of deep well pump.							
	Construction			COH	C		35	35C
	Total Funding							
104C.	Volcano Community Center, Hawaii	LH0540	SUB 301					
	Plans and construction for a community center on an approximately 10-acre site of state-owned land made available to the County of Hawaii on the corner of Wright Road and the old highway in Volcano, Hawaii.							
	Construction			COH	C		15	15C
	Total Funding							

104D.	Kapoho-Honolulu Landing, Keaukaha Coastal Road, Hawaii	LH0640	SUB	301				
	Construction drawing and right-of-way acquisition for highway from Kapoho to South Hilo.							
	Construction		COH		C		10 10C	
	Total Funding							
104E.	Keaukaha Gym, Hawaii	LH0851	SUB	301				
	Plans and construction for development of Keaukaha gymnasium complex (to supplement prior authorizations).						25 25C	
	Construction		COH		C			
	Total Funding							
105.	Cultural Center, Hawaii	LS0113	SUB	301				
	Design and construction for a cultural center on the corner of Mohouli Street and Komohana Street, Hilo, Hawaii. To be supplemented from Act 226, SH 1976, Sec. 91F, Item 1-M-1; Act 9, SSLH 1977, Sec. 2, Item 1-W-10; and Act 244, SLH 1978 Sec. 2, Item 1-W-4.						31 31C	
	Construction		COH		C			
	Total Funding							
106.	Easter Seal Society for Crippled Children and Adults of Hawaii, Hilo, Hawaii	LS0114	SUB	301				
	Design, construction, equipment and appurtenances for new Easter Seal facilities. Unexpended balances from Act 9, SSLH 1977, Sec. 2, Item 1-W-24; and Act 244, SLH 1978, Sec. 2, Item 1-W-3 shall be used. Grant-in-aid.						50 50C	
	Construction		COH		C			
	Total Funding							

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					FY 1979-80 F	FY 1980-81 F	Total Biennium M O F 1979-81 Q
107.	Gymnasium Complex, Keaukaha, Hawaii Plans and construction for a gymnasium complex in Keaukaha, Hilo, Hawaii.	LS0115	SUB 301				
	Construction				50	C	50
	Total Funding		COH		50C	C	50C
108.	Hilo Civic Auditorium, Hilo, Hawaii Expansion of existing facilities including renovation work.	LS0116	SUB 301				
	Plans				8		8
	Construction				42		42
	Total Funding		COH		50C	C	50C
109.	Hilo Downtown Improvements, Hawaii Land acquisition, planning, design and construction for improvements and other appurtenances related to the Hilo downtown development districts. To be supplemented from Act 226, SLH 1976, Sec. 91E, Item I-N-6 and Sec. 91F, Item I-N-1; Act 9, SSLM 1977, Sec. 2, Item I-W-21; and Act 244, SLH 1978, Item I-W-12.	LS0117	SUB 301				
	Construction				26	C	26
	Total Funding		COH		26C	C	26C
110.	Hilo Palm Garden, Hilo, Hawaii Design and construction of a palm garden to include a wide variety of the palm species.	LS0118	SUB 301				
	Construction				20	C	20C
	Total Funding		COH		20C	C	20C

111.	Ka'u Community Center Renovation, Naalehu, Hawaii Design and construction for renovation of existing community center in Naalehu.	LS0119	SUB 301					
	Construction			COH	20	C	20	20C
	Total Funding				20C			
112.	Kau Public Safety Building, Hawaii Plans, land acquisition and construction for public safety building in Kau district. Supplements prior appropriations.	LS0120	SUB 301					
	Construction			COH	25	C	25	25C
	Total Funding				25C			
113.	Keaau-Pahoa Trunk Line, Puna, Hawaii Design and construction for the development, including groundwater source, storage facilities, connection lines and incremental construction of trunk lines. Unexpended balances from Act 244, SLH 1978, Sec. 2, Item I-WW-4 shall be used to supplement this appropriation.	LS0121	SUB 301					
	Construction			COH	50	C	50	50C
	Total Funding				50C			
114.	Keaukahā-Panaewa Gymnasium Complex, Keaukahā, Hawaii Design and construction of Keaukahā-Panaewa gymnasium complex in Keaukahā to replace Kawananako Hall.	LS0122	SUB 301					
	Construction			COH	50	C	50	50C
	Total Funding				50C			

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	APPROPRIATIONS (\$1,000's)				Total Biennium 1979-81 F
				Exp. Agy.	FY 1979-80 F	FY 1980-81 F	M O	
115.	Kehena Ditch Water Project, Hawaii	LS0123	SUB 301					
	Land acquisition, design and construction for development, including pumps, pipelines and storage facilities at the Kehena Ditch water source. To be supplemented by prior appropriations.							
	Construction			160			C	160
	Total Funding		COH	160C			C	160C
116.	Multi-Purpose Building, Waimea Park Complex	LS0124	SUB 301					
	Land acquisition, design, construction and equipment for recreational, senior citizen program, community and other use. Building to include full kitchen and other related space equipment. To be supplemented from Act 244, SLH 1978, Sec. 2, Item I-W-28.							
	Construction			50			C	50C
	Total Funding		COH	50C			C	50C
117.	Pahoa Playground, Hawaii	LS0125	SUB 301					
	Construction of park facilities in Puna district. Supplements prior appropriations.							
	Construction			25			C	25C
	Total Funding		COH	25C			C	25C
118.	Puna Parks, Puna, Hawaii	LS0126	SUB 301					
	Design and construction for improvements to Puna parks in the Puna district.							
	Construction			35			C	35C
	Total Funding		COH	35C			C	35C

119.	Saddle Road, Hawaii Design and construction for realignment, widening, and resurfacing of the existing Saddle Road. To be supplemented from Act 226, SLH 1976, Sec. 91F, Item I-B-3 and Act 9, SSLH 1977, Sec. 2, Item I-W-6.	LS0127 SUB 301	COH 10 C	10 10C
120.	Study for Transportation and Use of Agricultural Waste in Land Reclamation, Hawaii Engineering economic feasibility study regarding transportation of soil, organic matter from Hilo Coast Processing Company's mill at Pepeekeo, Hawaii to the Hilo-Panaewa area. To be matched by County of Hawaii.	LS0128 SUB 301	COH 25 25C	25 25C
121.	Waipio Valley Improvements, Hamakua, Hawaii Design and construction of necessary improvements to roads and streambeds in Waipio Valley.	LS0129 SUB 301	COH 50 50C	50 50C
122.	Preservation of Old Police Station, Hilo, Hawaii Grant-in aid to the East Hawaii Cultural Council for the restoration and preservation of the old police station in Hilo, County of Hawaii. (To be expended by the County of Hawaii).	LS0135 SUB 301	COH 50 50C	50 50C

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					FY 1979-80 F	M 0	FY 1980-81 F	
122A.	County of Maui Kula Community Center, Maui Construction of Community Center.	LH0103	SUB 401					
	Construction			COM	C		150 150C	
	Total Funding							
122B.	Water Systems Improvements, Maui Construction of improvements to upgrade the quality of water to standards set by the U.S. Safe Drinking Water Act.	LH0106	SUB 401					
	Construction			COM	C		260 260C	
	Total Funding							
123.	Keanae Water Project, Maui Plans and construction for the Keanae Water Project.	LH0501	SUB 401					
	Construction			COM	100 100C		C	100 100C
	Total Funding							
124.	Haiku Water Project, Maui Plans and construction of a 10,000 gallon water tank and a 3-inch water transmission line from Holokai and Kapakalua Road to Kapakalua and Hana Highway.	LH0550	SUB 401					
	Plans							5
	Construction			COM	45 50C		C	45 50C
	Total Funding							

125.	Kahului Convention Center, Maui Land acquisition, engineering study, plans and construction for a large meeting hall with kitchen facilities, equipment and other appurtenances. Supplements prior appropriation.	LH0551	SUB	401				
	Design		COM		50	C	50	50C
	Total Funding							
126.	Maui County Energy Self-Sufficiency Program, Phase II, Maui Plans for project up-date, public participation, and feasibility study.	LH0552	SUB	401				
	Plans		COM		15	C	15	15C
	Total Funding							
127.	Kahoma Stream Flood Control, Lahaina, Maui Plans and construction for the Kahoma Stream flood control. May be matched by federal funds.	LH0601	SUB	401				
	Design		COM		1	C	1	1C
	Construction				4		4	4
	Total Funding				5C			
128.	Kaunakakai-Pukoo Water Project, Molokai Plans and construction for incremental development of water systems including plans, source studies and investigations, land acquisition and construction of pipelines, reservoirs, pumping facilities, treatment plants, source development and other appurtenances.	LH0602	SUB	401				
	Construction		COM		90	C	90	90C
	Total Funding							

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					FY 1979-80 F	M 1980-81 F	FY 1980-81 M	
129.	East End Fire Sub-Station, East Molokai Land acquisition, design, construction and equipping of fire sub-station.	LH0650	SUB 401		20	4	4	
	Land Acquisition							
	Design							
	Construction							
	Total Funding			COM	36	36	C	
					60C			
130.	Honolua Watershed Project, Maui Design and construct improvements for soil and water conservation project at Honolua, Maui.	LS0208	SUB 401					
	Construction							
	Total Funding			COM	100	100	C	
					100C			
131.	Day Care Center, Maui Design and construct a day care center to supplement prior appropriations in Act 9, SLH 1977, Section 2, Item II-V-1, Act 244 SLH 1978 Section 2 Item II-V-1.	LS0209	SUB 401					
	Construction							
	Total Funding			COM	50	50	C	
					50C			
132.	Kula Community Center, Maui Design and construct a community center at Kula Maui to supplement prior appropriation in Act 244 SLH 1978, Section II, Item II-V-7.	LS0210	SUB 401					
	Construction							
	Total Funding			COM	97	97	C	
					97C			

133.	Water System Development, Maui County Districts	LS0215	SUB	401				
	Design and construction for incremental development of water systems of Kula, Haiku-Makawao, Hana, Kaunakakai-Ulapape-Pukoo-Wailaua water projects.							
	Construction	100	100C					
	Total Funding	COM			C			100C
	County of Kauai							
133A.	Kalaheo Multi-Purpose Recreation Center, Kauai	LH0900	SUB	501				
	Construction of phase II of the recreation center to include craft room and health room and classrooms.							
	Construction	125	125C					125C
	Total Funding	COK		C				
	Waimea Sewerage System, Kauai	LH2701	SUB	501				
	Plans, construction and right of way acquisition of a sewerage system. Unexpended balances from Act 9, SLH 1977, Item IV-4-9 may be used for this project.							
	Construction	1	1C					1C
	Total Funding	COK		C				
134.	Economic Development Plan, Kauai	LH2702	SUB	501				
	To provide funds to the Office of Economic Development to prepare phase II of the Kauai economic development plan.							
	Plans	75	75C					75C
	Total Funding	COK		C				

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				Exp. Agy.	FY 1979-80 F	M 1980-81 F	FY 1980-81 F	
136.	Koloa-Poipu By-Pass Road, Kauai Plans and construction of a by-pass roadway be- tween Koloa and Poipu.	LH2703	SUB 501				105	
	Plans				105		C	105C
	Total Funding			COK	105C			
137.	County General Plan Review and Revisions, Kauai To provide funds for the review, revision, and up- date of the county general plan.	LH2704	SUB 501				50	
	Plans				50		C	50C
	Total Funding			COK	50C			
138.	Weliweli Subdivision Playground, Kauai Plans and development of a neighborhood park at Weliweli sub-division.	LH2705	SUB 501				75	
	Construction				75		C	75C
	Total Funding			COK	75C			
139.	Kealia Beach Park, Kauai Plans, construction and acquisition of land for a park at Kealia Beach.	LH2706	SUB 501				10	
	Plans				10		C	10C
	Construction			COK	90			
	Total Funding			100C	90			

140.	Kapaa Water System, Kauai Plans and construction to the Makaleha exploratory well to include drilling, testing, construction of a pump and electrical controls, connecting pipeline and appurtenances.	LH2707	SUB	501			
	Design				25		
	Construction				125		
	Total Funding				150C		
141.	Lihue Water System, Kauai Construction of a storage tank and connecting main.	LH2708	SUB	501			
	Plans				90		
	Construction				44		
	Total Funding				134C		
142.	Mana Drag Strip Improvement Project, Kauai Plans and construction for general improvements to the Mana Drag Strip.	LS0805	SUB	501			
	Construction				30		
	Total Funding				30C		
143.	Lihue Business District, Kauai Plans, design, construction to alleviate parking congestion.	LS0806	SUB	501			
	Construction				50		
	Total Funding				50C		
144.	Hanapepe-Eleele Sewerage System, Kauai Plans and construction of a sewerage system in the Hanapepe-Eleele area.	LS0811	SUB	501			
	Construction				109		
	Total Funding				109C		

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Item No.	Program and Capital Project	Cap. Proj. No.	Program ID	Exp. Agy.	APPROPRIATIONS (\$1,000's)			Total Biennium 1979-81 M O F
					FY 1979-80 M O F	FY 1980-81 M O F	Total	
144A.	Wailua Golf Course Expansion, Kauai Acquisition of additional eighteen (18) holes to be constructed in two (2) nine-hole increments.	SL0801	SUB 501					
	Land Acquisition			COK		A	200	200
	Total Funding					200A		200A
144B.	Puu Kaa Street Extension Extension of Puu Kaa Street, Kapaa, Kauai.	SL0807	SUB 501					
	Design			COK		B	70	70
	Construction						180	180
	Total Funding					250B		250B

SECTION 8. Part V, Act 214, Session Laws of Hawaii 1979, is amended:

(1) By amending Section 121 to read:

“SECTION 121. Provided, that \$200,000, or so much thereof as may be necessary, appropriated in Section 120, Item 2, the Aloha Tower Complex from Piers 8 to 11 shall be used for (1) Site engineering—technical infrastructure analysis and surveys of boundaries, sewer, water, energy, and communication; (2) Geotechnic Analysis—soil borings, historic data; (3) Bulkheads and Piers Analysis—conditions, requirements for replacement and/or retention; and (4) Demolition Analysis—phasing analysis, selective retention and maintenance requirements; for the development of site utilization criteria, design criteria, and financial criteria to develop bid specifications and selection criteria to be used in developer selection.”

(2) By repealing Section 128 of Part V, Act 214, Session Laws of Hawaii, 1979.

(3) By adding a new Section to read:

“SECTION 128A. Provided, that the general obligation bond funds appropriated for the Energy Conservation in Hospitals, Schools, and Public Buildings capital improvement project (PED 120) shall be used only for state buildings.”

(4) By amending Section 130 to read:

“SECTION 130. Provided, that the capital investment appropriation of \$2,662,000 authorized in Part III and listed in Part V of this Act for Land Use, Statewide Plan and Coordination (PED 103) shall be expended for the Kakaako Community Development District pursuant to Chapter 206E of the Hawaii Revised Statutes; except that State funds shall be reduced to the extent that federal and other nonstate funds are made available. A report of project status and total redevelopment cost to the State, including the application of all prior appropriation expenditures and future appropriation requests, shall be made to the legislature twenty days prior to the convening of the 1981 Regular Session of the Legislature.”

(5) By adding a new Section to read:

“SECTION 130A. Provided, that of the general obligation bond funds appropriated to General Administration for Agriculture (AGR 192) for capital project number A01, Agricultural Park Subdivision, Statewide, \$50,000, or so much thereof as may be necessary, in fiscal year 1980–81, shall be expended by the Department of Agriculture for a contract with the Governor’s Agriculture Coordinating Committee for the development of a state-wide assessment and plan for agricultural parks.”

(6) By adding a new Section to read:

“SECTION 130B. Provided, that the appropriation for land acquisition, Maiaekahana State Park, Phase III, (LNR 806) Parks Recreation for capital project SL0301, shall be used for acquisition, by purchase or exchange of parcels; provided further, funds may be used to match available federal funds; provided further, that priority in acquisition shall be given, but not limited to, the vacant or unimproved parcels within the designated Phase III area as of July 1, 1980; provided further, the Department of Land and Natural Resources shall notify all property owners within the

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Phase III area of this appropriation and impending condemnation by the State within ninety days from the date of approval of this Act.”

(7) By adding a new Section to read:

“SECTION 130C. Provided, that the appropriation to Facilities Construction and Maintenance Construction (AGS 221) for capital project B41 includes funds for a feasibility study on for the installation a security gate at the Punchbowl Street and Miller Street entrances to the basement level of the State Capitol.”

SECTION 9. Part VI, Act 214, Session Laws of Hawaii, 1979, is amended:

(1) By amending Section 131 to read:

“SECTION 131. GENERAL OBLIGATION BONDS. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part III and listed in Part V of this 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 \$293,415,000.”

(2) By adding a new Section to read:

“SECTION 131A. Provided, that, to the extent that the sums appropriated for the payment of principal and interest on general obligation bonds are insufficient to meet and pay all such obligations at maturity in accordance with the terms of such bonds, there is hereby appropriated out of the general fund of the State all amounts necessary for the payment of the principal and interest of the bonds as they mature, and this appropriation shall be a paramount appropriation upon the general fund of the State.”

(3) By adding a new Section to read:

“SECTION 131B. Where it is deemed in the public interest of the State, the Governor, in his discretion, is authorized to use the State general fund to finance capital improvement projects authorized in this Act, where the methods of financing is designated to be the general obligation bond fund.”

(4) By amending Section 133 to read:

“SECTION 133. HARBOR REVENUE BONDS. The Department of Transportation is authorized to issue harbor revenue bonds for harbor capital investment projects authorized in Part III and listed in Part V of this Act and designated to be financed by revenue bond funds or by general obligation bond fund with debt service cost to be paid from special funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain, or increase reserves for the harbor revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned harbor revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of harbor revenue bonds, to the

extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from harbors and related facilities under the ownership of the State or operated and managed by the department, including rents, mooring, wharfage, dockage and pilotage fees, and other fees or charges presently or hereafter derived from or arising through the ownership, operation, and management of harbors and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such harbor revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the harbor special fund. The Governor, in his discretion, is authorized to use the harbor revenue fund to finance those projects in Part III where the method of financing is designated to be by harbor revenue bond funds."

SECTION 10. Part VII, Act 214, Session Laws of Hawaii, 1979, is amended:

- (1) By amending Section 134 to read:

"SECTION 134. Sand Island income from other lands and facilities, other than those set aside for Harbors or Foreign Trade Zone purposes, shall be deposited into the general fund."

- (2) By amending Section 137 to read:

"SECTION 137. All grants to private organizations in this Act are made in accordance with the standard that the private programs so funded yield direct benefits to the public and accomplish public purposes. No grant, subsidy, or purchase of service contract to a private organization for which an appropriation has been provided in this Act shall be made or allotted unless the private organization so funded agrees to the following conditions:

- (1) To comply with all applicable federal and State laws prohibiting discrimination against any person, on the grounds of race, color, national origin, religion, creed, sex, or age, in employment and any condition of employment with the recipient or in participation in the benefits of any program or activity funded in whole or in part by the State;
- (2) To comply with all applicable licensing requirements of the State and federal governments, and with all applicable accreditation and other standards of quality generally accepted in the field of the recipient's activities;
- (3) To have in its employ or under contract such persons as are qualified to engage in the activity funded in whole or in part by the State; provided that no two or more members of a family or kin of the first or second degree shall be employed or under contract by the organization unless specifically permitted in writing by the director of finance or the director of the expending agency for the appropriation; provided further that the organization shall also agree that any salary or employee benefit increase shall be granted only upon the prior approval of the director of finance or the appropriation shall be subject to a decrease by an amount equal to the amount of increase not so approved.
- (4) To comply with such other requirements as the director of finance may prescribe to ensure adherence by the provider or recipient with federal, State and county laws; and

- (5) To allow the expending or related state agency; the committees of the House and Senate; and the Legislative Auditor, full access to records, reports, files, and other related documents in order that they may monitor and evaluate the management and fiscal practices of the recipient organizations to assure proper and effective expenditure of State funds.

The following shall apply to appropriations for grants, subsidies and purchases of services made for Fiscal Year 1980-81:

- (1) Appropriations shall be subject to the allotment system as provided in chapter 37, part II, Hawaii Revised Statutes. The director of finance shall prescribe rules and regulations to ensure the fair allotment of appropriations for grants, subsidies or purchase of services.
  - (2) Appropriations shall not be released unless a contract is entered into between the appropriate State agency and the private organization. The director of finance shall develop model contract forms for grants, subsidies, and purchases of services subject to the approval of the attorney general. The agency shall determine the contract form to be used for each grant, subsidy, or purchase of services.
  - (3) The appropriate state agency shall monitor each contract with a private organization to ensure compliance with the public purpose and legislative intent of the appropriation.
  - (4) Each transfer of funds to a private organization shall be evaluated by the appropriate State agency at the end of the contract period or earlier to determine whether the intended results were attained in the manner contemplated. A variance report in the form required by Section 37-75, Hawaii Revised Statutes, shall be prepared by the appropriate State agency for each grant, subsidy or purchase of services for submission to the legislature.
- (3) By adding a new Section to read:

"SECTION 137A. Provided; that of the general fund appropriation for Program Planning, Analysis and Budgeting (BUF 101) for fiscal year 1980-81, the Director of Finance shall expend such sums as necessary to implement procedures for the coordination, review and submission of requests for grants, subsidies and purchases of services for the 1981-83 budget biennium. The Director of Finance shall notify all recipients of grants and subsidies and providers of services from funds appropriated by this Act, any other private organization requesting funds, and all state agencies that the following procedures shall apply:

- (1) Every request shall be submitted to the director of finance who shall transmit it to the appropriate State agency for review. The request shall be submitted on forms provided by the director and shall contain a statement of the objective of the activity to be funded by State funds, financial information regarding the private organization, position salaries of personnel employed or retained by the organization, and such other information as required by the director of finance.
- (2) The director of finance shall establish policies and guidelines defining conditions for grants, subsidies and purchases of services, the analysis required of requests and, in the case of purchases of services, the procedure for soliciting requests.

- (3) The appropriate State agency shall review each request to determine the effectiveness of the proposed program in achieving the objectives of the State. The review shall include an analysis of the request in terms of the objectives to be achieved, the alternatives by which to achieve the objectives, and the respective costs, benefits, and effectiveness of the alternatives. Where personnel service costs are requested to be funded in whole or in part, the review shall determine the reasonableness of personnel position salaries, and upon request by the reviewing agency, the department of personnel services shall assist in making the determination. If the request is by a nonprofit organization, the review shall also determine whether the organization is governed by a board whose members have no material conflict of interest and serve without compensation. The agency shall invite the requestor to discuss the request with the agency and to comment on the analysis of the agency.
- (4) The State agency shall prepare a statement of its findings and recommendations for each request. Every request recommended for approval shall be included in the program and financial plan and budget submitted by the agency to the Governor. Any request disapproved by the agency shall be transmitted to the Governor with the statement of findings and recommendations. A copy of the statement shall be furnished to the requestor.
- (5) The Governor shall review the findings and recommendations and the budget submission of the State agency, revise the same as necessary, and submit to the Legislature a statement of findings and recommendations on each request. The governor shall include in the executive budget submitted to the Legislature all requests recommended for funding. The Governor shall summarize in a separate report all requests not recommended for funding and submit the report to the Legislature, together with the statements of findings and recommendations. A copy of the statement of the Governor on each request shall be furnished to the requestor.
- (6) Every recommendation submitted by the Governor to the Legislature to appropriate funds for grants, subsidies and purchases of services shall contain the objective that is intended to be achieved, the activity that is to be performed, standards by which the effectiveness of the use of State funds is to be evaluated, the analysis and justification for the recommendation, and the intended uses of the requested funds, according to cost categories and cost elements as defined by Section 37-62, Hawaii Revised Statutes.
- (7) Transfer appropriations. (a) Funds for each transfer not included in the budget submitted by the chief executive to the legislative body may be appropriated by separate bill provided that all appropriations are based on a request reviewed in accordance with subsection 3 of this section. The bill shall specify whether a grant, subsidy, or purchase of service is being made, the name of the recipient in the case of a grant or subsidy, and define the public purpose to be served by the appropriation.
- (b) A grant or subsidy may be authorized for a period not to exceed two years and shall not be renewed unless the request for renewal is reviewed in accordance with subsection 3 of this section and the legislative

body determines that there is a continuing need and public purpose to be served by the grant or subsidy.

(c) Funds for purchase of service shall be appropriated to agencies without naming the specific providers."

(4) By amending Section 139 to read:

"SECTION 139. In allotting funds for social welfare programs and other programs and agencies having appropriations which are based on population and workload data as specified in the executive budget document, only so much as is necessary to provide the level of services intended by the legislature shall be allotted by the department of budget and finance. For this purpose, agencies concerned shall reduce expenditures below appropriations as prescribed by the department of budget and finance in the event actual population and workload trend is less than the specified figure. Except that if the department of social services and housing is able to reduce the Aid to Families with Dependent Children (SOC 201) caseload by means of a training and employment demonstration project, the savings to the general fund, or such portion thereof as is needed, may be used to provide the state's matching for federal funds generated by the demonstration project. In the event that in the Money Assistance Programs the caseload trend or average payment is higher than the specified figure, or in the Medical Assistance Programs the caseload trend is higher than the specified figure or the reasonable average daily cost of the medical care for the needy and medically needy exceeds the anticipated average sum per patient day upon which the appropriation therefore was based, the agency is authorized to submit a deficiency appropriation request to the extent and on such basis as may be prescribed by the director of finance. In the event that the caseload trend is higher than the specified figure or the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient day, or the caseload trend or average payments for money assistance payments is higher than the specified figure, the Governor is authorized to utilize savings as may be available from appropriated funds of any program for the purpose of meeting the deficit in the social welfare program of the department of social services and housing."

(5) By amending Section 148 to read:

"SECTION 148. Any law or any appropriation of this Act to the contrary notwithstanding, all appropriations for capital improvement projects made to be expended in fiscal year 1979-80 and in fiscal year 1980-81 which are unencumbered as of June 30, 1982 shall lapse as of that date, and provided further, that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement if the legislature redetermines that such projects are essential."

(6) By adding a new Section to read:

"SECTION 148A. Any law or any provision of this Act to the contrary notwithstanding, all appropriations for capital improvement projects made to be expended in fiscal year 1979-80 or in fiscal year 1980-81 and for which the source of funding is designated as general funds shall be effective through June 30, 1982 and any unencumbered balance of such appropriations shall not lapse into the general fund until the close of business on such date."

SECTION 11. Section 154 of Part VII, Act 214, Session Laws of Hawaii, 1979, is repealed.

SECTION 12. Section 163, Part VII, Act 214, Session Laws of Hawaii, 1979, is repealed.

SECTION 13. 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. 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 14. In the event manifest clerical, typographical or other mechanical errors are found in this Act, the Governor is hereby authorized to correct such errors. All changes pursuant to this section shall be reported to the legislature at its next session.

SECTION 15. Statutory material to be repealed is bracketed. New material is underscored. Nothing in this Act shall affect the validity or continuing effectiveness of any provision of Act 214, Session Laws of Hawaii, 1979, not repealed or modified by this Act.\*

SECTION 16. EFFECTIVE DATE. This Act shall take effect upon its approval.

(Approved June 18, 1980.)

ACT 301

H.B. NO. 1865-80

A Bill for an Act Relating to the Judiciary Budget.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the Judiciary Supplemental Appropriations Act of 1980.

SECTION 2. This Act amends Act 208, Session Laws of Hawaii 1979.

SECTION 3. Section 3, Act 208, Session Laws of Hawaii 1979, is amended to read:

“**SECTION 3. Appropriations.** The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are appropriated or authorized from the sources of funding specified to the judiciary for the fiscal biennium beginning July 1, 1979, and ending June 30, 1981. The total expenditures and the number of permanently established positions in each fiscal year

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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of the fiscal biennium shall not exceed the sums and the position ceilings indicated for each year, except as provided in this Act.

Item No.	Program	Program ID	FY 1979-80 M O F	FY 1980-81 M O F	Total Biennium M 1979-81 F
THE JUDICIAL SYSTEM					
Court Operations					
1	Court of Appeals Operating	JUD 101	39.00* 973,683A	39.00* 1,026,614A	2,000,297A
2	Land Court/Tax Court Operating	JUD 102	3.00* 68,787A	3.00* 68,987A	137,774A
3	Circuit Courts Operating	JUD 111	224.00* 5,174,557A 129,788N	228.00* 5,316,697A 134,424N	10,491,254A 264,212N
4	Family Courts Operating	JUD 112	203.50* 4,323,249A 150,183N	204.50* 4,420,967A 155,353N	8,744,216A 305,563N
5	District Courts Operating	JUD 121	325.00* 5,455,519A	342.00* 5,710,663A	11,166,182A
Support Services					
6	Administrative Director Services Operating Investment: Capital	JUD 201	53.00* 1,816,862A 5,339,000C	57.00* 2,050,287A 30,170,000C	3,867,149A 35,509,000C
7	Law Library Operating	JUD 202	8.00* 362,431A	8.00* 401,423A	763,854A
8	Driver Education and Training Operating	JUD 221	42.00* 618,000B	43.00* 645,474B	1,263,474B
9	Criminal Justice Information System Data Center Operating	JUD 231	8.00* 201,906A 5.00* 233,611N	13.00* 397,173A N	599,079A 233,611N"

SECTION 4. Section 10, Act 208, Session Laws of Hawaii 1979, is amended to read:

“SECTION 10. Provided, that of the general fund appropriation for District Courts (JUD 121), \$83,724 for fiscal year 1979-80 shall be used for a contract with the Department of the Attorney General to provide for security services. Provided further, that of the positions authorized for District Courts (JUD 121) in fiscal year 1980-81, eight positions, comprised of one security guard III position and seven security guard II positions, shall reflect a transfer of personnel from Capitol Building Security (ATG 801), Department of the Attorney General.”

SECTION 5. Section 11, Act 208, Session Laws of Hawaii 1979, is amended to read:

**"SECTION 11. Capital Improvement Projects.** The sum of \$35,509,000 appropriated or authorized in Part II of this Act for capital investment shall be expended for the projects listed below. Several related or similar projects may be combined into a single project, if such 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 project separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars and are to be expended by the judiciary.)

Item No.	Program and Capital Project	Program ID	Total					
			FY 1979-80 F	M O	FY 1980-81 F	M O		
<b>THE JUDICIAL SYSTEM</b>								
Support Services								
	Administrative Director Services		JUD	201				
1	State Judiciary Complex, Oahu							
	Land acquisition, construction and furnishing of facilities for the State Judiciary Complex.							
	Land Acquisition	2,434			2,434			
	Construction		28,930		28,930			
	Total Funding	2,434 C	28,930 C		31,364 C			
2	Honolulu District Court, Oahu							
	Land acquisition, design, construction and furnishing of facilities for the Honolulu District Court within the State Capitol Complex.							
	Land Acquisition	500		992	1,492			
	Construction		2,200		2,200			
	Total Funding	2,700 C	992 C		3,692 C			
3	Additions to the Kona District Court, Hawaii							
	Renovation to the Kona District Court in order to provide additional office space to accommodate the expanded operational needs of the Kona District Court.							
	Design	15			15			
	Construction		66		66			
	Total Funding	81 C		C	81 C			
4	Remodeling and Upgrading Judiciary Buildings, Statewide							
	Design, construction and furnishing of equipment to remodel and upgrade Judiciary buildings statewide.							
	Design	12			12			
	Construction		60		35			
	Equipment		2		2			
	Total Funding	74 C	35 C		109 C			

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Item No.	Program and Capital Project	Program ID	Total			
			FY 1979-80	M O F	FY 1980-81	M O F
5	South Kohala District Court, Hawaii  Design of the South Kohala District Court in the Waimea Civic Center.					
	Design		30			30
	Total Funding		30 C		C	30 C
6	Renovation of Lahaina District Court, Maui  Renovation and furnishing of the second floor of the Lahaina Courthouse to accommodate the District Court.					
	Plans		20			20
	Design			32		32
	Total Funding		20 C	32 C		52 C
7	Wailuku Judiciary Complex  Design for the Wailuku Judiciary Complex consisting of the Wailuku District Court and Second Circuit Court in the Wailuku Civic Center.					
	Design			130		130
	Total Funding		C	130 C		130 C
8	Renovation of Judiciary Facilities in Hilo, Hawaii  Renovate the Judiciary facilities located in the Hilo State Office Building to accommodate the expanded space needs of the Judiciary.					
	Design			51		51
	Total Funding		C	51 C		51 C"

SECTION 6. Section 12, Act 208, Session Laws of Hawaii 1979, is amended to read:

**"SECTION 12. General Obligation Bonds.** General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects authorized in Part II and listed in Part III of this Act, provided that the sum total of the general obligation bonds so issued shall not exceed \$35,509,000."

SECTION 7. Section 13, Act 208, Session Laws of Hawaii 1979, is amended to read:

"SECTION 13. Any law or any provision of this Act to the contrary notwithstanding, the appropriations made for capital investment projects authorized in Part II and listed in Part III of this Act shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all appropriations made to be expended in fiscal year 1979-80 and that all appropriations made to be expended in fiscal year 1980-81 which are unencumbered as of June 30, 1982, shall lapse as of that date."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 9. This Act shall take effect on July 1, 1980.

(Approved June 18, 1980.)

## ACT 302

H.B. NO. 1758

A Bill for an Act Relating to the Transfer of Programs and Organizational Segments in the State Government.

*Be It Enacted by the Legislature of the State of Hawaii:*

### PART I FINDINGS AND PURPOSE

SECTION 1. **Findings and Purpose.** Since the last major reorganization of the State government occurred in 1959, the State has experienced changes in societal attitudes, values, and emphasis, as well as rapid developments in technology. These changes have produced new issues requiring new programs and new approaches for their resolution.

The State government has sought to meet these new issues and to implement new programs and approaches within the framework of its present structure. However, programs which essentially are intended to meet common needs have been dispersed among several agencies, and they have not received the coordination they require. Further, Article V, Section 6, of the Hawaii State Constitution mandates that all executive and administrative offices, departments, and instrumentalities of the State government and their respective powers and duties, shall be grouped within the principal departments according to common purposes and related functions.

It is the purpose of this Act to transfer certain programs and organizational segments among the existing 17 departments of the Executive Branch of the State government without altering the basic organizational structures of these departments. This reassignment of programs and organizational segments would:

- (1) Comply with requirements of the Hawaii State Constitution;
- (2) Improve the efficiency and effectiveness of the operations of the Executive Branch;
- (3) Improve the delivery of services to the people;
- (4) Fix responsibility and accountability for successfully carrying out programs, policies, and priorities of the administration;
- (5) Improve responsiveness to the needs of the people of Hawaii;
- (6) Group programs more homogeneously to more closely relate them with the stated mission of associated departments; and
- (7) Enable administratively assigned boards and commissions to have more voice in formulating policies and priorities.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

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This Act provides for the orderly transfer of programs, organizational segments, personnel, funds, records, and equipment among the existing 17 departments of the Executive Branch of the State government. This Act is not intended to increase, decrease, or otherwise change the statutory powers of departments and agencies unless specifically expressed.

### PART II TRANSFER OF PROGRAMS AND ORGANIZATIONAL SEGMENTS

SECTION 2. The following programs and organizational segments are transferred as follows:

<u>From</u>	<u>To</u>	<u>Current Program No.</u>	<u>Citation (Hawaii Revised Statutes)</u>
	<u>Accounting &amp; General Services</u>		
Budget and Finance	State Foundation on Culture and the Arts, for administrative purposes.	BUF 881	Sec. 9-2
Budget and Finance	Stadium Authority, for administrative purposes	BUF 889	Sec. 109-1
	<u>Attorney General</u>		
Governor's Office	State Law Enforcement Planning Agency, for administrative purposes.	GOV 893	Sec. 844-1
	<u>Budget and Finance</u>		
Governor's Office	Office of the Public Defender, for administrative purposes.	GOV 821	Sec. 802-8
	<u>Health</u>		
Governor's Office	Commission on the Handicapped, for administrative purposes.	GOV 803	Sec. 348E-2
Governor's Office	Office of Environmental Quality Control, for administrative purposes.	GOV 401	Sec. 341-3
Governor's Office	Environmental Quality Commission, for administrative purposes.	GOV 401	Sec. 343-3†

†Renumbered as 343-4 by L 1979, c 197, §1(4).

<u>From</u>	<u>To</u>	<u>Current Program No.</u>	<u>Citation (Hawaii Revised Statutes)</u>
	<u>Labor and Industrial Relations</u>		
Governor's Office	Commission on Manpower and Full Employment, for administrative purposes.	GOV 803	Sec. 202-5
	<u>Planning and Economic Development</u>		
Governor's Office	Commission on the Year 2000, for administrative purposes.	GOV 102	Sec. 221-1
Governor's Office	State Commission on Population and the Hawaiian Future, for administrative purposes.	GOV 102	Sec. 224-2
Governor's Office	Marine Affairs Coordinator, for administrative purposes.	GOV 109	Sec. 218-2
	<u>Regulatory Agencies</u>		
Governor's Office	Office of Consumer Protection, for administrative purposes.	GOV 110	Sec. 487-2
Labor and Industrial Relations	Commercial Employment Agencies Program	LBR 152	Chap. 373
Labor and Industrial Relations	Factory-Built Housing Program	LBR 902	Chap. 359L
	<u>Social Services and Housing</u>		
Governor's Office	Intake Service Center, for administrative purposes.	GOV 894	1) Sec. 353-1.3 2) Sec. 353-1.4 3) Sec. 353-1.5
Budget and Finance	Commission on the Status of Women, for administra- tive purposes.	BUF 888	Sec. 367-2

<u>From</u>	<u>To</u>	<u>Current Program No.</u>	<u>Citation (Hawaii Revised Statutes)</u>
Governor's Office	<u>University of Hawaii (UOH 905)</u>  Western Interstate Commission for Higher Education, for administrative purposes.  <u>Land and Natural Resources</u>	GOV 807	Sec. 310-4
Budget and Finance	Hawaii Foundation for History and the Humanities, for administrative purposes.	BUF 802	Sec. 6-16.1

**PART III**  
**TRANSFER OF PROGRAMS, ORGANIZATIONAL SEGMENTS,  
 PERSONNEL, EQUIPMENT, RECORDS, FUNDS, ETC., AND  
 SCHEDULE OF IMPLEMENTATION**

**SECTION 3. Rights and Obligations of Succeeding Department.** The department into which a program or organizational segment is transferred by this Act ("succeeding department") shall assume all of the rights and powers exercised, and all of the duties and obligations incurred by the office or department from which the program or organizational segment is transferred ("former department") in the administration of the programs and organization segments transferred, whether such powers, duties and obligations are mentioned in or granted by any law, contract, or other document. All references in any such law, contract, or document to the former department in connection with the programs and organizational segments transferred shall apply to the succeeding department as if the latter were named in such law, contract, or document in place of the former department.

**SECTION 4. Transfer of Personnel.** The transfer of programs and organizational segments listed in Part II of this Act shall include all personnel, the major portion of whose functions and duties is in the transferred programs and organization segments.

No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to Chapters 76 and 77, Hawaii Revised Statutes.

Any employee who, prior to this Act, was exempted from civil service and who may be transferred as a consequence of this Act, shall continue to retain the employee's exempt status and shall not be appointed to a civil service position because of this Act. Employees who may be transferred by this Act and who are receiving

entitlements, benefits, or privileges in accordance with chapter 77, but not chapter 76 of the Hawaii Revised Statutes, shall continue to receive only those entitlements, benefits, or privileges received under chapter 77, Hawaii Revised Statutes, after such transfer.

**SECTION 5. Transfer of Records, Equipment, Appropriation, Authorization, and Other Property.** All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, authorizations, and other property heretofore made, used, acquired, or held by the department, office, or agency in the exercise of the programs transferred or by the organizational segment transferred by this Act shall be transferred under the direction of the governor to the department into which the program or organizational segment is transferred.

**SECTION 6. Prosecutions and Civil Actions.** No offense committed and no penalty or forfeiture incurred under the law shall be affected by Part II of this Act, provided, that whenever any punishment, penalty, or forfeiture is mitigated by any provision of this Act, such provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of any administrative officer to institute proceedings for prosecution for an offense or an action to recover a penalty or forfeiture shall henceforth be vested in the head of the department or some person designated by the head of the department or as may be directed by law.

**SECTION 7. Appeals.** The right of appeal from administrative actions or determinations as provided by law shall not be impaired by Part II of this Act.

Except as otherwise provided by this Act, wherever a right of appeal from administrative actions or determinations is provided by law to or from any officer, board, department, bureau, commission, administrative agency, or instrumentality of the state which, or any of the programs of which, is transferred by this Act to another department, such right of appeal shall lie to or from the department, or the subdivision, bureau, or officer of the department to which such transfer is made. Such right of appeal shall exist to the same extent and in accordance with the procedures as immediately prior to the effective date of this Act.

If the provisions of the preceding paragraph relating to appeals cannot be effected by reason of the abolishment, splitting, or shifting of functions or otherwise, the right of appeals shall lie to the circuit court of the State pursuant to the Hawaii Rules of Civil Procedure.

**SECTION 8. Federal Aid, Bond Obligations; Not Impaired.** It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the state or any agency thereof to the holders of any bond issued by the state or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor is authorized and empowered to modify the strict provisions of Part II of this Act, but shall promptly report any such modification with his reasons therefor to the legislature at its next session thereafter for review by the legislature.

**SECTION 9. Continuity of Administration.** Notwithstanding anything in this Act to the contrary, the transfer of any officer, board, bureau, commission, administrative agency, or instrumentality of the State, or of any program or organizational segment of a department, provided by Part II of this Act, shall be accomplished

## **ACT 302**

within the time specified in Section 10 by executive order or orders issued by the governor.

Until so transferred, each officer, board, bureau, commission, administrative agency, or instrumentality of the State shall continue to discharge its duties and functions with the same personnel and to the same extent as immediately prior to the effective date of this Act.

**SECTION 10. Schedule for Transfer of Programs and Organizational Segments.** The transfer as provided for by Part II of this Act shall be accomplished in the following manner:

- (1) No later than ten days following the effective date of this Act the governor shall commence:
  - (A) The reassignment, by executive order, of the various programs and organizational segments as provided for by this Act; and
  - (B) By executive order, the transfer of personnel, records, appropriations, authorizations, equipment, etc.; the revision of any job description, and any other detailed matter related to the internal operation of the department.

The governor shall submit to the legislature no later than twenty days before the Regular Session of 1981 a progress report relating to the implementation of this transfer. This transfer shall be completed by December 31, 1980.

**SECTION 11.** The revisor of statutes may incorporate into the Hawaii Revised Statutes, any of the provisions contained in this Act. The revisor of statutes shall substitute the appropriate departmental reference in all existing statutes where a program or organizational segment is transferred from one department to another department if such existing statutory language has not been amended by this Act.

## **PART IV AMENDMENT OF CONFLICTING LAWS, SEVERABILITY, APPROPRIATION, EFFECTIVE DATE**

**SECTION 12. Amendment of Conflicting Laws.** All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith. All Acts passed during this Regular Session 1980, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such Acts specifically provide that the Act relating to the "Transfer of Programs and Organizational Segments in the Executive Branch" is being amended.

**SECTION 13. Construction; separability.** Part II of this Act shall be liberally construed in order to accomplish the purposes set forth in Section 1. Any portion of this judicially declared to be invalid shall not affect the remaining portions.

**SECTION 14. Effective date.** This Act shall take effect upon its approval.

(Approved June 18, 1980.)

## ACT 303

S.B. NO. 1851-80

A Bill for an Act Relating to the Juvenile Justice System.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Purpose. The purpose of this Act is to create and implement a master plan for the juvenile justice system for the State of Hawaii. The 1974 Juvenile Justice Plan, formulated by the State Law Enforcement and Juvenile Delinquency Planning Agency, dealt generally with philosophical approaches regarding juvenile justice. This plan as implemented, addresses the practical aspect—more particularly, the establishment, management, and operation of specific departments and agencies involved in the juvenile justice system, such as the State Law Enforcement Planning Agency, the Honolulu Police Department, the Family Court, and Department of Social Services and Housing.

The plan as structured by this Act creates an integrated relationship among the agencies and institutions that have juvenile justice responsibilities, alters, to some degree, responsibilities given to those agencies and institutions, and establishes clear authority for introducing new programs. The system will be characterized by facilitation of a creative diversity of programs and the maximum utilization of government and community resources that effectively respond to the safety of the community and to the need of each individual juvenile processed through the system.

The components of this juvenile justice system are the police departments of each county, particularly their juvenile crime prevention bureaus, the new juvenile intake agencies operating under the family courts, the family courts including detention homes and probation departments, the corrections division of the department of social services and housing and most particularly its youth correctional facility, and the shelter homes, public and private, in the State which provide shelter for status offenders and diversion and placement for certain juvenile offenders, and the prosecuting attorneys of each county.

Section 571-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-1 Construction and purpose of chapter.** This chapter shall be liberally construed to the end that children and families whose rights and well-being are jeopardized shall be assisted and protected, and secured in those rights through action by the court; that the court may formulate a plan adapted to the requirements of the child and his family and the necessary protection of the community, and may utilize all state and community resources to the extent possible in its implementation.

This chapter creates within this State a system of family courts and it shall be a policy and purpose of said courts to promote the reconciliation of distressed juveniles with their families, foster the rehabilitation of juveniles in difficulty, render appropriate punishment to offenders, and reduce juvenile delinquency. The court shall conduct all proceedings to the end that no adjudication by the court of the status of any child under this chapter shall be deemed a conviction; no such adjudication shall impose any civil disability ordinarily resulting from conviction; no child shall be found guilty or be deemed a criminal by reason of such adjudication; no child shall be charged with crime or be convicted in any court except as otherwise provided in this chapter; and all children found responsible for offenses shall receive dispositions that

## **ACT 303**

provide incentive for reform or deterrence from further misconduct, or both. The disposition made of a child or any evidence given in the court, shall not operate to disqualify the child in any civil service or military application or appointment. Any evidence given in any case under section 571-11 shall not in any civil, criminal, or other cause in any court be lawful or proper evidence against the child for any purpose whatever except in subsequent cases involving the same child under section 571-11."

### **JUVENILE JUSTICE INTERAGENCY BOARD**

**SECTION 2.** It is readily discernible that the success of the juvenile justice system will require coordination that spans the boundaries of governmental and agency jurisdictions. It is also obvious that the design function for the creating, budgeting, and staffing of specific programs will require the expertise of personnel in the field.

The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

### **"CHAPTER JUVENILE JUSTICE INTERAGENCY BOARD**

**Sec. -1 Juvenile justice interagency board.** There is established within the state law enforcement planning agency for administrative purposes the juvenile justice interagency board, consisting of seven members which shall include a police chief of one of the counties, a senior judge of the family courts, the prosecuting attorney of a county, and a representative from a private social service agency, appointed by the governor as provided in section 26-34, and, the superintendent of education, the public defender, and the director of social services as ex-officio members.

The director of the state law enforcement planning agency shall be the executive secretary of the board.

**Sec. -2 Duties of the board.** The board shall meet no less than quarterly in accordance with rules which it shall establish for the purposes of this chapter, promote implementation of the juvenile justice plan, and advise agencies involved in the juvenile justice process as to general policies for cooperation and coordination, uniform procedures and policies, and a unified and integrated juvenile information reporting and retrieval system.

The director or the first deputy director of each department or agency involved in the juvenile justice process shall be present at each of the meetings of this board."

### **POLICE**

**SECTION 3.** At present, the responsibility of the Honolulu police department in the juvenile justice system includes the detection of juvenile crime, the apprehension of juvenile law violators and status offenders, and a program of counseling and releasing juveniles arrested for minor offenses, in particular first offenders and very young offenders. Studies have shown that counsel and release by the police is extremely effective and that seventy-five per cent of the youths charged with a status offense who were counseled and released were not rearrested within the study period.

In order to enhance the value of the police counsel and release program, the police should be authorized to engage in a follow-up program in order to keep youths from further arrests and to assist them if they need services.

1. Section 571-72, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-72 Duties and powers; reports.** The juvenile crime prevention bureau shall direct its attention specifically to the suppression, prevention, and investigation of crimes committed by children under the age of eighteen years, and any police officer shall have the power and authority to take and detain any minor coming within section 571-11 at the bureau or other suitable places for questioning and investigation. If it appears upon conclusion of the investigation that the minor does come within such provisions, the minor may be counseled and released, and follow-up counseling provided or the minor may be referred to the family court or to a proper agency for treatment, and a written report of the findings of the officer shall be submitted to the court or the agency."

2. Section 571-73, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-73 No limitations on family courts.** Nothing in section 571-71 or 571-72 shall be construed to divest family courts of any of their powers, but the same shall specifically grant to the police departments of the several counties the power to take; detain; question; investigate; provide outreach, counsel, release, and follow-up services; and refer to appropriate social or other agencies, private or governmental, as the facts of the case appear to justify, minors coming within section 571-72, subject, however, to sections 571-31 and 571-32."

### RELEASE, CUSTODY AND DETENTION

SECTION 4. At the present time, the provisions of the Hawaii Revised Statutes lack a clear statement of criteria for the release, custody, and detention of a minor by a police officer, intake officer, and other person. This section will provide that standard.

1. Section 571-2, Hawaii Revised Statutes, is amended by amending the definition of "detention" to read as follows:

(7) "Detention" means the temporary care of children who require custody in physically secure facilities:  
 (A) For their immediate welfare;  
 (B) For the protection of the community;  
 (C) While awaiting transfer to another jurisdiction or  
 (D) Because of violation of a family court order of probation or protective supervision."

2. Section 571-31, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-31 Taking children into custody; release; notice.** (a) A child may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that a child comes within section 571-11(1) or (2), or by any police or probation officer when there are reasonable grounds to believe that the child has violated a court order of probation or protective supervision.

(b) When an officer or other person takes a child into custody the parents, guardian, or legal custodian shall be notified immediately. The child shall be (1)

released to the care of the child's parent or other responsible adult; (2) referred or delivered to an appropriate intake agency with or without simultaneous release to parent or other responsible adult; or (3) taken directly to a detention facility, if the child's immediate welfare or the protection of the community requires it, or the child is subject to detention for violation of a court order of probation or protective supervision.

(c) If the person taking the child into custody believes it desirable, the child's parent, guardian, or legal custodian may be required to sign a written promise to bring the child to the intake agency at the time arranged, or to the court at the time directed by the court.

(d) If a parent or other responsible custodian fails to produce the child in court or at the intake agency as required by an authorized notice, or when notified by the court, a summons or warrant may be issued for the apprehension of that person or the child or both. The court may assess the cost of the issuance and execution of the summons or warrant against the person."

3. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to be designated section 571-31.1 and to read as follows:

**"Sec. 571-31.1 Standard for detention.** (a) As used in this chapter, "protection of the community" means there is a threat to, and a necessity to protect, the person or property of others from:

(1) A minor who is alleged to have committed an offense which caused physical harm, or a threat of physical harm, to another person; or

(2) A minor who is alleged to have committed an offense which caused damage to, or theft of, property; and

(A) The minor's record reveals a pattern of behavior which has caused damage to, or loss of, property; and

(B) Previous control measures have failed.

(b) As used in this chapter, "immediate welfare" means:

(1) The minor is in physical, emotional, or psychological danger, or may be prior to the court's disposition;

(2) No parent or other responsible adult known to the decision-maker is willing and able to provide the type and degree of supervision necessary to protect the minor from that danger;

(3) No other secure facility is appropriate and available.

(c) In determining whether the immediate welfare or the protection of the community requires a minor's detention, an officer or other person may take into consideration the following, among other pertinent factors:

(1) The severity of the violation or violations which the child is reasonably believed to have committed;

(2) The frequency with which the child is reasonably believed to have committed such or other violations;

(3) The child's age, character, physical, and mental health;

(4) The interpersonal relationships between the child, the family, and the community; and

(5) Any previous history of referrals to the court."

4. Section 571-32, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-32 Detention; shelter; release; notice.** (a) If a child who is believed to come within section 571-11(1) or (2) is not released as provided in section 571-31 and is not deemed suitable for diversion, such child shall be taken without unnecessary delay to the court or to the place of detention or shelter designated by the court. If the court determines that the child requires care away from the child's own home but does not require secure physical restriction, such child shall be given temporary care in any available non-secure child caring institution, foster family home, or other shelter facility.

(b) The officer or other person who brings a child to a detention or shelter facility shall at once give notice to the court, stating the legal basis therefor and the reason why the child was not released to the child's parents. In case the facility to which the child is taken is not an agency of the court, the person in charge of the facility in which the child is placed shall promptly give notice to the court that the child is in that person's custody. Prior to acceptance of the child for detention or shelter care, a prompt inquiry shall be made by a duly authorized staff member of the detention or shelter facility or officer of the court. Where it is deemed in the best interests of the child, the judge or such officer or staff member or the director of detention services may then order the child to be released, if possible, to the care of the child's parent, guardian, legal custodian, or other responsible adult, or the judge may order the child held in the facility subject to further order or placed in some other appropriate facility.

(c) As soon as a child is detained, the child's parents, guardian, or legal custodian shall be informed, by personal contact or by notice in writing on forms prescribed by the court, that they may have a prompt hearing held by a circuit judge or district family judge regarding release or detention. A child may be released on the order of the judge with or without a hearing. The director of detention services may order the release of the child if an order of detention has not been made.

(d) No child shall be held in detention or shelter longer than forty-eight hours, excluding Sundays and court holidays, unless a petition has been filed or unless the judge shall otherwise order. No child may be so held longer than forty-eight hours, excluding Sundays and court holidays, after the filing of a petition unless an order for such continued detention or shelter has been signed by the judge.

(e) No child shall be released from such detention except in accordance with this chapter.

(f) No child shall at any time be detained in a police station cellblock or community correctional center for more than twelve hours, except that, by the judge's order in which the reasons therefor shall be specified, a child whose conduct or condition endangers the child's own safety or the safety of others in the detention facility for children, or in counties where there is no detention facility for children, may be placed in some other place of confinement that the judge considers proper, including the places of detention for adults specified in this subsection.

(g) Where a child transferred for criminal proceedings pursuant to waiver of family court jurisdiction is detained, the child shall be held in the detention facility used for persons charged with crime. When a child is ordered committed to an agency or institution, the child shall be promptly transported to the place of commitment.

(h) Provisions regarding bail shall not be applicable to children detained in accordance with this chapter, except that bail may be allowed after a child has been

transferred for criminal prosecution pursuant to waiver of family court jurisdiction.

(i) The official in charge of a facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child who is or appears to be under eighteen years of age is received at the facility.

(j) Any other provision of law to the contrary notwithstanding, any person otherwise subject to proceedings under chapter 832 who is under the age of eighteen may be confined in a detention facility, or correctional facility by order of a judge for the purposes set forth in section 832-12, 832-15, or 832-17."

### JUVENILE INTAKE AGENCIES

SECTION 5. Under the present system the police must provide intake services in connection with the family court. Their holding facilities are at times inadequate in capacity and inappropriate for non-law violators who cannot for a variety of reasons be returned to their families. The police station is usually not an appropriate place to conduct family counseling. It also may be felt to have an undeserved stigmatizing effect by children who have not committed a crime. Similar problems face the family court and the families that become involved with it. The court is frequently forced to use the only facility presently under its control, the detention home, for the temporary custody of non-law violators as well as law violators.

Under the juvenile justice plan established by this Act, the objective is to provide intake agencies to perform the functions of registering, family counseling, and temporary custody of juveniles in trouble in order to speed up the intake process, increase the chances of returning non-law violators to their families, and provide appropriate conditions of confinement for those juveniles who require temporary custodial treatment.

1. Section 571-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Informal adjustment” means the effort by intake officers, the courts, or others to provide a child referred to them or brought before them, and where appropriate that child's family, opportunity and aid before and in lieu of formally processing the child under this chapter. The objective of this effort is to afford opportunity and aid so that the child, and where appropriate the child's family, may realize voluntary adjustment of behavior and obtain counseling and edification so as to better allow the child's appropriate emergence into adult society.”

2. Section 571-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

“Status offender” means any child coming within the family court's jurisdiction under section 571-11(2) (D), (E), or (F). Such child is distinguished from (A) a law violator under section 571-11(1) who comes into the family court upon allegations such person has committed an act which would constitute a crime if committed by an adult, and (B) a neglected or abused child under section 571-11(2)(A), (B) or (C).”

3. Chapter 571, Hawaii Revised Statutes, is amended by adding five new sections to read as follows:

**“Sec. 571-31.2 Juvenile intake agency.** (a) Not later than July 1, 1981, the

court shall establish an intake agency, which, when a child is referred or delivered to the agency, shall:

- (1) Notify the child's parent, guardian or legal custodian or take reasonable action to ensure that such notice has been given;
- (2) Require the child, the child's parent, the child's guardian or legal custodian, or both, to appear at the intake agency as soon as practicable for a family counseling session to attempt a quick resolution of their problem;
- (3) Investigate, evaluate, make necessary determination, and take appropriate actions regarding:
  - (A) Release of a child to the care of the child's parent or other responsible adult;
  - (B) Extending to or making arrangement for the securing of suitable informal adjustment under section 571-31.4, 571-31.5 or 571-31.6;
  - (C) Initiation of the filing of a complaint or petition;
  - (D) Detention of a child, utilizing the standard set out in section 571-31.1; and
  - (E) Making such other informal disposition as may be suitable.

(b) If the intake officer believes it desirable, such officer may take action to obtain the child or the parent, guardian, or legal custodian's written promise to come or bring the child to the intake agency, referral agency, or court as in section 571-31(c). The parent or other responsible custodian's failure to produce the child in court, at the intake agency, or at a referral agency as required by an authorized notice may be pursued as provided in section 571-31(d).

**Sec. 571-31.3 Voluntary assistance.** (a) A child or the child's parent, guardian, or legal custodian may voluntarily apply to an intake agency to obtain appropriate services, including family conciliation and counseling, regarding issues or problems involving the child which are not being successfully resolved within the family. Upon such application, the intake agency shall render appropriate services to the child and the family or assist in securing such services from other appropriate agencies.

**Sec. 571-31.4 Informal adjustment, law violators.** (a) When a child reasonably believed to come within section 571-11(1) is referred to an intake agency, informal adjustment may be provided to the child by an intake officer duly authorized by the family court only where the facts reasonably appear to establish *prima facie* jurisdiction and are admitted and where a consent is obtained from the child's parent, guardian, or legal custodian, and the child, if of sufficient age and understanding.

(b) Informal adjustment under this section may include, among other suitable methods, programs, and procedures, the following:

- (1) Participation in restitution projects to obtain appropriate victim satisfaction;
- (2) Participation in community service projects so as to establish the child's self value in the community;
- (3) Participation in community-based programs which work with the child and family to maintain and strengthen the family unit so that the child may be retained in the child's own home;
- (4) Submission to neighborhood courts or panels upon procedures to be established by the court. As used in this paragraph "neighborhood courts

or panels" are community organizations designed to settle minor disputes between parties on a voluntary basis using mediation or nonbinding arbitration;

- (5) Participation in programs to support, counsel, or provide work and recreational opportunities to help prevent delinquency;
- (6) Participation in educational programs or supportive services designed to help delinquents and to encourage other youths to remain in elementary and secondary schools or in alternative learning situations;
- (7) Participation in youth-initiated programs and outreach programs designed to assist youth and families;
- (8) Appropriate physical and medical examinations, vocational and aptitude testing, examinations for learning disabilities or emotional dysfunctions, and suitable counseling and therapy; or
- (9) Placement with non-secure or secure shelter facilities.

(c) Informal adjustment projects, programs, and services may be provided through the intake agency, other public agencies, or private agencies.

(d) In the event resources and services for informal adjustment are not available, have failed, are reasonably believed to fail if attempted, or are unable to respond to the needs of the child or family, the intake officer shall proceed with formal action, or take such action as is otherwise allowed under this chapter.

**Sec 571-31.5 Informal adjustment, status offenders.** (a) When a child reasonably believed to come within section 571-11(2) is referred to an intake agency, informal adjustment may be provided to the child by an intake officer duly authorized by the family court only where the facts reasonably appear to establish *prima facie* jurisdiction and are admitted and where a consent is obtained from the child's parent, guardian, or legal custodian, and the child, if of sufficient age and understanding. Informal adjustment under this section may include, among other suitable methods, programs, and procedures, listed in section 571-31.4(b), except section 571-31.4(b) (1), and provided that placement with shelter facilities under section 571-31.4(b) (9) shall be on a non-secure basis unless the child is processed under subsection (b) of this section.

(b) In the event resources and services for informal adjustment are not available, have failed, are reasonably believed to fail if attempted, or are unable to respond to the needs of the child or family, the intake officer shall proceed with formal action, or take such action as is otherwise allowed under this chapter.

**Sec. 571-31.6 Informal adjustment, minor who may be both law violator and status offender.** When a child is reasonably believed to come within section 571-11(1) and (2), the intake officer may exercise discretion to process informal adjustment under section 571-31.4 or 571-31.5. In making that determination, the officer shall be guided by the criteria set out in section 571-31.1(c) (1) to (5), taking into account the availability of suitable method, program, or procedure for the child."

## **CURFEW VIOLATIONS**

**SECTION 6.** At the present time curfew violation by minors under section 577-16, Hawaii Revised Statutes, is the only offense which would not be a crime if done by an adult, but which, nonetheless, renders the minor subject to punishment

meted out for crime-equivalent behavior. The purpose of this section is to change that situation and to make curfew violation by minors subject to section 571-11(2), or a status offense.

Section 577-16, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 577-16 Curfew; children in public streets, prohibited when; penalty.**

Any child under sixteen years of age, who, except in case of necessity, or except when permitted so to do in writing by a judge of the family court, goes or remains on any public street, highway, public place, or private place held open to the public after ten o'clock in the evening and before four o'clock in the morning, unaccompanied by either a parent or guardian, or an adult person duly authorized by a parent or guardian to accompany the child, is subject to adjudication under section 571-11(2)."

## FAMILY COURT—JURISDICTION AND PROCEDURE

SECTION 7. At the present time the provisions of the Hawaii Revised Statutes lack a clear criteria for the waiver of jurisdiction of a minor to the adult criminal court. The purpose of this section is to provide that criteria, better clarify the provisions relating to the extradition of minors between Hawaii and other states and to generally conform the provisions relating to the family court with the basic intent of this Act.

1. Section 571-11, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-11 Jurisdiction; children.** Except as otherwise provided in this chapter, the court shall have exclusive original jurisdiction in proceedings:

- (1) Concerning any person who is alleged to have committed an act prior to achieving eighteen years of age which would constitute a violation or attempted violation of any federal, state, or local law or municipal ordinance. Regardless of where the violation occurred jurisdiction may be taken by the court of the circuit where the person resides, is living, or is found, or in which the offense is alleged to have occurred.
- (2) Concerning any child living or found within the circuit
  - (A) Who is neglected as to proper or necessary support, or as to medical or other care necessary for the child's well-being, or who is abandoned by the child's parent or other custodian; or
  - (B) Who is subjected to physical or emotional deprivation or abuse as a result of the failure of any person or agency to exercise that degree of care for which the person or agency is legally responsible;
  - (C) Who is neglected as to or deprived of educational services because of the failure of any person or agency to exercise that degree of care for which it is legally responsible.
  - (D) Who is beyond the control of the child's parent or other custodian or whose behavior is injurious to the child's own or others' welfare; or
  - (E) Who is neither attending school nor receiving educational services required by law whether through the child's own misbehavior or non-attendance or otherwise; or
  - (F) Who is in violation of curfew.

- (3) To determine the custody of any child or appoint a guardian of the person of any child.
- (4) For the adoption of a person under chapter 578.
- (5) For the termination of parental rights under sections 571-61 to 571-63.
- (6) For judicial consent to the marriage, employment, or enlistment of a child, when such consent is required by law.
- (7) For the treatment or commitment of a mentally defective, mentally retarded, or mentally ill child.
- (8) Under the Interstate Compact on Juveniles under chapter 582."

2. Sections 571-12 and 571-13, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 571-12 Transfer from other courts.** If, during the pendency of a criminal charge against a minor in another court, it is ascertained that the minor was less than eighteen years old when such minor allegedly committed the offense, such other court shall forthwith transfer the case to the family court, together with all the papers, documents, and any available transcripts of testimony connected with it. The court making the transfer shall order that the minor be taken forthwith to the place of detention designated by the family court or to that court itself, or shall release the minor to the custody of the minor's parent or guardian or other person legally responsible for the minor, to be brought before the family court at a time designated by it. The family court shall then proceed as provided in this chapter.

**Sec. 571-13 Retention of jurisdiction.** Except as otherwise provided in this chapter, jurisdiction obtained by the court in the case of a minor may be retained by it, for the purposes of this chapter, after the minor becomes eighteen years of age until the full term for which any order entered shall have expired; provided such term shall not extend beyond the time the person achieves twenty years of age unless judicially terminated prior thereto. Further, in the case of any person who is alleged to have committed an offense under section 571-11 prior to reaching eighteen years of age, the court shall have jurisdiction after the person becomes eighteen for the purpose of holding hearings and/or entering orders of disposition concerning the alleged offenses; provided, however, that such jurisdiction shall terminate when the person achieves twenty years of age. This section shall not be construed, however, to confer any jurisdiction upon the family court over a person for any criminal act committed after the person achieves eighteen years of age."

3. Section 571-21, Hawaii Revised Statutes, is amended as follows:

a. By amending subsection (a) to read as follows:

"(a) Except as provided in subsection (b), whenever the court is informed by any person that a minor is within the purview of section 571-11(1) or (2), the intake officer shall make a preliminary investigation to determine whether informal adjustment is suitable under section 571-31.4 or 571-31.5. The court may authorize the filing of a petition, may make whatever arrangement for informal adjustment that is suitable under section 571-31.4, 571-31.5, or 571-31.6; or may take such action as is otherwise allowed under this chapter. Efforts to effect informal adjustment may be continued not longer than three months without review by the judge."

b. By amending subsection (c) to read as follows:

"(c) When a complaint or petition is made or sought to be filed against a

member of the complainant's family, the court's staff may, when required by the judge or if requested by either party, process the matter under section 571-31.3."

4. 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 the person's minority, but on or after the person's sixteenth birthday, is alleged to have committed an act which would constitute a felony if committed by an adult, and the court finds there is no evidence the person is committable to an institution for the mentally defective or retarded or the mentally ill, is not treatable in any available institution or facility within the State designed for the care and treatment of children, or that the safety of the community requires that the person continue under judicial restraint for a period extending beyond the person's minority.

(b) The factors to be considered in deciding whether jurisdiction should be waived under this section are as follows:

- (1) The seriousness of the alleged offense.
- (2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or wilful manner.
- (3) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons especially if personal injury resulted.
- (4) The desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime.
- (5) The sophistication and maturity of the minor as determined by consideration of the minor's home, environmental situation, emotional attitude, and pattern of living.
- (6) The record and previous history of the juvenile, including previous contacts with the family court, other law enforcement agencies, courts in other jurisdictions, prior periods of probation to this court, or prior commitments to juvenile institutions.
- (7) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the minor (if the minor is found to have committed the alleged offense) by the use of procedures, services, and facilities currently available to the family court.
- (8) All other relevant matters.

(c) 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 the child to a court of competent criminal jurisdiction.

(d) If criminal proceedings instituted under subsections (a) and (c) 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.

(e) A minor shall not be subject to criminal prosecution based on the facts

giving rise to a petition filed under this chapter except as otherwise provided in this chapter.

(f) Where the petition has been filed in a circuit other than the minor's residence, the judge may in the judge's discretion transfer the case to the family court of the circuit of the minor's residence.

(g) 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."

5. Sections 571-41.1 and 571-41.2, Hawaii Revised Statutes, are amended to read as follows:

**"Sec. 571-41.1 Extradition of minors to Hawaii.** Any person who violates, or is alleged to have violated, any law of this State defining a crime, and is at the time of the offense under the age of eighteen years, and who thereafter flees from this State may be proceeded against in the manner provided by chapter 832. Upon return of such person to this State by extradition or otherwise, proceedings shall be commenced in the manner provided for in this chapter.

**Sec. 571-41.2 Extradition of minors from Hawaii.** Any person who violates, or is alleged to have violated, any law of another state defining a crime and is at the time of the offense under the age of eighteen years, and who thereafter flees from that state and is found in this State may be proceeded against in the manner provided for in chapter 832. The circuit judge shall, for the purpose of detention, hold a hearing to determine whether the juvenile should be detained at the juvenile detention home or detention facility or in any other appropriate setting."

6. Section 571-48, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 571-48 Decree, if informal adjustment or diversion to a private or community agency or program has not been effected.** When a minor is found by the court to come within section 571-11, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon such decree the court shall, by order duly entered, proceed as follows:

(1) As to a child adjudicated under section 571-11(1):

- (A) The court may place the child on probation (i) in the child's own home or (ii) in the custody of a suitable person or facility elsewhere, upon conditions determined by the court. When conditions of probation include incarceration in a youth correctional facility, such incarceration shall be for a term not to exceed one year, after which time the person shall be allowed to reside in the community subject to additional conditions as may be imposed by the court.
- (B) The court may vest legal custody of the child, after prior consultation with the agency or institution, in a Hawaii youth correctional facility,

- in a local public agency or institution, or in any private institution or agency authorized by the court to care for children; or place the child in a private home. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department.
- (C) The court may fine the child for a violation which would be theft in the third degree by shoplifting if committed by an adult. The court may require the child to perform public services in lieu of the fine.
- (2) As to a child adjudicated under section 571-11(2):
- (A) The court may place the child under protective supervision, as hereinabove defined, in the child's own home, or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.
- (B) The court may vest legal custody of the child, after prior consultation with the agency or institution in a local governmental agency or institution licensed or approved by the State to care for children, with the exception of an institution primarily for the care and treatment of children committed under section 571-11(1) or in any private agency or institution authorized by the court to care for children. If legal custody of the child is vested in a private agency or institution in another state, the court shall select one that is approved by the family or juvenile court of the other state or by that state's department of social services or other equivalent department; provided that the child may not be committed to a public or private institution operated solely for the treatment of law violators.
- (3) An order vesting legal custody of a minor in an individual, agency, or institution under section 571-11(2) shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a petition for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the child or the public interest. The court may, after notice to the parties, conduct a hearing on the petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond the period authorized by section 571-13. An agency granted legal custody shall be subject to prior approval of the court in any case in which the child is to reside without the territorial jurisdiction of the court and may be subject to prior approval in other cases. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.
- (4) Whenever the court commits a child to the care of the director of social services or vests legal custody of a child in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the child, and the institution or agency shall give to the court any information concerning the child that the court may at any time require. An institution or agency receiving a child under this paragraph shall inform the court whenever the status of the

- child is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a child is committed under section 571-11(1) or (2) shall not transfer custody of the child to an institution for the correction of adult offenders, except as authorized herein and under chapter 352.
- (5) The court may order, for any child within its jurisdiction, whatever care or treatment is authorized by law.
  - (6) In placing a child under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the child.
  - (7) In support of any order or decree under section 571-11(1) or (2), the court may require the parents or other persons having the custody of the child, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the child within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the child. If such persons fail to comply with the requirement, the court may proceed against them for contempt of court.
  - (8) In support of any order or decree for custody or support, the court may make an order of protection setting forth reasonable conditions of behavior to be observed for a specified time, binding upon both parents or either of them. This order may require either parent to stay away from the home or from the other parent or children, may permit the other to visit the children at stated periods, or may require a parent to abstain from offensive conduct against the children or each other.
  - (9) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.
  - (10) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law.
  - (11) The court may order any person adjudicated pursuant to section 571-11(1) to make restitution of money or services to any victim who suffers loss as a result of the child's action, or to render community service.
  - (12) The court may order any person adjudicated pursuant to section 571-11(2) to participate in community service."

#### **HAWAII YOUTH CORRECTIONAL FACILITIES**

SECTION 8. Chapter 352, Hawaii Revised Statutes, entitled "Hawaii Youth Correctional Facility" has not been amended since 1976 and contains many obsolete sections. Moreover, the new juvenile justice plan contains new concepts which make a complete restatement of chapter 352 clearer and more efficient than a revision.

Because of the lack of a clearly stated juvenile justice plan, the facilities at the Koolau site have not received adequate funding to keep them in acceptable condition to accomplish their purpose. The increase in the number of juveniles committed to the facility have caused it to become overcrowded. It is therefore required that these facilities be immediately repaired, refurbished, and to the extent possible, be modi-

fied to increase the capacity of the facility. Funds shall be appropriated to accomplish this temporary purpose.

Even if restored, the present facilities will become totally inadequate after about five years. In order to efficiently use the land available, and provide acceptable confinement and support facilities, a completely new layout of functions and structures is required.

1. The Hawaii Revised Statutes is amended by repealing chapter 352 in its entirety and substituting a new chapter 352 to read as follows:

## **“CHAPTER 352 HAWAII YOUTH CORRECTIONAL FACILITIES**

**Sec. 352-1 Definitions.** In this chapter, unless the context clearly indicates otherwise:

- (1) “Department” means that portion of the department of social services and housing concerned with matters within the purview of this chapter;
- (2) “Director” means the director of social services;
- (3) “Discharge” means the ending of the director of social services’ supervision of a person when the term of the person’s commitment has ended or when the director believes the purpose of the term of commitment has been achieved;
- (4) “Furlough” means an authorized absence of short duration from a youth correctional facility;
- (5) “Parole” means the conditional release of a person committed to a youth correctional facility whereby the person remains in the custody of the director and under the supervision of the juvenile parole office;
- (6) “Term of commitment” means the time period during which family court retains jurisdiction over a person after adjudication. During the term of commitment, the family court may vest custody of the person in another person, organization, agency, facility, or other suitable entity.

**Sec. 352-2 Establishment and supervision of the Hawaii youth correctional facilities.** The director shall develop and operate Hawaii youth correctional facilities for adjudicated law violators committed by the court to the director’s supervision. These facilities under the direction and supervision of the director shall provide residential and nonresidential treatment programs including education, evaluation, detention, counseling, recreation, employment, medical and dental care, and vocational training for committed persons.

**Sec. 352-3 Contracting with private agencies for residential youth facilities.** The department may contract with private agencies to provide residential youth facilities.

**Sec. 352-4 Rules and regulations.** The director may adopt rules and regulations to carry out the purposes of this chapter. The rules and regulations shall be approved by the governor but shall not be subject to chapter 91 or require publication in order to be valid and binding upon all committed persons and officers and employees of such facilities. The rules shall be printed from time to time.

**Sec. 352-5 Staff standards and training.** The director shall establish written standards of conduct and operation to govern each staff member during working hours. New staff members shall undergo initial training to prepare them to comply with the standards. Attendance at periodic training sessions shall be mandatory to increase staff members' effectiveness in carrying out their duties. For purposes of this section, "staff member" means any employee of the Hawaii youth correctional facilities who is directly involved with the treatment and care of persons committed to a facility.

**Sec. 352-6 Appropriation made out of general revenues.** All appropriations for the director and for facilities under the control of the director shall be made from and out of any available moneys received from the general revenues of the State and not out of the special fund for the maintenance of public schools.

**Sec. 352-7 Records.** The director shall establish a record of all facts relating to the admission, discharge, escape, death, medical history, programs, and significant occurrences concerning a committed person. An exact account shall also be kept of all moneys received for work performed by the committed persons and from authorized sources for the use of any committed person, as well as of the expenditure of such moneys as shall be authorized from time to time by the director.

**Sec. 352-8 Guardianship and custody of the person committed.** (a) Notwithstanding any law to the contrary, the director shall be the guardian of the person of every youth committed to or received at the Hawaii youth correctional facilities. The director shall have all the powers and duties of a natural guardian of the person of the youth; provided that the director shall not be liable in damages for the tortious acts committed by the youth.

(b) The director shall have custody of any committed person who is eighteen years of age or older for the period provided for by the court.

**Sec. 352-9 Period committed.** All persons committed to the Hawaii youth correctional facilities shall be committed for the period of their minority or as otherwise ordered by the court. Such persons may be placed on furlough or parole if deemed appropriate. The power to discharge a committed person is reserved to the director subject to the director giving a thirty-day notice of such intended discharge to the appropriate court to afford the court an opportunity to order otherwise. In any case, no person nineteen years of age or older shall be incarcerated in a youth correctional facility.

(b) In those cases where the term of commitment extends beyond the person's nineteenth birthday, the person shall be placed on juvenile parole pursuant to the original family court order for the balance of the person's term of commitment; provided that such term does not extend beyond the person's twentieth birthday unless earlier terminated.

**Sec. 352-10 Circuit court disposition of offenders under eighteen years.** The circuit court may commit all offenders under eighteen years of age, duly convicted before the court, to the Hawaii youth correctional facilities in all cases where the court deems the sentence to be more suitable than the punishment otherwise authorized by law. Persons so committed may be furloughed or paroled by the director.

**Sec. 352-11 Commitments directed, how.** All commitments from the family courts of the State shall be directed to the director and may specify the appropriate facility for placement purposes. The committing court or judge shall designate a juvenile probation officer, police officer, or any qualified person to deliver the committed person to a youth correctional facility. The officer or person designated to deliver the committed person to the designated facility shall be charged by such commitment with the execution of all orders for the custody and safekeeping of the person committed to the director until delivered to the director or the director's duly authorized agent. All direct expenses excluding salaries or wages attending the delivery of such committed persons to their places of destination shall be paid by the court. The director shall be charged by such commitments with the execution of all orders for the custody, placement, and safekeeping of the committed persons.

**Sec. 352-12 Segregation of committed persons.** Persons committed to the youth correctional facilities shall be kept segregated based on considerations including age, maturity level, attitude, behavior, offense committed, commitment period, and rehabilitation status.

**Sec. 352-13 Evaluation, counseling, training.** The director shall provide the opportunity for intelligence and aptitude evaluation, psychological testing and counseling, prevocational and vocational training, and employment counseling to all persons committed to the youth correctional facilities. Counseling services shall be available for the committed person's family during the term of commitment.

**Sec. 352-14 Educational programs provided by the department of education.** The department of education shall provide educational programs for those persons committed to the youth correctional facilities. These educational programs shall be adapted to the needs of the persons committed as prescribed by the department of education in coordination with the director of the department of social services.

**Sec. 352-15 Recreational and program activities.** The director shall provide the opportunity for the recreation of those persons committed to the facilities. Work programs for such persons shall be established and may include farming, sewing, plant nursery, and animal husbandry.

**Sec. 352-16 Establishment of work release.** (a) The director, in accordance with rules and regulations adopted by the director, may establish a work release plan for persons who are committed to the director's care and who are receiving care and treatment in a youth correctional facility; provided that such a plan shall not interfere with any educational program in which such persons may be enrolled.

(b) Under such a work release plan, any such person may be authorized to secure or continue in suitable employment outside of such youth correctional facility, and unless otherwise authorized by the department with respect to specific cases, return to and remain in such facility during non-working hours.

(c) Employment under such a work release plan shall be at a wage no less than the minimum wage authorized in chapter 387.

(d) It shall be the duty of the employer of a person participating in a work release plan to transmit to the director the earnings of such persons. The transmission to the director of the earnings of such person shall operate to discharge such employer

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from any further obligation to such person except with respect to any taxes lawfully withheld from the wages of such person.

(e) The earnings transmitted to the director by a person's employer under a work release plan shall be held to the account of such person.

**Sec. 352-17 Compensation in facilities.** The director may provide, in accordance with rules and regulations adopted by the director, for the payment of compensation, which shall not be considered as wages, for work performed by a person placed in a youth correctional facility while in such facility and not participating in a work release plan under section 352-16. The compensation shall be credited to the account of such person.

**Sec. 352-18 Establishment of trust accounts.** All sums collected pursuant to sections 352-16 and 352-17, and from other authorized sources shall be placed in a bank trust account or federally insured savings account to the credit of persons committed pursuant to this chapter. The director or director's agent shall maintain individual ledger accounts for each committed person and shall issue each person a periodic statement showing deposits and withdrawals.

**Sec. 352-19 Withdrawals from accounts.** (a) The director may permit withdrawals by a committed person from the person's account for the following purposes:

- (1) Disbursement to the dependents of such person for such amounts as the person is legally obligated to pay;
- (2) To satisfy the whole or part of any debt of such person;
- (3) Disbursement to relatives of the person;
- (4) To secure a release from any person making a claim against the committed person for crimes affecting property.

(b) The director may make withdrawals from a committed person's account for purposes of restitution payments as ordered by a court.

(c) The director may retain any balance remaining until the termination of the director's legal custody of such person at which time the director shall transfer the balance to the person, the person's guardian, or to whomever legal custody is transferred.

**Sec. 352-20 Disposition of inactive accounts.** Where money in an individual person's account on the books of the Hawaii youth correctional facilities has not been claimed by such person or the person's legal representative within one year after the person has or would have reached the age of majority, the director shall remit to the director of finance all moneys standing to the credit of the person in the account, taking the receipt of the director of finance therefor. All such moneys shall thereupon, become a state realization; provided that at any such time within five years after the payment into the treasury of moneys from any such account, the person or the legal representative of the person, who would have been entitled to receive the same from the director upon making satisfactory proof to the comptroller of the State of such right, shall receive the amount thereof out of any moneys not otherwise appropriated upon warrant drawn by the comptroller.

**Sec. 352-21 Youth correctional facilities' benefit fund; disposition of income.** The director shall establish a youth correctional facilities' benefit fund for the purpose of the welfare and recreation of the persons committed. The director shall

deposit all moneys arising from any program activities at the facilities, except those amounts credited to the committed persons' accounts pursuant to section 352-18, to the credit of the youth correctional facilities' benefit fund.

**Sec. 352-22 Periodic re-examination of status of persons committed to the department.** The director shall cause to be made periodic re-examination of the status of each person who is committed to the department and who has not been finally discharged from such commitment, which shall:

- (1) Include a study of all pertinent circumstances of such person's personal and family situation and an evaluation of the progress made by such person since the previous study;
- (2) Be made for the purpose of ascertaining all relevant facts necessary to determine whether existing decisions, orders, and dispositions with respect to such persons should be modified or continued in force; and
- (3) Be conducted as frequently as the department deems necessary but in any event, at intervals not to exceed six months with respect to each such person.

**Sec. 352-23 Community services section.** There is established a community services section within the youth correctional facilities which shall coordinate the placement of persons committed to the care of the director in educational, vocational, and work release programs and residential placement. The section also shall advise the director or the director's duly authorized agent as to the granting of parole, furlough, release, and other matters affecting the commitment of a person. The community services section shall have an administrator with sufficient support staff to effectuate the purposes of this section and section 352-24.

**Sec. 352-24 Office of juvenile parole.** The director shall establish an office of juvenile parole. The office shall be part of the community services section and shall include a sufficient number of juvenile parole officers to effectively accomplish the purposes of this section specifically and this chapter generally. The duties of the juvenile parole officer shall include:

- (1) Assisting in locating appropriate residential placement for paroled persons;
- (2) Efforts to obtain suitable employment for paroled persons;
- (3) Assisting a paroled person in adjusting to community life by familiarizing the person with available community resources and providing opportunities for counseling;
- (4) Maintaining a record of all paroled persons and periodically updating information therein concerning the residence, employment, and wages, and such details concerning the person's health, conduct, and environment as may come to the juvenile parole officer's attention either from reports or through the officer's own personal investigation;
- (5) To make such other investigations, secure such other information and data, perform such other duties, and make such other reports, in addition to those which may be required by law, as may be required by the director.

**Sec. 352-25 Furlough, parole, discharge.** The director, for good reasons shown to the director's satisfaction, may furlough or parole any person committed to the director's custody. The director shall give the court a thirty-day notice prior to

discharging a committed person to afford the court an opportunity to order otherwise. Court approval shall be obtained when such is specifically required in accordance with section 352-29.

No furlough, parole, or discharge shall be granted unless it appears to the director that there is a reasonable probability that the person will not violate the law and that the person's release is not incompatible with the welfare and safety of society.

The form of furlough or parole may include return to the person's own home, transfer to another youth correctional facility, a group home or foster home placement, or other appropriate alternative. Non-residential programs may be made available to selected persons on furlough such that they return to the facility during nontreatment hours.

**Sec. 352-26 Taking into custody and detaining persons for violations of terms and conditions of parole and furlough and attempted escape.** (a) With respect to any person whose legal custody was vested in the director, who has been paroled or furloughed from a youth correctional facility by the director and returned to the person's own home or other place within the community, the provisions of subsection (b) or (c) shall apply, if, in the opinion of a designated employee of the department, such person is in violation of the terms and conditions of the person's parole or furlough.

(b) In the case of a person under nineteen years of age, such designated employee may:

- (1) Notify the director or the director's designated agent of such alleged violation and, if the director issues a written order to such effect, take such person into custody and place such person in such appropriate youth correctional facility as may be designated in such order until determinations as to such person's further care and treatment are made. In the event of retaking for an alleged violation of parole, the director or the director's agent shall notify the person, and the person's parent, guardian, or custodian of the right to legal counsel and to appeal the issuance and execution of such order. The office of juvenile parole shall hold a hearing within thirty days after the person's return to determine whether parole should be revoked. The juvenile parole office staff shall render reasonable aid to the person in preparation for the hearing.
- (2) Take such person into custody and place the person in an appropriate youth correctional facility until determinations as to such person's further care and treatment are made by the department if such employee has reason to believe that permitting such person to remain in the person's own home or other place within the community would be dangerous to the person or to the community or that such person is about to flee the jurisdiction of the department. Such employee, at the time of taking such person into custody, shall advise such person as to the specific terms and conditions of the person's parole or furlough which the person is alleged to have violated and of the person's right to legal counsel and appeal. Provisions regarding possible parole revocation shall apply as enumerated in paragraph (1).
- (c) In the case of a nineteen-year-old person such a designated employee may:
  - (1) Take the person into custody and place the person in an appropriate adult

correctional facility if the alleged violation constitutes a crime and the director has been notified and subsequently issued a written order to that effect. In the event of retaking for such an alleged violation of parole, the director or the director's agent shall notify the person of the right to legal counsel and to appeal the issuance and execution of such order. The office of juvenile parole shall hold a hearing within thirty days after the person's incarceration in an adult facility to determine whether parole should be revoked. The juvenile parole office staff shall render reasonable aid to the person in preparation for the hearing.

(2) Notify the director of an alleged violation of parole. The director may petition the family court for an ex parte order based on the alleged violation to take the person into custody and place the person in an appropriate adult correctional facility. The person shall be notified of the issuance and execution of such a court order and of the right to legal counsel and appeal. A juvenile parole office hearing shall be held within thirty days after a person's placement in an adult facility to determine whether parole shall be revoked.

(d) Any person whose legal custody has been vested in the director and who has escaped from the facility may be taken into custody by a police officer or an employee of the department without a warrant or an order issued by the director and returned to the facility.

(e) When called upon by any designated employee of the department, any police officer shall assist in taking a person into custody pursuant to the provisions of this section.

**Sec. 352-27 Harboring or concealing a person away from custody assigned by competent authority.** Any person who knowingly and intentionally harbors or conceals a person who was in the custody of a Hawaii youth correctional facility, guardian, employer, or any other person with whom the person was placed by the court or the director without the permission of the custodian, guardian, employer, or such other person shall be guilty of a misdemeanor offense.

**Sec. 352-28 Transfer to correctional facility.** Any person after the person's sixteenth birthday, who has been committed to the care of the director and disrupts the order and the discipline of any state-operated youth correctional facility or injures the staff or other person committed to the facility or for other good cause, may be transferred by the director to an adult correctional facility with the approval of the family court for the balance of the term provided for by the court. If such person demonstrates sufficient improvement or progress, or for other good reason, the family court may order the person's return to a youth correctional facility.

**Sec. 352-29 Termination of director's right to supervise person.** (a) The authority of the director to supervise the conduct of a person who has been committed to the director's care, unless such authority shall be sooner terminated pursuant to this chapter or chapter 571, shall cease:

(1) At the expiration date of the order of commitment issued unless the director has, prior to such expiration date, sought and obtained from the court an extension of such order; or

- (2) Whenever the director, prior to the termination otherwise of such order, determines that the purposes of such order have been achieved in the case of a person under age eighteen; provided that if the commitment order reserves the approval of the family court for any discharge before termination, the director shall obtain approval of the court for a discharge; or
  - (3) Whenever the director, prior to the termination otherwise of such order, determines that the purposes of such order have been achieved in the case of a person committed to a term extending beyond the person's eighteenth birthday and obtains court approval prior to discharge.
- (b) The director, in each case described in subsection (a)(1), (2), and (3) of this section, shall immediately notify the person, the court, the police department of the county where the committed person resided before commitment, and, if a minor, the person's parent or guardian of the termination of the director's supervision over such person.

**Sec. 352-30 Delegation of responsibilities.** The director may delegate any of the director's responsibilities pursuant to this chapter to a representative of the department except those that relate to the discharge of a person committed to a youth correctional facility.

**Sec. 352-31 Costs.** All costs incurred under section 352-28 shall be paid by the director out of any funds appropriated for the Hawaii youth correctional facilities."

### **CHILD SHELTER FACILITIES**

**SECTION 9.** At present, there are insufficient child shelter facilities to handle the children who are runaways, unmanageable, or otherwise unable to be returned to their homes by the police, the courts, or other diversion authorities. This is a serious problem for the juvenile justice system. In general these facilities are privately operated and are used by private welfare organizations, the department of social services, and the family courts mostly on a fee-for-service basis. One reason for this shortage is the fact that a recent amendment to the law placed the responsibility for setting the standards for "special treatment" facilities with the department of health. The department of health in turn wrote regulations so broad that child shelter facilities fell under stringent provisions similar to the medical standards and staff training requirements for hospitals. This has impeded the establishment, and will increase the cost of new facilities.

1. Section 346-16, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 346-16 Definitions.** (a) As used in this chapter:

- (1) "Child placing organization" means any person, agency, or organization, excepting family courts and the department of social services and housing, engaged in the investigation, placement, and supervision of children in foster care;
- (2) "Child caring institution" means any institution, other than an institution of the State, maintained for the purpose of receiving six or more minor children for care and maintenance, not of common parents, apart from their parents or guardians on a twenty-four hour basis for monetary payment.

This term shall not apply to any boarding school which is essentially and primarily engaged in educational work;

- (3) "Foster boarding home" means any children's boarding home in which one or more, but less than six, minor children are received for care and maintenance apart from their parents or guardians on a twenty-four hour basis for fee or charge.

(b) None of the facilities defined in subsection (a) shall be considered a special treatment facility in the sense of section 321-11(10) unless clinical treatment of mental or physical disease or handicap is a part of the routine program or constitutes the main purpose of the facility."

2. Chapter 571, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

**"Sec. 571-32.1 Contract and fee-for-service accommodations.** To provide for children under section 571-32, the family court may provide, on a contractual or on fee-for-service basis, accommodations in child caring institutions or foster boarding homes which meet the intent of section 346-17."

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 provisions or applications and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 12. This Act shall take effect upon its approval; provided, however, that subsection 3 of SECTION 5 shall take effect not later than July 1, 1981.

(Approved June 18, 1980.)

A Bill for an Act Relating to Intoxicating Liquor.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify the justification and powers given to the various liquor commissions under chapter 281 of the Hawaii Revised Statutes and to clarify the proper practice and procedure relating to the promulgation and implementation of liquor license fee assessments.

SECTION 2. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

**"Sec. 281- Fees; justified, method of change.** (a) Any liquor license fee created by any liquor commission or any increase in an existing liquor license fee

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## ACT 305

sought to be implemented by any commission shall have, as its justification, a direct and proportionate relationship to an increase in costs and expenses of the commission in its control, supervision, or regulation of the manufacture, importation, and sale of liquors, or otherwise directly relate to actual costs and expenses of administration of the commission as is set forth in this chapter.

(b) Any such liquor license fees collected or received by any liquor commission under this chapter may only be used for costs and expenses directly relating to operational and administrative costs actually incurred by the liquor commission collecting or receiving such liquor license fees. Such fees shall not be used for any costs or expenses other than those directly relating to its operation and administration.

(c) Any change in liquor license fee structure shall only be initiated by the liquor commission seeking the change with the approval of the county's legislative body and mayor.

(d) Any liquor commission seeking a change in liquor license fee structure shall notify all licensees under this chapter affected by the change of the proposed change and shall notify each such licensee of the outcome and resolution of the change."

SECTION 3. New statutory material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1980.)

## ACT 305

H.B. NO. 2093-80

A Bill for an Act Relating to Witness Fees.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 621-7, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 621-7 Fees; criminal cases.** Every witness legally required to attend upon a court or a grand jury in any criminal case, other than a public officer or employee, shall be entitled to \$10 for each day's attendance and 30 cents for each mile actually and necessarily traveled, each way. Every such witness, coming to attend upon court from any island other than that upon which the court is holding session, shall be entitled to \$12 for each day's attendance in addition to the actual round trip cost of plane travel and 30 cents for each mile actually and necessarily traveled on the ground each way. Any police officer or other public officer or employee (except the county attorney, prosecuting attorney, or deputy county attorney or deputy prosecuting attorney), coming to attend as a witness from a district other than that in which the court is holding session, shall be allowed his travel cost and mileage fees as provided in this section. A public officer or employee, if not salaried, shall receive witness fees."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 18, 1980.)

ACT 306

S.B. NO. 2869-80

A Bill for an Act Relating to Court Expenses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 621-9, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 621-9 Witness and defendant expenses; budgetary procedure.** (a) Except as provided for in section 802-7, whenever a witness subpoenaed on behalf of the State in a criminal case or on behalf of a defendant at the expense of the State in a criminal case is discharged, the clerk of the court shall issue to him under seal of the court, a numbered certificate from a book having a stub with like designations, stating the name of the witness, when and where he was summoned or subpoenaed, the date of his discharge, the number of miles necessarily traveled from his place of residence to the place of holding court, the number of day's service, and the amount due for transportation and for service. The certificate, when correct, must be so certified by the public prosecutor or county attorney for witnesses subpoenaed on behalf of the State, and by the public defender for witnesses subpoenaed on behalf of a defendant, but no certificate shall be so certified unless presented to him within twelve months after the date of issue. Duly certified witness certificates shall be paid upon vouchers approved by the state director of finance and warrants drawn by the state comptroller.

(b) Whenever the presence of a defendant in a criminal case or in a proceeding under chapter 704 or a petitioner in a post-conviction proceeding who is outside the judicial circuit is mandated by court order or bench warrant to appear, the cost of airfare, ground transportation, any per diem for both the defendant or petitioner and sufficient law enforcement officers to effect the defendant's or petitioner's return, shall be borne by the State. All such expenses shall be certified by the court or public prosecutor or the attorney general. Duly certified claims for payment shall be paid upon vouchers approved by the state director of finance and warrants drawn by the state comptroller.

(c) Each public prosecutor or county attorney and the public defender shall submit to the state department of budget and finance for inclusion in the department's budget request for each fiscal biennium the amount required for each fiscal year for expenses for witnesses subpoenaed by him and for defendants and post-conviction petitioners summoned on his behalf or required by him."

SECTION 2. Section 704-419, Hawaii Revised Statutes, is repealed.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1980.)

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

A Bill for an Act Relating to Witnesses.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 836-3, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 836-3 Witness from another state summoned to testify in this State.**

If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence in this State, is a material witness in a prosecution pending in a court of record in this State, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. [Said] The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State. This certificate shall be presented to a judge of a court of record in the judicial district in which the witness is found.

If the witness is summoned to attend and testify in this State he shall be tendered a sum equivalent to the cost of round-trip air fare to the place where the prosecution is pending and [\$30] \$60 for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 18, 1980.)

A Bill for an Act Relating to Air Transportation.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated to read as follows:

**"Sec. 261- Promotion of safety and efficient use of facilities where congestion occurs.** (a) The legislature recognizes that air traffic congestion, constitutes a serious safety problem and reduces the efficient and effective use of limited airspace and terminal facilities. The legislature also recognizes that the development of addi-

tional airports will assist in the solution to such safety and efficiency problems, but that such development may not always be a feasible or complete solution to such problems.

Nevertheless, the legislature is determined that all possible actions be taken to promote safety, to alleviate safety hazards and to reduce congestion at airports under the State's control. The department of transportation shall do everything within its authority to enhance the safe use of the State's airports and shall cooperate with appropriate federal agencies and other affected parties to assist said agencies in meeting their responsibility to alleviate safety hazards resulting from air traffic congestion. In carrying out this responsibility, the department shall consider all possible alternatives including but not limited to reliever airports and limiting the number of aircraft allowed to use state airports. The department shall take appropriate action to enhance safety and to alleviate safety hazards, or, if legislative action is required, make appropriate recommendations to the legislature.

(b) To the fullest extent possible within the State's authority to act in the area of airport and air traffic safety, the department of transportation shall be responsible for promoting safe operating conditions and alleviating safety hazards due to air traffic congestion at airports under its control. To this end, the department, in close cooperation with appropriate federal authorities and other affected parties, shall examine and conduct research into the causes of and solutions for safety problems at such airports, especially those problems associated with air traffic congestion. Pursuant to sections 261-12 and 261-13, the director of transportation shall adopt such rules, regulations, and standards which may include the imposition of landing surcharges or differential landing fees, the assignment of particular runways for particular uses, the establishment of the number and types of aircraft allowed to use each public airport, and the use of similar measures where such actions may contribute to the segregation of different types of aircraft and to the reduction of peak air traffic usage at airports under State control."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

The foregoing became law on July 2, 1980, without the Governor's signature, pursuant to Art. III, §16, State Constitution.

**ACT 309**

H.B. NO. 2672-80

A Bill for an Act Relating to the Student Transportation Program.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 296-46.1, Hawaii Revised Statutes, is amended to read as follows:

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

**"Sec. 296-46.1 School bus contracts.** Any law to the contrary notwithstanding, school bus contracts between the State and a private contractor may be extended for two years by mutual agreement; provided that the parties may agree to extend the contract for an additional two years thereafter. The compensation due to the contractor by the State for each extended year may be increased, but in an amount not to exceed five per cent of the previous year's compensation. In addition, the compensation due to the contractor by the State for any original or extended contract year may be increased by a reasonable amount for unanticipated inflationary increases in the cost of fuel. If the original contract between the State and a private contractor already includes an option to extend the contract period, the provision shall be applicable after the contract option is exercised.

In the renegotiation for the extension of any contract, the contractor shall be notified at least three months in advance to prepare data and facts relating to fuel cost for the justification of an increase in amount for the new contract period.

In the event a school is temporarily closed due to an unexpected disruption necessitating the closing of a school, the contractor and the State may enter into renegotiation for payments of fixed costs.

The contract between the State and the contractor shall include a provision requiring the contractor to equip his vehicles with the signs and visual signals described in section 291C-95(d) and (g). The contract shall also include other provisions as may be deemed necessary by the State for the safety of school bus passengers."

**SECTION 2.** Statutory material to be repealed is bracketed. New material is underscored.\*

**SECTION 3.** This Act shall take effect upon its approval.

The foregoing became law on July 2, 1980, without the Governor's signature, pursuant to Art. III, §16, State Constitution.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

# **PROPOSED CONSTITUTIONAL AMENDMENTS**

## **Proposed Constitutional Amendments**

S.B. NO. 1703

A Bill for an Act Proposing an Amendment to Article XVII, Section 2, of the Hawaii Constitution, to Specify Voting Procedure for Constitutional Amendments.

*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 XVII, section 2, of the Constitution of the State of Hawaii to provide specific procedures for voter ratification of constitutional amendments.

**SECTION 2.** Article XVII, section 2, of the Constitution of the State of Hawaii is amended to read as follows:

### **"CONSTITUTIONAL CONVENTION"**

Section 2. The legislature may submit to the electorate at any general or special election the question, "Shall there be a convention to propose a revision of or amendments to the Constitution?" If any nine-year period shall elapse during which the question shall not have been submitted, the lieutenant governor shall certify the question, to be voted on at the first general election following the expiration of such period.

### **ELECTION OF DELEGATES**

If a majority of the ballots cast upon such a question be in the affirmative, delegates to the convention shall be chosen at the next regular election unless the legislature shall provide for the election of delegates at a special election.

Notwithstanding any provision in this constitution to the contrary, other than Section 3 of Article XVI, any qualified voter of the district concerned shall be eligible to membership in the convention.

The legislature shall provide for the number of delegates to the convention, the areas from which they shall be elected and the manner in which the convention shall convene. The legislature shall also provide for the necessary facilities and equipment for the convention. The convention shall have the same powers and privileges, as nearly as practicable, as provided for the convention of 1978.

### **MEETING**

The constitutional convention shall convene not less than five months prior to the next regularly scheduled general election.

### **ORGANIZATION; PROCEDURE**

The convention shall determine its own organization and rules of procedure. It shall be the sole judge of the elections, returns and qualifications of its members and, by a two-thirds vote, may suspend or remove any member for cause. The governor shall fill any vacancy by appointment of a qualified voter from the district concerned.

### **RATIFICATION; APPROPRIATIONS**

The convention shall provide for the time and manner in which the proposed

## **PROPOSED CONSTITUTIONAL AMENDMENTS**

constitutional revision or amendments shall be submitted to a vote of the electorate; provided that each amendment shall be submitted in the form of a question embracing but one subject; and provided further, that each question shall have designated spaces to mark YES or NO on the amendment.

At least thirty days prior to the submission of any proposed revision or amendments, the convention shall make available for public inspection, a full text of the proposed amendments. Every public library, office of the clerk of each county, and the chief election officer shall be provided such texts and shall make them available for public inspection. The full text of any proposed revision or amendments shall also be made available for inspection at every polling place on the day of the election at which such revision or amendments are submitted.

The convention shall, as provided by law, be responsible for a program of voter education concerning each proposed revision or amendment to be submitted to the electorate.

The revision or amendments shall be effective only if approved at a general election by a majority of all the votes tallied upon the question, this majority constituting at least fifty per cent of the total vote cast at the election, or at a special election by a majority of all the votes tallied upon the question, this majority constituting at least thirty per cent of the total number of registered voters.

The provisions of this section shall be self-executing, but the legislature shall make the necessary appropriations and may enact legislation to facilitate their operation."

**SECTION 3.** Constitutional material to be repealed is bracketed. New material is underscored.\*

**SECTION 4.** This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.

## **PROPOSED CONSTITUTIONAL AMENDMENTS**

S.B. NO. 1973-80

A Bill for an Act Proposing an Amendment to Article III, Section 10, of the Hawaii Constitution, to Permit the Senate to Convene Itself into a Special Session.

*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 10, of the Constitution of the State of Hawaii to permit the Senate to convene in special session at the written request of two-thirds of its members for the purpose of considering any gubernatorial nomination to fill a judicial vacancy.

**SECTION 2.** Article III, section 10, of the Constitution of the State of Hawaii is amended to read as follows:

### **“SESSIONS**

Section 10. The legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January.

At the written request of two-thirds of the members to which each house is entitled, the presiding officers of both houses shall convene the legislature in special session. At the written request of two-thirds of the members of the senate, the president of the senate shall convene the senate in special session for the purpose of carrying out its responsibility established by Section 3 of Article VI. The governor may convene both houses or the senate alone in special session.

Regular sessions shall be limited to a period of sixty days, and special sessions shall be limited to a period of thirty days. Any session may be extended a total of not more than fifteen days. Such extension shall be granted by the presiding officers of both houses at the written request of two-thirds of the members to which each house is entitled or may be granted by the governor.

Each regular session shall be recessed for not less than five days at some period between the twentieth and fortieth days of the regular session. The legislature shall determine the dates of the mandatory recess by concurrent resolution. Any session may be recessed by concurrent resolution adopted by a majority of the members to which each house is entitled. Saturdays, Sundays, holidays, the days in mandatory recess and any days in recess pursuant to a concurrent resolution shall be excluded in computing the number of days of any session.

All sessions shall be held in the capital of the State. In case the capital shall be unsafe, the governor may direct that any session be held at some other place.”

**SECTION 3.** New constitutional material is underscored.\*

**SECTION 4.** This amendment shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.



# **TABLES SHOWING EFFECT OF ACTS**

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## **GENERAL INDEX**

**TABLES SHOWING EFFECT OF ACTS**  
**TENTH LEGISLATURE, REGULAR SESSION OF 1980**  
**STATE OF HAWAII**

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Ren = Renumbered

N = New

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\*\*C302 purported to amend this section, but no amendment was effected.

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