

SESSION LAWS

OF

HAWAII

PASSED BY THE

FOURTH STATE LEGISLATURE

REGULAR SESSION

1967

Convened on Wednesday, February 15

and

Adjourned Sine Die on Monday, May 1

**Published by Authority of the
Revisor of Statutes
Honolulu, Hawaii**

AUTHORITY

Section 4, Act 191, Session Laws of Hawaii 1959, provides as follows:

Section 4. Publishing of session laws. As soon as possible after the close of each session of the legislature, the revisor shall prepare for publication all laws duly enacted at such session, arranged, first the bills and then joint resolutions, 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.

P R E F A C E

This volume contains all the laws passed by the Legislature at the General Session of 1967.

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

HIDEHIKO UYENOYAMA
Revisor of Statutes

Honolulu, Hawaii
September 11, 1967

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1967

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Session Laws Of Hawaii
Passed By The
Fourth State Legislature
Regular Session
1967

ACT 1

H. B. 1.

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

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

SECTION 1. There is hereby appropriated from the general funds of the State the sum of \$685,000, or so much thereof as may be necessary, for defraying the pre-session, interim session and other expenses of the Senate for the General Session of 1967, Fourth State Legislature of the State of Hawaii, and for the period up to and including February 20, 1968.

SECTION 2. There is hereby appropriated from the general funds of the State the sum of \$885,000, or so much thereof as may be necessary, for defraying the pre-session, interim session and other expenses of the House of Representatives for the General Session of 1967, Fourth State Legislature of the State of Hawaii, and for the period up to and including February 20, 1968.

SECTION 3. Any unencumbered balance of the appropriations provided for in sections 1 and 2 remaining at the close of the General Session of 1967 is hereby appropriated to defray any and all expenses of the Senate and the House of Representatives, including but without limitation to the generality of the foregoing, the expenses of any committee or committees established by either the Senate or the House of Representatives, respectively, and the pre-session expenses of the Budget Session of 1968. Payment of such expenses shall be made only with the approval of either the President of the Senate or the Speaker of the House of Representatives, respectively.

SECTION 4. Before February 21, 1968, 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 February 21, 1968.

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 5-16 of the Revised Laws of Hawaii 1955, as

ACT 2

amended, or by any other general statute. The expenses of such member shall be the higher sum allowed by section 2-20 of the Revised Laws of 1955, as amended, and authorized by the President of the Senate or the Speaker of the House of Representatives, respectively.

SECTION 6. In accordance with the provisions of section 2-39, Revised Laws of Hawaii 1955, as amended, there is hereby appropriated from the general funds of the State, the sum of \$317,000 (19), or so much thereof as may be necessary, for defraying the expenses of the office of the auditor during the fiscal year 1967-68. The maximum number of positions authorized during the fiscal year 1967-68 is the number stated in parenthesis after the appropriation.

SECTION 7. Each section of this Act is hereby declared to be severable from the remainder of this Act.

SECTION 8. This Act shall take effect upon its approval.
(Approved February 25, 1967.)

ACT 2

H. B. 838.

A Bill for an Act Relating to Real Property Tax Assessment and Appeals.

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

SECTION 1. The purpose of this Act is to extend the period for the assessment year 1967 within which a taxpayer or the executive officer of each county may appeal an assessment made by the assessor under section 128-30 of the Revised Laws of Hawaii 1955.

SECTION 2. For the assessment year 1967 only, section 128-30 of the Revised Laws of Hawaii 1955 is amended by deleting in the first and second paragraphs thereof the words "March 20 of the assessment year" and inserting in lieu thereof the words "the twentieth day after the approval of this Act".

SECTION 3. For the assessment year 1967 only, section 128-28 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the date "March 31" appearing therein and inserting in lieu thereof the words "the thirtieth day after the approval of this Act".

SECTION 4. For the assessment year 1967 only, section 129-2(f) of the Revised Laws of Hawaii 1955 is hereby amended by deleting the date "April 10" appearing therein and inserting in lieu thereof the words "the fortieth day after the approval of this Act".

SECTION 5. For the assessment year 1967 only, section 129-2(b) of the Revised Laws of Hawaii 1955 is hereby amended by deleting the date "May 10" appearing therein and inserting in lieu thereof the words "the seventieth day after the approval of this Act."

SECTION 6. For the assessment year 1967 only, section 128-32 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the dates "May 25", "June 10", and "June 25" and inserting in lieu thereof the words "the eighty-fifth day after the approval of this Act," "the hundredth day after the approval of this Act", and "the hundred and fifteenth day after the approval of this Act," respectively.

SECTION 7. Notwithstanding the above amendments for the year 1967 the existing provisions prior to such amendments are hereby re-enacted to take effect on January 1, 1968.

SECTION 8. This Act shall take effect upon its approval.
(Approved March 30, 1967.)

ACT 3

H. B. 33.

A Bill for an Act Relating to Debt Adjusting.

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

SECTION 1. **Purpose.** The purpose of this Act is to prohibit commercial or profit-making debt adjusters from transacting business in this State.

SECTION 2. **Definitions.** As used in this Act:

(a) "Person" means an individual, partnership, corporation, firm, association or any other legal entity;

(b) "Debt adjuster" means a person who for a profit engages in the business of acting as an intermediary between a debtor and his creditors for the purpose of settling, compromising or in any way altering the terms of payment of any debts of the debtor, and who:

(1) Receives money, property or other thing of value from the debtor, or on behalf of the debtor, for distribution among the creditors of the debtor, or

(2) Otherwise arranges for payment to, or distribution among, the creditors of the debtor;

(c) "Debtor" means an individual and includes two or more individuals who are jointly and severally or jointly or severally indebted;

(d) "Nonprofit organization" means a corporation or association, no part of the net earnings of which may inure to the benefit of any private shareholder or individual.

SECTION 3. **Debt adjusting prohibited; penalty; contracts void.** Any person who acts or offers to act as a debt adjuster in this State shall be fined not more than \$500 or imprisoned not more than six months, or both. Any contract for debt adjusting entered into with a person engaged in the business for a profit shall be void and unenforceable and the debtor may recover from the debt adjuster all sums or things deposited with the debt adjuster and not disbursed to his creditors.

ACT 4

SECTION 4. Persons not affected. The following persons shall not be deemed debt adjusters for the purposes of this Act:

(a) An attorney licensed to practice law in this State, including the Legal Aid Society of Hawaii;

(b) A person who is a regular full-time employee of a debtor and who acts as an adjuster of his employer's debt;

(c) A person acting pursuant to any order or judgment of court or pursuant to authority conferred by any law of this State or of the United States;

(d) A nonprofit or charitable corporation or association who acts as an adjuster of a debtor's debts, even though the nonprofit corporation or association may charge and collect nominal sums as reimbursement for expenses in connection with such services.

SECTION 5. Certain loan functions not affected. Nothing herein contained is intended to exclude, nor shall it exclude, or prohibit, any bank, industrial loan company, credit union, or any other person or firm licensed by the county, state or federal government to make loans from paying off the existing debts of any debtor to any other person or firm in connection with, or as a condition precedent to, making a loan to such debtor, if done at the debtor's request or with his consent or agreement.

SECTION 6. Section 171A-1, Revised Laws of Hawaii 1955, is hereby amended by deleting therefrom paragraph (d)(3).

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

(Approved March 30, 1967.)

ACT 4

H. B. 18.

A Bill for an Act Relating to Hawaiian Standard Time and Amending Chapter 1 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. Section 3(a) of The Uniform Time Act of 1966, Public Law 89-387, 80 Stat. 107, provides that the standard time of each time zone shall be advanced by one hour for the period beginning the last Sunday in April and ending on the last Sunday in October of each year unless a State by law exempts itself from the provisions of that subsection which provides for the advancement of time and such law provides that the entire State (including all political subdivisions thereof) shall observe the standard time during such period. It is the purpose of this Act to exempt the State of Hawaii from the provisions of subsection 3(a) of The Uniform Time Act of 1966 and to provide that the Hawaiian standard time shall be observed throughout the State continuously during each year.

SECTION 2. Section 1-42 of the Revised Laws of Hawaii 1955 is amended to read as follows:

“Section 1-42. Hawaiian standard time; definitions; observance. Hawaiian standard time is ten hours slower than Greenwich time, based on the mean solar time of the one hundred and fiftieth degree of longitude west from Greenwich and shall be the time which the entire State, including all of its political subdivisions, shall observe annually, notwithstanding the daylight time conversion provisions of The Uniform Time Act of 1966, Public Law 89-387, 80 Stat. 107.”

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

(Approved March 30, 1967.)

ACT 5

S. B. 105.

A Bill for an Act Relating to Public Employment.

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

SECTION 1. Subparagraph (2) in paragraph (b) of section 5-1, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(2) under a probationary appointment of one year when such employment is subject to the provisions of the civil service laws as set forth in the Revised Laws or in the county charters whichever is applicable; provided that, such appointee shall have met the requirements, except for residency or citizenship, as the case may be, as set forth in the laws aforementioned, including the rules and regulations promulgated thereunder.”

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

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

(Approved April 5, 1967.)

ACT 6

H. B. 117.

A Bill for an Act to Amend Sections 57-24(a), 327-2 and 327-3, Revised Laws of Hawaii 1955, Relating to Naming of Children.

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

SECTION 1. Purpose. The purpose of this Act is to remove the mandatory requirement that each child be given a Christian name.

SECTION 2. Sections 57-24(a), 327-2 and 327-3 of the Revised Laws of Hawaii 1955 are hereby amended by the deletion of the words “Christian name suitable to their sex” therein and the substitution of the words “given name” therefor.

* Edited accordingly.

ACT 7

SECTION 3. This Act shall take effect upon its approval.
(Approved April 5, 1967.)

ACT 7

H. B. 219

A Bill for an Act Relating to Handling Potentially Infectious Laundry from Hospitals and Sanatoriums.

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

SECTION 1. Section 49-7, Revised Laws of Hawaii 1955, is amended by amending paragraphs (b), (c), (d) and (e) to read as follows:

“(b) Potentially infectious laundry shall be bagged and the bags tied securely by hospital or sanatorium personnel responsible directly to the institution’s medical authorities for the techniques and protective procedures used. The bags used shall be of solid or tightly woven material or of water soluble plastic approved by the department of health, and shall be securely tied.

“(c) If the bags are of solid or tightly woven material, when they are loaded on or unloaded from the commercial laundry’s trucks the loader shall wear a protective face mask and gown of a type approved by the hospital’s or tuberculosis sanatorium’s medical authorities. The mask and gown shall be laundered after each usage. The use of a mask and gown may be omitted if water soluble plastic bags are used.

“(d) No other laundry shall be carried in the trucks with the potentially infectious laundry unless such potentially infectious laundry is in water soluble plastic bags. The trucks used shall be of the closed panel type. They shall be periodically washed and disinfected as directed by duly authorized agents of the department of health.

“(e) Commercial laundry workers who handle the potentially infectious laundry in solid or tightly woven bags shall wear protective masks and gowns of a type approved by the hospital’s or sanatorium’s medical authorities. The laundry shall be placed directly in the washers from the bags. There shall be no shake out or sorting procedure carried on at the laundry prior to washing. All protective clothing and all laundry bags shall be laundered after each usage. If the potentially infectious laundry is in water soluble plastic bags, no protective clothing need be worn and the laundry shall be placed directly in the washers without opening the bags.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 5, 1967.)

ACT 8

H. B. 336.

A Bill for an Act to Repeal Chapter 167, Revised Laws of Hawaii 1955, Relating to the Registration of Newspapers.

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

SECTION 1. Chapter 167, Revised Laws of Hawaii 1955, is hereby repealed.

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

(Approved April 5, 1967.)

ACT 9

H. B. 345.

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

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

SECTION 1. The last sentence in section 166-7, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“The records shall be prima facie evidence of all matters therein contained.”

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

(Approved April 5, 1967.)

ACT 10

H. B. 221.

A Bill for an Act Relating to the Sale of Margarine.

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

SECTION 1. Section 289-10, Revised Laws of Hawaii 1955, is amended to read as follows:

“Section 289-10. Oleomargarine, margarine, sale of, as butter; penalty. Whoever knowingly sells to any person or offers for sale any butter manufactured from or by the use of oleomargarine or margarine, so called, unless the package containing the same is distinctly marked ‘oleomargarine,’ or ‘margarine,’ as the case may be, shall be fined not more than \$200 or imprisoned not more than twenty days or both.”

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

(Approved April 6, 1967.)

ACT 11

H. B. 402.

A Bill for an Act Relating to the Payment of Deceased Employee’s Wages, Vacation or Sick Leave Pay to Family.

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

SECTION 1. Chapter 95, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be appropriately numbered and to read as follows:

ACT 12

“Sec. 95-..... Payment of wages to relatives of deceased employees. Where an employee dies leaving any wages, vacation or sick leave pay due him, the employer shall, within 30 days after such death, whether or not a personal representative has been appointed, pay such wages, vacation or sick leave pay in an amount not exceeding \$1,000 to, and upon application by the surviving spouse or, if none, by an adult child. The employer shall require such applicant to show proof of his or her relationship to the deceased by affidavit and to acknowledge receipt of such payment in writing. Any such payment shall discharge the employer to the extent thereof and the employer shall not be liable to the decedent’s estate. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 6, 1967.)

ACT 12

H. B. 217.

A Bill for an Act Relating to Federal-State Agreements Respecting Sources of Ionizing Radiation.

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

SECTION 1. Chapter 46, Revised Laws of Hawaii 1955, is amended by adding thereto a new section to be appropriately designated by the revisor of statutes and reading as follows:

“Sec. Federal-state agreements; sources of ionizing radiation. The governor, on behalf of the State, may enter into agreements with the federal government providing for discontinuance of certain of the federal government’s responsibilities with respect to sources of ionizing radiation and the assumption thereof by the State.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 17, 1967.)

ACT 13

H. B. 404.

A Bill for an Act Relating to the Payment of Wages and Amending Chapter 95, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Subsection (d) of section 95-10, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting therefrom the figure \$300 and substituting therefor the figure \$600 and by deleting therefrom the phrase “six months” and substituting therefor the phrase “one year”.

SECTION 2. This Act shall take effect upon approval.
(Approved April 17, 1967.)

ACT 14

H. B. 559.

A Bill for an Act Relating to Employment Security and Amending Chapter 93, Revised Laws of Hawaii 1955.

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

SECTION 1. The first sentence of subsection (b) of section 93-77, Revised Laws of Hawaii 1955, is amended to read:

“(b) Any exclusion granted pursuant to this section shall be retroactive to the beginning of the calendar quarter preceding the calendar quarter in which the written election was filed with the director.”

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

(Approved April 17, 1967.)

ACT 15

H. B. 561.

A Bill for an Act Relating to Employment Security and Amending Chapter 93, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 93-107, Revised Laws of Hawaii 1955, is amended as follows:

a. The paragraph following the heading is designated as subsection (a).

b. The following subsections are added:

“(b) The courts of this State shall recognize and enforce liabilities for unemployment contributions, interest and penalties imposed by other states which extend a like comity to this State.

“(c) The officials of any state which extend a like comity to this State may bring action in the courts of this State to collect unemployment contributions, interest and penalties due the state. The certificate of the secretary of the state, or of the nearest equivalent official, that the officials are authorized to collect the contributions, penalties and interest shall be conclusive evidence of the authority.

“(d) The attorney general may commence action in any other state by and in the name of the department to collect contributions, interest and penalties legally due this State.

“(e) The attorney general may commence action in this State as agent for and on behalf of any other state which extends a like comity to this State to enforce judgments and liabilities for unemployment contributions, interest and penalties due the state.

“(f) If the agency which administers the employment security law of another state has overpaid unemployment benefits to an individual located in Hawaii and certifies to the department that the individual is liable under its law to repay the benefits and requests the department to recover the overpayment, the attorney general may commence action in the courts of this State to recover the overpayment as agent for and on behalf of the other

ACT 16

state. The courts of this State shall entertain the action to collect the overpayment.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 17, 1967.)

ACT 16

H. B. 552.

A Bill for an Act Relating to Workmen's Compensation and Amending Chapter 97, Revised Laws of Hawaii 1955.

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

SECTION 1. The first sentence of the third paragraph of section 97-20, Revised Laws of Hawaii 1955, is amended to read:

“The liability of the employer for medical, surgical, and hospital services and supplies required shall be limited to the charges that prevail in the State for similar treatment of injuries which are not compensable under this chapter.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 20, 1967.)

ACT 17

H. B. 338.

A Bill for an Act Repealing Certain Sections of Chapter 184, Revised Laws of Hawaii 1955, as Amended, Relating to Combustibles.

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

SECTION 1. Sections 184-33, 184-34, and 184-35 of the Revised Laws of Hawaii 1955, as amended, are hereby repealed.

SECTION 2. This Act shall take effect upon its approval.
(Approved April 21, 1967.)

ACT 18

H. B. 400.

A Bill for an Act Relating to Chapter 90C, Revised Laws of Hawaii 1955, as Amended, Concerning Strikebreakers.

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

SECTION 1. Act 106 of the Session Laws of Hawaii, 1963 (incorporated into the Revised Laws of Hawaii 1955, as amended, as Chapter 90C) is hereby repealed.

SECTION 2. The Revised Laws of Hawaii 1955, as amended, is further amended by adding thereto a new chapter to be appropriately numbered and to read as follows:

“CHAPTER RECRUITING AND HIRING OF EMPLOYEES DURING DISPUTES.

Section The term “labor disputes” includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of person in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

Section It shall be unlawful for any person:

(a) To recruit, procure, supply, or refer any person for employment in place of an employee involved in a labor dispute in which such person recruiting, procuring, supplying or referring is not directly interested.

(b) When involved in a labor dispute, to employ in place of an employee involved in such labor dispute any person who customarily and repeatedly offers himself for employment in the place of employees involved in a labor dispute, or to knowingly employ any person in place of an employee involved in a labor dispute who is recruited, procured, supplied or referred for employment by any person not directly involved in the labor dispute.

(c) Who customarily and repeatedly offers himself for employment in place of employees involved in a labor dispute to take or offer to take the place in employment of employees involved in a labor dispute.

(d) Involved in a labor dispute to contract or arrange with any other person to recruit, procure, supply or refer persons for employment in place of employees involved in such labor dispute.

Section If any person advertises for, or seeks employees by means of newspapers, posters, letters, radio, television or by means of any employment agency to work for him or the person for whom he is acting at any shop, plant or establishment, while a labor dispute is still in active progress at such shop, plant or establishment, he shall plainly and explicitly mention in such advertisement or solicitation that a labor dispute exists.

The person soliciting or advertising for employees in the manner set forth herein shall use in the advertisement or solicitation his own name, and, if he is representing another, the name of the person he is representing and at whose direction and under whose authority the solicitation or advertisement is made. The appearance of this name in connection with such advertisement or solicitation shall be deemed prima facie evidence as to the person responsible for the advertisement or solicitation.

Section Any person, or agent or officer thereof, who violates any of the provisions of this chapter is punishable by a fine of not more than \$1,000 or imprisonment of not more than one year or both.”

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

(Approved April 21, 1967.)

ACT 19

H. B. 555.

A Bill for an Act Relating to Employment Security and Amending Chapter 93, Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection (b) of section 93-69, Revised Laws of Hawaii 1955, is amended to read:

“(b) Each employer liable for contributions under this chapter shall make a full, true and correct return with respect to the wages on the basis of which the contributions are payable, at the time prescribed for payment of contributions, which report shall contain such other information as may be prescribed by the department.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved April 21, 1967.)

ACT 20

H. B. 864.

A Bill for an Act Relating to Apprenticeship and Amending Chapter 89, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 89, Revised Laws of Hawaii 1955, is amended in the following respects:

a. Section 89-2 is amended to read:

“**Section 89-2. Definitions.** As used in this chapter:

(a) ‘Department’ means the department of labor and industrial relations.

(b) ‘Director’ means the director of labor and industrial relations.

(c) ‘Apprentice’ means a person participating, through employment, in an approved schedule of work experience supplemented by related instruction and who is a party to an apprenticeship agreement registered with the department in accordance with this chapter.

(d) ‘Apprenticeship agreement’ means a written agreement which conforms to standards established under this chapter and is entered into between an apprentice and (1) an employer, (2) an association of employers, (3) an organization of employees, or (4) a joint committee representing employers and employees.”

b. Section 89-3 is amended as follows:

1. Subsection (c) is amended to read:

“(c) A statement of the number of hours to be spent in related instruction which shall not be less than one hundred and forty-four hours per year;

* Edited accordingly.

provided that the department may, in the best interest of apprenticeship, reduce the hours of related instruction;"

2. Subsection (f) is amended to read:

"(f) Provision for a period of probation during which the director shall be directed to terminate an apprenticeship agreement at the request in writing of any party thereto;"

3. Subsection (g) is amended to read:

"(g) Provision that after the probationary period the director shall be empowered to terminate an apprenticeship agreement upon agreement of the parties thereto;"

4. Subsection (h) is amended to read:

"(h) Provision that the services of the department may be utilized for consultation regarding the settlement of differences arising out of the apprenticeship agreement where the differences cannot be adjusted locally or in accordance with the established trade procedure;"

5. The last paragraph is amended to read:

"An apprentice who, prior to entering into an agreement, has had training or experience or both in the trade or craft in which he is employed as an apprentice may be granted full or partial credit for the training or experience on the recommendation of the employer or the joint apprenticeship committee with the approval of the director."

c. Section 89-4 is amended to read:

"**Section 89-4. Apprenticeship council.** The director may establish within the department a committee to be known as the apprenticeship council which shall sit in an advisory capacity to him on matters within the jurisdiction of the department relating to apprenticeship programs. The membership and organization of the council shall be determined by the director. The members of the council shall be appointed and removed at the pleasure of the director. The director or his subordinate officer in charge of the apprenticeship program shall act as secretary of the council."

d. Section 89-5 is amended to read:

"**Section 89-5. Powers and duties of director.** The director shall:

- (1) establish standards for apprenticeship agreements in conformity with this chapter;
- (2) provide assistance for the development of on-the-job training program in nonapprenticeable occupations;
- (3) encourage and promote the making of apprenticeship agreements conforming to the standards established by this chapter;
- (4) register such apprenticeship agreements as are in the best interest of apprenticeship and which conform to the standards established by this chapter;
- (5) keep a record of apprenticeship agreements and upon performance thereof issue certificates of completion of apprenticeship;
- (6) terminate or cancel any apprenticeship agreements in accordance with the agreements;
- (7) bring about the settlement of differences arising out of the appren-

ticeship agreement where the differences cannot be otherwise adjusted locally;

(8) issue such rules and regulations as may be necessary to carry out the intent and purpose of this chapter;

(9) appoint personnel as are necessary in the execution of the functions required under this chapter; and

(10) perform other duties as are necessary to carry out the intent and purpose of this chapter.”

e. Section 89-6 is amended to read:

“Section 89-6. Related instruction and coordination of instruction. Related instruction for apprentices, coordination of instruction with job experiences and the selection and training of teachers and coordinators for the instruction shall be the responsibility of the department of education or of the community college division, University of Hawaii.”

f. Section 89-7 is amended to read:

“Section 89-7. Joint apprenticeship committees. Local joint apprenticeship committees may be approved by the director in any trade, group of trades or in trade areas, whenever the apprentice training needs of the trade or group of trades justifies the establishment of the committees. The joint apprenticeship committees shall be composed of an equal number of persons known to represent the interest of employers and employees, respectively. Subject to the review of the director and in accordance with the standards established by this chapter and by the director, the committees shall devise standards for apprenticeship agreements and give assistance to the operation and further development of apprenticeship in their respective trade and localities.”

g. Section 89-8 is amended to read:

“Section 89-8. State-federal cooperation. The department may promote the administration of this chapter by accepting and utilizing information, services and facilities made available to it by the federal committee on apprenticeship; and the department shall cooperate with the federal committee on apprenticeship to the fullest extent consistent with this chapter.”

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

(Approved April 21, 1967.)

ACT 21

S. B. 140.

A Bill for an Act to Amend Chapter 181, Revised Laws of Hawaii 1955, as Amended, Relating to the Hawaii Insurance Law.

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

SECTION 1. Subsections (c) and (d) of section 181-41, Revised Laws of Hawaii 1955, are hereby amended to read as follows:

“(c) Five years after conclusion of transactions to which they relate, the commissioner may destroy any correspondence, claim files, working papers of examinations of insurers, reports of examination by insurance supervisory

officials of other states, void or obsolete filings relating to rates, foreign or alien insurer's annual statements and valuation reports, license applications, cards, expired bonds, records of hearings, investigations, and any similar records, documents, or memoranda now or hereafter in his possession.

(d) Ten years after the year to which they relate, the commissioner may destroy any foreign or alien insurer's tax reports, or similar records or reports now or hereafter in his possession."

SECTION 2. Section 181-362(c), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"(c) A person may be a subagent for any number of principals, except that a subagent may not be appointed with respect to more than one general agent or domestic insurer for life insurance."

SECTION 3. Section 181-367, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"**Sec. 181-367. General qualifications for license.** For the protection of the people of this State the commissioner shall not issue or extend any such license except in compliance with sections 181-361 to 181-407, and shall not issue or extend any such license to any individual less than twenty years of age."

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

SECTION 5. This Act shall take effect upon its approval.
(Approved April 21, 1967.)

ACT 22

H. B. 210.

A Bill for an Act Relating to Unlawful Employment Practices.

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

SECTION 1. Chapter 90A, Revised Laws of Hawaii 1955 (1965 Supplement), is amended by adding thereto the following:

"PART III. UNLAWFUL SUSPENSION OR DISCHARGE

"Section 90A-30. Definitions. As used in this part:

"(a) 'Director' means the director of labor and industrial relations.

"(b) 'Department' means the department of labor and industrial relations.

"(c) 'Employer' includes any individual, partnership, association, joint stock company, trust, corporation, the administrator or executor of the estate of a deceased individual or the receiver, trustee, or successor of any of the same, employing any persons, but shall not include the State or any political subdivision thereof or the United States.

* Edited accordingly.

“(d) ‘Employee’ includes any person suffered or permitted to work.

“(e) ‘Wages’ means compensation for labor or services rendered by an employee, whether the amount is determined on a time, task, piece, commission or other basis of calculation. It shall include the reasonable cost, as determined by the director under chapter 94, to the employer of furnishing an employee with board, lodging or other facilities if the board, lodging or other facilities are customarily furnished by the employer to his employees but shall not include tips or gratuities of any kind.

“(f) ‘Appeal board’ means the labor and industrial relations appeal board.

“**Section 90A-31. Unlawful suspension or discharge from employment.** It shall be unlawful for any employer to suspend or discharge any of his employees solely because the employer was summoned as a garnishee in a cause where the employee is the debtor or because the employee has filed a petition in proceedings for a wage earner plan under Chapter XIII of the Bankruptcy Act.

“**Section 90A-32. Complaint against unlawful suspension or discharge.** (a) Any employee aggrieved by an alleged unlawful suspension or discharge may file with the department a complaint in writing, stating the name and address of the employer alleged to have committed the unlawful suspension or discharge, and shall set forth the particulars thereof and other information as may be required by the department.

“(b) No complaint shall be filed after the expiration of thirty days after the alleged act of unlawful suspension or discharge.

“**Section 90A-33. Proceeding and hearing on complaint.** (a) After the filing of any complaint, the department shall serve a copy of the complaint upon the employer charged. Service may be by delivery to the employer or by mail. The employer may file an answer to the complaint.

“(b) A hearing on the complaint shall be held by the department in conformance with chapter 6C.

“**Section 90A-34. Findings and order.** If the department finds, after a hearing, that an employer has unlawfully suspended or discharged an employee in violation of section 90A-31, the department may order the reinstatement of the employee with or without back pay or may order the payment of back pay without reinstatement.

“**Section 90A-35. Judicial review.** Any person aggrieved by the order of the department shall be entitled to judicial review as provided by section 6C-14.

“**Section 90A-36. Petition for enforcement of order.** If any employer fails or neglects to comply with the final order of the department from which no appeal has been taken as provided by this part, the department or the employee affected may petition the circuit court wherein the employer resides or transacts business for the enforcement of the order and for any other appropriate relief. Upon filing of the petition and the record of the proceedings, including all documents and papers on file in the matter,

the pleadings and testimony upon which the order was entered and the order, and upon service of proper notice thereof upon the employer, the circuit court shall have jurisdiction in the premises.

“Section 90A-37. Rules and regulations. The director shall adopt rules and regulations as he deems necessary for the purpose of carrying out the provisions of this part.”

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

(Approved April 24, 1967.)

ACT 23

H. B. 220.

A Bill for an Act Relating to Vaccination and Immunization, and Amending Part II, Chapter 49, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 49-30, Revised Laws of Hawaii 1955, is amended to read as follows:

“Sec. 49-30. Vaccination against smallpox. Every person residing within the State or remaining in the State for a period of more than ninety days who is over the age of one year and not successfully vaccinated against smallpox shall be successfully vaccinated against the same. Such vaccination shall be effected within one month after the same is required hereunder. Such vaccination shall not be considered successful unless upon examination or the presentation of satisfactory evidence a licensed physician or authorized representative of the department of health certifies that an immune, accelerated or primary reaction resulted therefrom.”

SECTION 2. Section 49-32, Revised Laws of Hawaii 1955, is amended to read as follows:

“Sec. 49-32. Immunization against infectious diseases. The department of health may make regulations requiring and governing immunization against typhoid fever, pertussis (whooping cough), diphtheria, tetanus, poliomyelitis, measles, mumps, and any other communicable disease, if a suitable immunizing agent is available for the disease and a need for immunization against it exists within the State.”

SECTION 3. Section 49-33, Revised Laws of Hawaii 1955, is amended to read as follows:

“Sec. 49-33. Performance of vaccination and immunization. Vaccinations or immunizations required of any person under this chapter shall be performed by duly licensed physicians or para-medical personnel under their direction, or by authorized representatives of the department. A record of such immunization shall be maintained by the physician and shall be available to the department of education for school entry requirements and the department of health.”

ACT 24

SECTION 4. Section 49-34, Revised Laws of Hawaii 1955, is amended by adding at the end the following paragraph:

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

SECTION 5. Section 49-35, Revised Laws of Hawaii 1955, is amended to read as follows:

"**Sec. 49-35. Forms and procedures.** The department of health may prescribe forms and procedures to achieve the purposes of sections 49-30 to 49-34 and shall maintain in the offices of the department of health in Honolulu, Hilo, Wailuku, Lihue and Kaunakakai, a complete roster of all exemptions from vaccination or immunization granted by that office."

SECTION 6. Section 49-31, Revised Laws of Hawaii 1955, is repealed.

SECTION 7. This Act shall take effect on September 1, 1967.

(Approved April 27, 1967.)

ACT 24

H. B. 230.

A Bill for an Act Authorizing the Department of Education to give Bonds for Return of Military Equipment.

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

SECTION 1. Chapter 37, Revised Laws of Hawaii 1955, as amended, relating to the Department of Education, is hereby amended by adding the following:

"**Sec. 37-14. Department authorized to give bonds for return of military equipment.** The department may execute and deliver bonds in the name of the State to the United States, as provided by any Act of Congress, to insure the safe return of any public animals, tentage, uniforms, arms, equipment and means of transportation procured by the department from the United States for use in the public schools of the State maintaining a course or courses in military training as provided by Act of Congress."

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

(Approved April 27, 1967.)

ACT 25

H. B. 276.

A Bill for an Act Relating to Combat Pay Exclusion and Amending Chapter 121, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. It is the intent of this Act to incorporate by reference Section 112 of the Internal Revenue Code of 1954, as amended by Public Law 89-739, into Chapter 121 of the Revised Laws of Hawaii 1955, as amended, relating to the Income Tax Law.

SECTION 2. Section 121-1.01 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding under Column 1 and Column 2 the following:

"Column 1	Column 2
Taxable years ending after December 31, 1965 but only with respect to compensation for periods of active service after such date.	Internal Revenue Code of 1954, Section 112, as amended by Public Law 89-739."

SECTION 3. This Act upon its approval shall apply to the taxable years stated in Section 2.

(Approved April 27, 1967.)

ACT 26

H. B. 279.

A Bill for an Act Relating to Taxation and Amending Chapters 117 and 121, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 117-25, Revised Laws of Hawaii 1955, as amended, is hereby amended by substituting the figure "\$500" for the figure "\$200" appearing in the second and third paragraphs thereof.

SECTION 2. Section 121-17, Revised Laws of Hawaii 1955, as amended, is hereby amended by substituting the figure "\$500" for the figure "\$200" appearing in the fourth sentence thereof.

SECTION 3. This Act shall take effect on July 1, 1967.

(Approved April 27, 1967.)

ACT 27

H. B. 280.

A Bill for an Act Relating to Net Operating Loss to Shareholders of Electing Small Business Corporation and Amending Chapter 121, Revised Laws of Hawaii 1955, as amended.

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

SECTION 1. Section 121-24.4, Revised Laws of Hawaii 1955, as amended, is hereby amended by inserting between the words "Public Law 85-866" and "excluding however," the following:

"and as amended by section 2(b) of Public Law 86-376."

SECTION 2. This Act shall apply with respect to taxable years beginning on or after January 1, 1967.
(Approved April 27, 1967.)

ACT 28

H. B. 689.

A Bill for an Act Relating to the Public Utilities Commission.

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

SECTION 1. Section 104-15 of the Revised Laws of Hawaii 1955 is amended by adding a new paragraph to follow the first paragraph and to read as follows:

“In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the State of Hawaii and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Commission may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such organizations, trades, or businesses, if it determines that such distribution, apportionment, or allocation is necessary in order to adequately reflect the income of any such organizations, trades, or businesses to carry out the regulatory duties imposed by this section.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 27, 1967.)

ACT 29

H. B. 125.

A Bill for an Act Authorizing the Governor to Enter into Contracts with Territories, Possessions and Other Areas in the Pacific Ocean Region Under the Jurisdiction of the United States for the Use of Hawaii's Health and Correctional Facilities on a Compensatory Basis.

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

SECTION 1. Chapter 79 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new section to be appropriately numbered and to read as follows:

“Sec. **Contracts with territories and possessions of the United States.** The governor is hereby authorized to enter into and execute contracts in the name of the State with territories, possessions and other areas in the Pacific Ocean region which are under the jurisdiction of the United States, regarding the use of health and correctional facilities of the State on a space available basis; provided that any such contract shall provide for the payment of costs to the State.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 28, 1967.)

ACT 30

H. B. 216.

A Bill for an Act Relating to Vital Statistics, and Amending Chapter 57, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 57-17, Revised Laws of Hawaii 1955, is further amended by inserting thereto the following new subsection and renumbering the remaining subsection accordingly:

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

SECTION 2. Section 57-21, Revised Laws of Hawaii 1955, is amended by deleting subsection (a) and substituting the following therein:

“(a) To protect the integrity of vital statistics records to insure their proper use, and to insure the efficient and proper administration of the vital statistics system, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital statistics records, or to copy or issue a copy of all or part of any such record, except as authorized by this part, or by such regulation as the department may make.”

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

(Approved April 28, 1967.)

ACT 31

H. B. 260.

A Bill for an Act Relating to Compensation for Prisoners Engaged in Work or Training.

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

SECTION 1. Section 83-25, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“**Compensation for labor or training by prisoners.** Every prisoner who is working within a state correctional facility or in such training programs as the superintendent thereof, pursuant to the provisions of law prescribes, may be allowed such graduated sums of money not exceeding one dollar per day as the director by rule may determine.”

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

(Approved April 28, 1967.)

ACT 32

H. B. 296.

A Bill for an Act Relating to Extension of Period for Allowing Net Operating Loss Deductions.

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

SECTION 1. Section 121-5(d) is amended to read as follows:

(d) (1) For taxable years ending before January 1, 1967, the net operating loss deductions allowed as carry-backs and carry-overs by the Internal Revenue Code shall not be allowed. In lieu thereof the net operating loss deduction shall consist of the excess of the deductions allowed by this chapter over the gross income, computed with the modifications specified in paragraphs (1) to (4) inclusive of section 172 (d) of the Internal Revenue Code, and with the further modification stated in subsection (3) hereof; and shall be allowed as a deduction in computing the taxable income of the taxpayer for the succeeding taxable year.

(2) (a) With respect to net operating loss deductions resulting from net operating losses for taxable years ending after December 31, 1966, the net operating loss deduction provisions of the Internal Revenue Code shall apply, provided that there shall be no net operating loss deduction carried back to any taxable year ending prior to January 1, 1967.

(b) In the case of a taxable year beginning in 1966 and ending in 1967, the entire amount of all net operating loss deductions carried back to such taxable year shall be limited to that portion of taxable income for such taxable year which the number of days in 1967 bears to the total days in such taxable year ending in 1967.

(c) The computation of any net operating loss deduction for a taxable year covered by this subsection will require the further modification stated in subsection (3) hereof.

(3) In computing the net operating loss deduction allowed by this subsection there shall be included in gross income the amount of interest which is excluded from gross income by subsection (a), decreased by the amount of interest paid or accrued which is disallowed as a deduction by subsection (e). In determining the amount of the net operating loss deduction under this subsection of any corporation, there shall be disregarded the net operating loss of such corporation for any taxable year for which such corporation is an electing small business corporation under Part III-A.

SECTION 2. This Act shall take effect upon approval.

(Approved April 28, 1967.)

ACT 33

H. B. 474.

A Bill for an Act Relating to Taxation and Amending Chapter 121, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 121, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto new sections to be appropriately designated and to read as follows:

"Sec. 121-..... Definitions. As used in this Act, unless the context otherwise requires:

"(a) 'Business income' means income arising from transactions and

activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

"(b) 'Commercial domicile' means the principal place from which the trade or business of the taxpayer is directed or managed.

"(c) 'Compensation' means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

"(d) 'Nonbusiness income' means all income other than business income.

"(e) 'Public utility' has the meaning given that term in section 104-1.

"(f) 'Sales' means all gross receipts of the taxpayer not allocated under those five sections of this Act, whose section headings read **Specified non-business income, Rents—royalties, Allocation of capital gains and losses, Allocation of interest and dividends, and Allocation of patent and copyright royalties**, being Sections 121-..., 121-..., 121-..., 121-..., and 121-..., respectively, of this Act.

"(g) 'State' means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

"**Sec. 121-..... Taxpayers affected.** Any taxpayer having income from business activity which is taxable both within and without this State, other than activity as a public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this Act.

"**Sec. 121-..... Taxable in another state.** For purposes of allocation and apportionment of income under this Act, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

"**Sec. 121-..... Specified nonbusiness income.** Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in the next succeeding three sections of this Act, to wit, section 121-...; 121-...; and 121-....

"**Sec. 121-..... Rents—royalties.** (a) Net rents and royalties from real property located in this State are allocable to this State.

"(b) Net rents and royalties from tangible personal property are allocable to this State:

"(1) if and to the extent that the property is utilized in this State, or

"(2) in their entirety if the taxpayer's commercial domicile is in this State and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

"(c) The extent of utilization of tangible personal property in a state is

determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

“Sec. 121-..... Allocation of capital gains and losses. (a) Capital gains and losses from sales of real property located in this State are allocable to this State.

“(b) Capital gains and losses from sales of tangible personal property are allocable to this State if

“(1) the property had a situs in this State at the time of the sale or

“(2) the taxpayer’s commercial domicile is in this State and the taxpayer is not taxable in the state in which the property has a situs.

“(c) Capital gains and losses from sales of intangible personal property are allocable to this State if the taxpayer’s commercial domicile is in this State.

“Sec. 121-..... Allocation of interest and dividends. Interest and dividends are allocable to this State if the taxpayer’s commercial domicile is in this State.

“Sec. 121-..... Allocation of patent and copyright royalties. (a) Patent and copyright royalties are allocable to this State:

“(1) if and to the extent that the patent or copyright is utilized by the payer in this State, or

“(2) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer’s commercial domicile is in this State.

“(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer’s commercial domicile is located.

“(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer’s commercial domicile is located.

“Sec. 121-..... Apportionment of business income—percentage. All business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

“Sec. 121-..... Apportionment—property factor. The property

factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

“Sec. 121-..... Apportionment—property factor—owned and used property. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from sub-rentals.

“Sec. 121-..... Apportionment—property factor—average value. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the director of taxation may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

“Sec. 121-..... Apportionment—payroll factor. The payroll factor is a fraction, the numerator of which is the total amount paid in this State during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

“Sec. 121-..... Compensation—where paid. Compensation is paid in this State if:

- “(a) the individual's service is performed entirely within the State; or
- “(b) the individual's service is performed both within and without the State, but the service performed without the State is incidental to the individual's service within the State; or
- “(c) some of the service is performed in the State and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the State, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

“Sec. 121-..... Apportionment—sales factor. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

“Sec. 121-..... Apportionment—sales factor—tangible personalty. Sales of tangible personal property are in this State if:

- “(a) the property is delivered or shipped to a purchaser, other than the United States government, within this State regardless of the f.o.b. point or other conditions of the sale; or
- “(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

“Sec. 121-..... Apportionment—sales factor—non-tangible per-

sonalty. Sales, other than sales of tangible personal property, are in this State if:

- “(a) the income-producing activity is performed in this State; or
- “(b) the income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other state, based on costs of performance.

“**Sec. 121-..... Equitable adjustment of formula.** If the allocation and apportionment provisions of this Act do not fairly represent the extent of the taxpayer’s business activity in this State, the taxpayer may petition for or the director of taxation may require, in respect to all or any part of the taxpayer’s business activity, if reasonable:

- “(a) separate accounting;
- “(b) the exclusion of any one or more of the factors;
- “(c) the inclusion of one or more additional factors which will fairly represent the taxpayer’s business activity in this State; or
- “(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer’s income.

“**Sec. 121-..... Purpose of act.** This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

“**Sec. 121-..... Citation of act.** This Act may be cited as the Uniform Division of Income for Tax Purposes Act.”

SECTION 2. 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 3. Severability. If any part, section, sentence, clause, or phrase of this Act, or its application to any persons or circumstances is for any reason held to be unconstitutional or invalid, the remaining portions of this Act to other persons or circumstances, shall not be affected. The Legislature hereby declares that it would have passed this Act and each part, section, sentence, clause, or phrase thereof irrespective of the fact that any one or more other parts, sections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION 4. Effective date. This Act, upon its approval, shall apply with respect to taxable years beginning on or after January 1, 1968.

(Approved April 28, 1967.)

ACT 34

H. B. 475.

A Bill for an Act Relating to Taxation and Amending Chapter 119, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 119-3, Revised Laws of Hawaii 1955, as amended,

is hereby amended by adding thereto a new subsection, to be designated as subsection 119-3(g), and to read as follows:

“(g) Each taxpayer liable for the tax imposed by this chapter on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same transaction and property to another state and any subdivision thereof, but such credit shall not exceed the amount of the use tax imposed under this chapter on account of the said transaction and property. The director may require the taxpayer to produce the necessary receipts or vouchers indicating the payment of the sales or use tax to another state or subdivision, as aforesaid, as a condition for the allowance of the said credit.”

SECTION 2. This Act, upon its approval, shall take effect as of January 1, 1968.

(Approved April 28, 1967.)

ACT 35

H. B. 920.

A Bill for an Act Relating to Exemptions from Assessment for Improvements.

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

SECTION 1. Chapter 138 of the Revised Laws of Hawaii 1955 is amended by adding a new section to be appropriately designated and to read as follows:

“Section 138-. . . . Notwithstanding sections 146-134, 147-113, 148-124, and 153-3 or any other law to the contrary, any society, association or corporation engaged in religious, charitable, educational, scientific, literary or other benevolent purposes whose land is exempt by law from assessment for improvements, may file or join others in filing a petition for an improvement district and shall, by such filing or joining to file, be deemed to have waived exemption from assessment for improvements and its lands within the improvement district shall be assessed for improvements without contribution from the county or the State.”

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

(Approved April 28, 1967.)

ACT 36

H. B. 501.

A Bill for an Act Amending Section 3-21, Revised Laws of Hawaii 1955, as Amended, Relating to Rules and Regulations.

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

SECTION 1. The second sentence of section 3-21, Revised Laws of Hawaii 1955, as amended, is amended to read as follows:

“Such rules and regulations may include any matter not inconsistent with

law concerning the establishment and maintenance of a system of personnel management based on merit principles, including but not limited to matters set forth in this section, and may be amended or repealed in like manner as the same were adopted.”

SECTION 2. This Act shall take effect upon its approval.
(Approved April 28, 1967.)

ACT 37

H. B. 277.

A Bill for an Act Relating to Taxation and Amending Chapters 14A, 115, 116, 117, 119, 121, 126, and 128, Revised Laws of Hawaii 1955.

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

SECTION 1. The words “division,” “divisions,” and “divisional,” referring to a taxation division or divisional committee thereof, wherever used in the Revised Laws of Hawaii 1955 and in any Session Laws of Hawaii, are hereby deleted and substituted therefor by the word, “district.” Without prejudice to the generality of the foregoing recital, the following sections in the Revised Laws of Hawaii 1955, as amended, are accordingly amended, to effect the aforesaid deletion and substitution:

- (1) Section 14A-15 in the eighth line thereof;
- (2) Section 115-1 in the fifth, sixth and seventh lines thereof;
- (3) Section 115-2 in the first, second, third, fifth, seventh, ninth and eleventh lines thereof;
- (4) Section 115-4 in the tenth, eleventh, twelfth, twenty-third and twenty-fourth lines thereof;
- (5) Section 115-12 in the fourth line thereof;
- (6) Section 115-13 in the second, third and sixteenth lines thereof;
- (7) Section 115-14 in the third line thereof;
- (8) Section 115-35 in the seventh line thereof;
- (9) Section 115-36 in the eleventh line thereof;
- (10) Section 115-37 in the fifth, eleventh, twelfth, fourteenth, sixteenth, eighteenth and twenty-eighth lines thereof;
- (11) Section 116-3 in the third and sixth* lines thereof;
- (12) Section 116-4 in the third and fourteenth lines thereof;
- (13) Section 116-12 in the fourth, seventh, ninth and eleventh lines thereof;
- (14) Section 116-15 in the third line thereof;
- (15) Section 117-9 in the twenty-second line thereof;
- (16) Section 117-25 in the twelfth line thereof;
- (17) Section 117-28 in the twelfth line thereof;
- (18) Section 117-29 in the third and sixth lines thereof;
- (19) Section 117-32 in the thirteenth line thereof;
- (20) Section 119-5 in the seventh line thereof;

* So in original Act “sixth” apparently means “fifth.”

- (21) Section 121-17 in the tenth line thereof;
- (22) Section 121-33 in the third line thereof;
- (23) Section 121-46 in the fifth and sixth lines thereof;
- (24) Section 126-4 in the third line thereof;
- (25) Section 128-8 in the sixteenth line thereof;
- (26) Section 128-9 in the sixteenth line thereof;
- (27) Section 128-10 in the fourth line thereof;
- (28) Section 128-22.1 in the forty-fourth line thereof;
- (29) Section 128-23 in the fifth, tenth, seventeenth and twenty-third lines thereof;
- (30) Section 128-27 in the twenty-fourth, twenty-fifth, twenty-ninth, thirty-fourth and thirty-fifth lines thereof;
- (31) Section 128-28 in the fourth and sixth lines thereof;
- (32) Section 128-31 in the second and twelfth lines thereof;
- (33) Section 128-32 in the ninth line thereof.

SECTION 2. Notwithstanding the provisions of section 1 of this Act, section 128-8, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the words "division and," which appear between the words "taxation" and "district" in the second sentence thereof.

SECTION 3. This Act shall take effect upon its approval.
(Approved May 1, 1967).

ACT 38

H. B. 498.

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

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

SECTION 1. The revisor of statutes shall cause the new revision of the Hawaii statutes, prepared in accordance with Act 29 of the Session Laws of Hawaii 1966, to be printed and published. The new revision shall be designated and entitled "Hawaii Revised Statutes" and may be referred to by abbreviation as "HRS."

SECTION 2. The Hawaii Revised Statutes, together with prefix, annotations, footnotes, appendices, tables, and indices, shall be printed and bound in a set of eight volumes or so. The revisor may enter into contracts for the printing and binding of the Hawaii Revised Statutes prior to the approval by the 1968 legislature of the full draft.

SECTION 3. Four thousand sets of the Hawaii Revised Statutes shall be printed. The printed sets shall be deposited with the lieutenant governor for distribution by him after the legislature approves the revision.

SECTION 4. This Act shall take effect upon its approval.
(Approved May 1, 1967).

A Bill for an Act Relating to the Exemption of Local Development Companies from the General Excise Tax.

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

SECTION 1. Section 117-20, Revised Laws of Hawaii 1955, is amended as follows:

a. The first paragraph of section 117-20 is amended by adding a new subsection to read as follows:

“(p) 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 such loans are made at the same rates of interest payable to the Small Business Administration by the local development corporation.”

SECTION 2. This Act shall take effect on July 1, 1967.

(Approved May 2, 1967.)

A Bill for an Act Relating to the Purchase of Annuities for Employees of the Department of Education and the University of Hawaii to Qualify Under Section 403(b) of the Internal Revenue Code of 1954, as Amended.

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

SECTION 1. Title 6, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be appropriately numbered and to read as follows:

“Sec. Annuities. (a) The purpose of this bill is to provide the means by which employees of the Department of Education and the University of Hawaii may qualify for the favorable benefits of section 403(b) of the Internal Revenue Code of 1954, as amended.

(b) The Department of Education and the University of Hawaii may, on behalf of any employee of their respective institutions, enter into a written agreement with any such employee, to purchase for said employee an annuity contract from an insurer who holds a certificate of authority under the provisions of section 181-82, Revised Laws of Hawaii 1955.

(c) The Department of Education and the University of Hawaii may also enter into an agreement under which such employer shall withhold from the salary of the employee the amount of the premiums payable on account of such annuity contract, and shall make such premium payments on behalf of the employee.

(d) Each employer may adopt rules to implement this Act including, but not by way of limitation, (a) the method of filing an election to accept an adjustment in earnings and revocation of the election, (b) the effective date of an election, (c) changes in the amount of the adjustment in earnings, and (d) selection of the insurance company or companies from which the annuity contracts are to be purchased.

(e) A reduction in salary authorized by an employee under terms of this Act shall in no way alter the amount of regular compensation or gross salary upon which his contribution to the employees' retirement system is based."

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

(Approved May 2, 1967.)

ACT 41

H. B. 284.

A Bill for an Act Relating to Harbors and Amending Section 112-9, Revised Laws of Hawaii 1955.

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

SECTION 1. Declaration of purpose. The purpose of this Act is to reduce the potential liability of the State and its harbor pilots which may arise out of accidents involving vessels on which these pilots are performing their duties. In the second paragraph of section 112-9, Revised Laws of Hawaii 1955, it is provided that the pilot, upon boarding a vessel shall "take charge thereof." The words "take charge thereof" purport to place the sole responsibility for the vessel in the hands of the pilot. In fact, such is not the case.

Since the duties and obligations of the pilot are now adequately covered in the Rules and Regulations and Tariff No. 3 of the Department of Transportation, State of Hawaii, sections 1200 through 1216, the references to pilots' duties should be deleted from section 112-9.

SECTION 2. The second paragraph of section 112-9, Revised Laws of Hawaii 1955, is hereby deleted in its entirety.

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

(Approved May 4, 1967).

ACT 42

H. B. 658.

A Bill for an Act Amending Section 3-21(a), Revised Laws of Hawaii 1955, as Amended, Relating to Examinations.

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

SECTION 1. The first paragraph of subsection (a) of section 3-21, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding the following sentences to the end of the first paragraph:

"The director may, for purposes of expediting the examination process,

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require the applicants to take the written examinations prior to the filing of their formal applications. Upon the successful completion of the written examinations, the applicants shall then file their formal applications.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 4, 1967).

ACT 43

H. B. 674.

A Bill for an Act Requiring Full Disclosure in Advertising Relating to Retail Installment Sales.

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

SECTION 1. Section 201A-1 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the following paragraph thereto:

“Total sale price” means the sum of the cash sale price, official fees, finance charge, the amounts charged for insurance and other benefits, if any, and all other fees and charges related to the sale.

SECTION 2. A new section is added to section 201A to read as follows:

“**Section 201A-..... Advertising in connection with retail installment sales.** Any person who advertises by television, radio, telephone, newspaper, magazine, other printed material, or in any other way, for the retail installment sale of goods or services, and who in such advertising recites the down payment or the amount of installment payments or both shall in the same advertisement recite the total sale price, the period of time over which the installment payments are to be made, and the total amount of goods or services to which such total sale price relates. This section shall not apply to catalog offers to sell which conform to the requirements of section 201A-8.”

SECTION 3. This Act shall take effect upon its approval.
(Approved May 4, 1967).

ACT 44

H. B. 865.

A Bill for an Act Pertaining to Emigrant Agent and Amending Chapter 98 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 98-1 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the period at the end of the last sentence thereof and by adding the following thereto: “; or (d) to a person engaging in such activities at a university or college in Hawaii for the purpose of offering employment to students or graduates of such institutions provided that the person, prior to engaging in the activities, gives a written notice to the uni-

versity or college of his intent to engage in the activities; or (e) to a person soliciting, inducing, procuring or hiding employees whose work is of a professional, managerial or specialized nature.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 4, 1967).

ACT 45

H. B. 988.

A Bill for an Act to Amend Section 106C-4 of the Revised Laws of Hawaii 1955, as Amended, Relating to the Motor Carrier Law.

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

SECTION 1. Section 106C-4 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(g) ‘Transportation of property’ includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, carriage, ventilation, refrigeration, icing, dunnage, storage in transit, handling and its consolidation for the purposes of forwarding within the State.”

SECTION 2. Existing statutory language to be deleted is bracketed and new language is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed language or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved May 4, 1967).

ACT 46

H. B. 1009.

A Bill for an Act Relating to Real Property Tax Exemptions and Amending Chapter 128 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 128 of the Revised Laws of Hawaii 1955 is amended by adding a new sentence to the end of the last paragraph of subsection 128-13(d) and to the end of subsection 128-18(a) to read as follows:

“Application for the exemption or exemptions under this section shall be filed but once and the exemption or exemptions shall apply each year thereafter; provided that the claimant shall notify the director of any change in his eligibility as governed by this section.”

SECTION 2. This Act shall take effect on January 1, 1968.
(Approved May 4, 1967).

* Edited accordingly.

A Bill for an Act Relating to County Chairman.

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

SECTION 1. Chapter 138 of the Revised Laws of Hawaii 1955 is amended by adding a new section as follows:

“Section 138-..... Special elections. If a person elected in a general election to the office of chairman of the board of supervisors of a county dies before January 2 following his election, the governor shall issue a proclamation within ten days after the occurrence of the death requiring special elections to be held to fill the vacancy so created. The proclamation shall provide that a primary election be held within sixty days after, but no sooner than forty-five days after, the occurrence of the death to nominate candidates for a general election to be held thirty days after the primary election. The governor shall issue a proclamation within ten days after the approval of this Act requiring special elections to be held if any person elected in the general election of 1966 to the office of chairman of the board of supervisors of a county died before January 2, 1967, and such proclamation shall provide that a primary election be held within sixty days after, but no sooner than forty-five days, after the approval of this Act to nominate candidates for a general election to be held thirty days after the primary election. In any case, the tenure of any holdover or temporary chairman then serving shall terminate when the successor chairman shall be so elected in a general election and qualified. If any special election is held in the county within one hundred and twenty days after, but no sooner than forty-five days, after the occurrence of the death or approval of this Act, as the case may be, then such special election shall be held in conjunction with the general election provided by this Act.

“Except as otherwise provided herein, the special elections shall conform to chapter 11, Revised Laws of Hawaii 1955, as amended, insofar as applicable.

“Each candidate shall be a qualified elector of the county in which he is a candidate for chairman. Any person who holds an elective county or state office by election, holdover or by selection by the board of supervisors of a county of the State of Hawaii, or is a department head or first deputy or first assistant to the head of any department of the state or a county government shall, within three days after filing nomination papers to be a candidate for chairman, resign from his state or county office. Failure of any such public officer to resign from his office within the time prescribed in this section shall result in the rejection of his nomination papers and forfeiture of his filing fee and his name shall not appear upon any official ballot.

“There shall be deposited with each nomination paper a fee of \$25 which shall be paid into the treasury of the respective counties. The county clerk shall provide appropriate nomination papers.

“The expenses of the special elections shall be paid by the respective counties in which they are held.”

SECTION 2. This Act shall apply to each county in the State unless a county adopts a charter which provides for succession of the office of chairman of the board of supervisors under the contingency covered by this Act.

SECTION 3. All laws in conflict and parts of laws in conflict with this Act are hereby amended to conform with the provisions of this Act.

SECTION 4. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. This Act shall take effect upon its approval.
(Approved May 5, 1967.)

ACT 48

H. B. 209.

A Bill for an Act Relating to Gross Weight, Axle and Wheel Loads and Amending Chapter 311, Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection (a) of section 311-20, Revised Laws of Hawaii 1955, is amended to read as follows:

“(a) The total gross weight of any such vehicle or combination of vehicles shall not exceed that determined by the formula $W = 800(L + 40)$; in which “W” is the total gross weight, including vehicle and load, and “L” is the distance in feet between the first and last axles of the vehicle or combination of vehicles; provided that, vehicles or a combination of vehicles with 3, 4, or 5 axles having a single axle weight of not more than 18,000 pounds and a distance from the first axle to the last axle of 19 feet or greater but less than 52 feet, shall be permitted to be operated or moved upon any public road, street or highway within the State although such vehicles’ total gross weight exceeds that determined by the above formula if the axle weights of such vehicle or combination of vehicles do not exceed the allowable limits shown on the following table:

TABLE OF ALLOWABLE MAXIMUM WEIGHTS

Distance to the nearest foot measured between any 3 or more consecutive axles	Allowable weight in pounds for any group of 3 or more consecutive axles			
	3 Axles	4 Axles	5 Axles	
19	48,000	52,500	Not Permitted	
20	49,000	53,500		
21	49,500	54,000		
22	50,500	54,500		
23	51,000	55,500		
24	52,000	56,000		
25	52,500	56,500		
26	53,500	57,500		
27	54,000	58,000		
28		58,500		
29		59,500		
30		60,000		
31		60,500		
32		61,500		
33		62,000		
34		62,500		
35		63,500		
36		64,000		
37		64,500		
38		65,500		69,500
39		66,000		70,500
40		66,500		71,000
41		67,000		71,500
42		68,000		72,000
43		68,500		73,000
44		69,500		73,280
45		70,000		73,280
46		70,500		73,280
47		71,500		73,280
48		72,000		73,280
49		72,500		73,280
50		73,280	73,280	
51		73,280	73,280	

Provided, that the maximum gross weights allowable under this subsection 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; and provided further, that no vehicle or combination of vehicles shall be used or operated: (1) 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 (2) with a total weight in excess of its designed capacity as indicated by its designed gross vehicle weights or gross combination weights; and provided further, that operators of vehicles under the jurisdiction of the public utilities commission shall file with the commission a copy of the design specifications of the manufacturer or other evidence of the designed gross vehicle weight or gross combination weight.”

SECTION 2. This Act shall take effect on July 1, 1967.

(Approved May 5, 1967.)

ACT 49

S. B. 31.

A Bill for an Act Relating to the Repeal of the Fair Trade Act, Chapter 205, Part II, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Part II, chapter 205, Revised Laws of Hawaii 1955, as amended, is hereby repealed.

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

(Approved May 11, 1967.)

ACT 50

S. B. 216.

A Bill for an Act Relating to Informational and Educational Meetings During Working Hours.

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

SECTION 1. Chapter 3 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to read as follows:

“3-80.5. Meetings. Each department shall permit its employees to attend informational and educational meetings conducted during working hours by duly recognized governmental employee organizations, provided that these meetings shall permit the attendance of members and nonmembers and shall be scheduled for periods of not more than two hours once every three months at times which do not interfere with the normal operations of the respective departments.”

SECTION 2. This Act shall take effect on July 1, 1967.

(Approved May 11, 1967.)

ACT 51

S. B. 409.

A Bill for an Act Relating to Employment Security and Amending Chapter 93, Revised Laws of Hawaii 1955.

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

SECTION 1. Paragraph (2) of subsection (d) of section 93-7, Revised Laws of Hawaii 1955, is amended to read:

“(2) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including service performed as an ordinary incident thereto, except (A) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (B) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which, for some portion in each of twenty different calendar weeks in the current or preceding calendar year, had in its employ one or more persons performing the service, whether or not the weeks were consecutive and whether or not the same individuals performed the service in each week, and (C) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;”

SECTION 2. Section 93-78, Revised Laws of Hawaii 1955, is amended to read:

“**Sec. 93-78. Combining services performed for predecessor and successor employing units.** If any employing unit succeeds to or acquires the organization or business of another, the number of employees performing a service and the number of weeks during which the service is performed for the predecessor and successor shall be combined for the purpose of determining whether the service is subject to this chapter if the service is agricultural labor or service described in section 93-7 (d)(2)(B).”

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

(Approved May 11, 1967.)

A Bill for an Act Amending Section 3-23 and Section 3-25, Revised Laws of Hawaii 1955, as Amended, Relating to Suspensions and Appeals from Suspensions, Dismissals and Demotions.

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

SECTION 1. The second paragraph of section 3-23, Revised Laws of Hawaii 1955, is hereby amended to read:

“An employee who is suspended for a period not in excess of four working days, whether consecutively or not, shall be entitled to a written notice from the appointing authority setting forth the specific reasons upon

which the suspension is based. Such written notice shall be given to the employee or mailed to him within forty-eight hours after such suspension. A copy of such statement shall be filed with the director."

SECTION 2. The first sentence of the first paragraph of section 3-25, Revised Laws of Hawaii 1955, is hereby amended to read:

"Any regular employee who is suspended, dismissed or demoted may appeal to the commission within twenty days after notice has been sent to him of the suspension, dismissal or demotion, provided that such twenty-day period shall be extended to twenty days from the final notice on his grievance should he exercise the grievance channel."

SECTION 3. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 53

S. B. 620.

A Bill for an Act Amending Section 97-8 of the Revised Laws of Hawaii 1955, as Amended, Relating to the Liability of Third Persons Under the Workmen's Compensation Law.

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

SECTION 1. Section 97-8 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting therefrom the fifth unnumbered paragraph thereof and substituting in its place the following:

"If the action is prosecuted by the employer alone, the court shall first order paid from any judgment for damages recovered the reasonable litigation expenses incurred in preparation and prosecution of such action, together with a reasonable attorney's fee which shall be based solely upon the services rendered by the employer's attorney in effecting recovery both for the benefit of the employer and the employee. After the payment of such expenses and attorney's fees, the court shall apply out of the amount of such judgment an amount sufficient to reimburse the employer for the amount of his expenditure for compensation and shall order any excess paid to the injured employee or other person entitled thereto.

If the action is prosecuted by the employee alone, the court shall first order paid from any judgment for damages recovered the reasonable litigation expenses incurred in preparation and prosecution of such action, together with a reasonable attorney's fee which shall be based solely upon the services rendered by the employee's attorney in effecting recovery both for the benefit of the employee and the employer. After the payment of such expenses and attorney's fee the court shall, on application of the employer, allow as a first lien against the amount of such judgment for damages, the amount of the employer's expenditure for compensation.

If the action is prosecuted both by the employee and the employer, in a single action or in consolidated actions, and they are represented by the same agreed attorney or by separate attorneys, the court shall first order paid

from any judgment for damages recovered, the reasonable litigation expenses incurred in preparation and prosecution of such action or actions, together with reasonable attorney's fees based solely on the services rendered for the benefit of both parties where they are represented by the same attorney, and where they are represented by separate attorneys, based solely upon the service rendered in each instance by the attorney in effecting recovery for the benefit of the party represented. After the payment of such expenses and attorneys' fees the court shall apply out of the amount of such judgment for damages an amount sufficient to reimburse the employer for the amount of his expenditures for compensation and shall order any excess paid to the injured employee or other person entitled thereto.

The amount of reasonable litigation expenses and the amount of attorneys' fees under this section shall be fixed by the court. Where the employer and employee are represented by separate attorneys they may propose to the court, for its consideration and determination, the amount and division of such expenses and fees.

After reimbursement for his compensation payments the employer shall be relieved from the obligation to make further compensation payments to the employee under this chapter up to the entire amount of the balance of the settlement or the judgment, if satisfied, as the case may be, after deducting the cost and expenses, including attorneys' fees."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 54

H. B. 2.

A Bill for an Act Making Appropriations Out of the General Revenues and Approving Expenditures from other Sources for the Fiscal Period Ending June 30, 1968.

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

SECTION 1. The following sums, or so much thereof as shall be sufficient to accomplish the purpose or programs of the agencies designated herein, are hereby appropriated out of moneys in the treasury from general revenues and the expenditures from other sources of revenues designated herein are hereby approved for the fiscal period beginning July 1, 1967 and ending June 30, 1968:

EDUCATION

EDUCATION, DEPARTMENT OF	
Total Requirements	81,385,940
Less Estimated:	105,359,564
Federal Funds:	
Public Law 89-511, Library	334,448
Public Law 85-606, Civil Defense	31,259
Public Law 87-415, MDTA	447,602
Public Law 864, NDEA, Title III	364,622
Public Law 864, NDEA, Title V	93,821

Public Law 864, NDEA, Title X	50,000
Public Law 874, Defense Area	7,500,000
Public Law 88-452, Adult Basic Education	200,000
Public Law 88-452, Neighborhood Youth Corps	380,830
Public Law 88-452, Community Action	411,228
Public Law 85-926, Training of Teachers	59,523
Public Law 89-313, Handicapped Children	77,579
Public Law 89-10, ESEA, Title I	2,206,845
Public Law 89-10, ESEA, Title II	391,656
Public Law 89-10, ESEA, Title III	2,392,900
Public Law 89-10, ESEA, Title V	134,487
Public Law 89-10, ESEA, Title V, Sec. 505	5,264
Veterans' Training	11,974
Public Law 88-210, Vocational Education	354,355
Vocational Education (Smith-Hughes-George Barden)	119,564

Special Funds:

School Lunch and Milk Subsidy	1,019,088
School Lunch Revenue	7,044,032
Lahainaluna Farm Sales	31,525
Driver Education, Student Fees	30,000
Adult Education	115,362

Capital Improvements Program Fund

	165,660
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Net Appropriation

81,385,940

Provided, that the department may recruit for and make commitments to fill new certificated instructional positions for the fiscal year 1968-1969.

Provided, further, that the limitation fixing the maximum authorized number of positions shall not apply for the fiscal year 1967-1968 to the Department of Education.

Provided, further, that anything in the bill and the law, including section 35-29, Revised Laws of Hawaii 1955, as amended, to the contrary notwithstanding, funds authorized by this Act for the Department of Education which are unencumbered and unexpended on June 30, 1968, shall not lapse.

Provided, further, that if a sum less than \$7,500,000 is provided by Congress under the provisions of Public Law 874, or any other public law which amends or supersedes Public Law 874, then the difference between \$7,500,000 and the sum so provided is hereby appropriated; and provided further, that if a sum greater than the \$7,500,000 is provided, then this appropriation shall be reduced to the extent the estimated sum of \$7,500,000 is exceeded for the fiscal year 1967-1968.

Provided, further, that if a sum less than \$508,443 is provided by Congress under provisions of Public Law 864 or any other public law which amends or supersedes Public Law 864, then the difference between \$508,443 and the sum so provided is hereby appropriated, and provided further, that if a sum greater than \$508,443 is provided then this appropriation shall be reduced to the extent the estimated sum of \$508,443 is exceeded for the fiscal year 1967-1968.

UNIVERSITY OF HAWAII

31,984,402

Total Requirements

41,042,226

Less Estimated:

Federal Funds:

Morrill Act Income	266,882
Morrill-Nelson Bankhead Jones	215,000
National Defense Education Act (Language and Area Center)	78,000
National Defense Education Act (Title IV)	198,000
Higher Education Act of 1965 (Title IV)	450,000
Military Commutation	10,500
Smith-Hughes-George Barden	63,566
Public Law 864, NDEA, Title VIII	79,214
Public Law 88-210, Vocational Education Act of 1963	350,310
Hatch Act	324,000
Regional Research Fund	90,250
Regional Research Travel	8,740

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McIntire-Stennis Forestry Act	20,928
Basic Research Fund	21,000
Water Resources Research Act	100,000
Smith-Lever Act	335,521
Agricultural Marketing Act	18,000
Pesticide Chemical Funds	15,000
Rural Civil Defense Fund	15,000
Resources Development	13,500
Higher Education Act of 1965, Title I	229,020
Special Funds:	
College of General Studies	1,032,395
Summer Session	1,184,000
Small Business Management	27,000
Advanced Management Program	118,002
Intramural and Inter-Collegiate Athletics	247,700
Project Funds	2,128,335
Revenue Bond Funds	362,158
U. H. Special Fund	144,727
Statistical and Computing Center	380,186
Community Colleges (Shops and School Lunch)	150,721
School of Medicine (Kellogg and Commonwealth Fund)	170,697
College of General Studies (Trust Fund Activities)	204,252
Economic Education	5,220
Net Appropriation	31,984,402

Provided, that the limitation fixing the maximum authorized number of positions shall not apply for the fiscal year 1967-1968 to the University of Hawaii.

Provided, further, that anything in the bill and the law, including section 35-29, Revised Laws of Hawaii 1955, as amended, to the contrary notwithstanding, funds authorized by this Act for the University of Hawaii which are unencumbered and unexpended on June 30, 1968, shall not lapse.

Provided, further, that the University of Hawaii may recruit for and make commitments to fill new board of regents instructional positions for the fiscal year 1968-1969; provided further, that appointments made under this authorization shall not become effective prior to July 1, 1968.

Provided, further, that the University may recruit and fill new board of regents instructional positions for the Leeward Oahu Community College for fiscal year 1968-1969; provided further, that appointments made under this authorization shall not become effective prior to July 1, 1968.

Provided, further, that the amount of the appropriation necessary to obtain allotments of grants made by the United States Government for agricultural extension service and agricultural experiment station operations shall be payable to the University of Hawaii, *in toto*, by single warrant, or by several warrants, representing periodic allotments but only if this is a necessary condition for receiving such federal allotments. Such disbursements of funds used to obtain the federal allotments may be regularly audited by the federal auditor and shall be subject to the same limitations as the character of expenditures of the federal funds which they offset.

Provided, further, that the University may contract for instructional personnel from July 1, 1967 to June 30, 1968 where such personnel will experience hardship in relocating to Hawaii.

Provided, further, that if federal funds in the amounts designated under the Morrill-Nelson, Bankhead-Jones Act, Hatch Act, and Smith-Lever Act, are not received, then the difference between the amounts designated and the amount received is hereby appropriated.

Provided, further, that the Legislative Reference Bureau may hire on contract not more than two persons, without regard to chapters 3 and 4 of the Revised Laws of Hawaii 1955, to provide aid in the typing and other preparation of reports, bills and resolutions during the months of November to May of the fiscal year.

DEVELOPMENT AND NATURAL RESOURCES

AGRICULTURE, DEPARTMENT OF

General Administration

2,511,770(208)

Net Appropriation

208,474(21)

Marketing and Consumer Services	
Administration	39,795(5)
Commodities	318,522(24.62)
Crop and Livestock Reporting	93,622(9)
Market News Service	35,330(4)
Weights and Measures	121,343(14)
Total Requirements	608,612(56.62)
Less Estimated:	
Federal Funds	13,500
Coffee Inspection Fees	11,870
Net Appropriation	583,242(56.62)
Animal Industry	
Administration	47,009(5)
Livestock Disease Control	165,175(9.5)
Veterinary Laboratory	95,924(9)
Inspection and Quarantine	280,879(25)
Meat Inspection	228,737(21.5)
Meat Grading	17,200
Total Requirements	834,924(70)
Less Estimated:	
Trust Funds	9,500
Net Appropriation	825,424(70)
Plant Industry	
Administration	43,858(5)
Plant Quarantine Inspection	250,403(28.75)
Entomology	164,410(16)
Weed, Seed, and Herbicide	102,359(4.63)
Hawaii Soil and Water Conservation	2,600
Total Requirements	563,630(54.38)
Less Estimated:	
Federal Funds	6,000
Net Appropriation	557,630(54.38)
Farm Loan	
Administration	93,717(7)
Farm Loan Fund	1,062,000
Total Requirements	1,155,717(7)
Less Estimated:	
Farm Loan Reserve Fund	93,717(7)
Farm Loan Revolving Fund	812,000
Net Appropriation	250,000
Milk Control	
Net Appropriation	87,000(6)
Provided, that in the commodities program, the sum of \$23,740 provided for Kona coffee inspection shall be contingent on industry meeting not less than one-half of the total inspectional cost through the assessment of appropriate coffee inspection fees.	
Provided, further, that in the inspection and quarantine program, the department shall increase the fees for the quarantine of cats and dogs so that revenues collected from this source will equal 85% of all costs, excluding amortization of capital improvements, of the quarantine of cats and dogs program.	
Provided, further, that the appropriation for the milk control program is contingent upon passage of legislation establishing such program.	
LAND AND NATURAL RESOURCES,	
DEPARTMENT OF	3,162,154(323.5)
Departmental Administration	
Net Appropriation	258,928(26)
Conveyances	
Net Appropriation	333,458(41)
Fish and Game	
Administration	45,007(5)
Enforcement	235,444(25)
Fisheries, Research and Management	202,325(15)
Wildlife, Research and Management	203,643(20)

	Total Requirements	686,419(65)
	Less Estimated:	
	Federal Funds	215,337(1)
	Special Funds	79,274
	Net Appropriation	391,808(64)
Forestry		
	Administration	87,451(8)
	Forestry Management	727,344(67)
	Research	81,060(2)
	Total Requirements	895,855(77)
	Less Estimated:	
	Federal Funds	80,000(1)
	Net Appropriation	815,855(76)
Land Management		
	Net Appropriation	289,524(31.5)
State Parks		
	Net Appropriation	442,826(68)
Water and Land Development Administration		
	Net Appropriation	67,884(6)
Water Resources Survey		
	Total Requirements	712,322(5)
	Less Estimated:	
	Federal Funds:	
	Hydrography	207,000
	Water Resources Planning	100,000
	Special Fund—Hydrography	12,900
	Net Appropriation	392,422(5)
Flood Control		
	Net Appropriation	36,434(3)
Project Development		
	Net Appropriation	37,356(3)
Supplementation to Irrigation Revolving Fund		
	Waimanalo Irrigation System	84,569(9)
	Waimea Irrigation System	66,990(3)
	Molokai Irrigation System	14,411(2)
	Total Requirements	165,970(14)
	Less Estimated:	
	Special Funds	70,311(14)
	Net Appropriation	95,659
<p>Provided, that the sum of \$100,000 in general fund appropriation authorized for the continuation and expansion of the water resources planning program shall be allotted only to the extent federal matching funds are made available for this purpose.</p>		
<p>Provided, further, that the appropriation supplementing the irrigation system revolving fund shall be reduced to the extent the actual receipts from the Waimea and Waimanalo Irrigation Systems shall exceed the estimated sum of \$47,000 for the fiscal year 1967-1968.</p>		
<p>PLANNING & ECONOMIC DEVELOPMENT,</p>		
<p>DEPARTMENT OF</p>		
		2,614,843(67)
Planning and Economic Development Service		
	Net Appropriation	649,446(55)
Commission on Manpower and Full Employment		
	Net Appropriation	36,700(2)
Foreign Trade and Pacific Affairs		
	Total Requirements	127,889(6)
	Less Estimated:	
	Foreign Trade Zone Revenues	20,706
	Net Appropriation	107,183(6)
Hawaii Capital Loan		
	Total Requirements	300,000
	Less Estimated:	
	Revolving Fund	50,000
	Net Appropriation	250,000

Industry and Product Promotion	
Net Appropriation	30,000
Land Use Commission	
Net Appropriation	46,514(4)
State Technical Services Program	
Total Requirements	108,000
Less Estimated:	
Federal Funds	54,000
Net Appropriation	54,000
Tourism Promotion	
Net Appropriation	1,441,000
Provided, that in the Foreign Trade Zone and Pacific affairs program, revenues from the trade zone operations shall first be expended for the trade zone's harbor operations and the maintenance and upkeep of the trade zone facilities, and receipts in excess of such requirements shall be applied to reduce the general fund appropriation herein provided.	
Provided, further, that the sum of \$54,000 in general fund appropriation is authorized for the state technical services program upon the availability of federal matching funds.	
Provided, further, that in the tourism promotion program, the department may contract for tourism promotion; and provided further, that the department shall not engage in tourism promotion other than by such contract or contracts.	
TRANSPORTATION, DEPARTMENT OF	399,892(17.25)
General Administration	
Total Requirements	775,968(52)
Less Estimated:	
Special Funds:	
Airports	204,895
Harbors	136,596
Highways	341,492
Construction Funds	92,985
Net Appropriation	-----
Airports	
Administration	3,090,220(24)
Operations and Maintenance	2,851,714(207.5)
Total Requirements	5,941,934(231.5)
Less Estimated:	
Special Funds:	
Airports	5,881,215(231.5)
Harbors	60,719
Net Appropriation	-----
Harbors	
Administration	1,422,871(25.5)
Operations and Maintenance	1,734,041(123)
Honolulu Fireboat Operation	294,472
Small Boat Harbors	399,892(17.25)
Total Requirements	3,851,276(165.75)
Less Estimated:	
Special Fund—Harbors	3,451,384(148.50)
Net Appropriation	399,892(17.25)
Highways	
Administration	5,505,813(32)
Operations and Maintenance	4,175,804(329)
Total Requirements	9,681,617(361)
Less Estimated:	
Special Fund—Highways	9,681,617(361)
Net Appropriation	-----
Provided, that in the visitor information program, the services of persons contracted for shall be temporary services, exempt from chapters 3 and 4, Revised Laws of Hawaii 1955, as amended, and provided further, that such employees shall be entitled to participate in any employee benefit programs or privileges.	
Provided, further, that in the Honolulu fireboat operation, the sum of \$51,153 provided	

for additional positions shall be contingent on the reduction of the workweek for firemen by the City and County of Honolulu.
 Provided, further, that the Director of Transportation is authorized to expend out of the airport special funds such amounts as may be deemed necessary for consultant services and other incidental expenses in connection with the preparation for and re-negotiation of the Airport-Airline lease terms at the Honolulu International Airport.

HEALTH, PROTECTIVE AND SOCIAL SERVICES

DEFENSE, DEPARTMENT OF 1,029,568(118)
 Civil Defense

Total Requirements 274,833(15)
 Less Estimated:
 Appropriated Receipts 131,183
 Net Appropriation 143,650(15)
 Command and Administration
 Net Appropriation 423,493(41)
 Maintenance and Operation
 Total Requirements 549,279(62)
 Less Estimated:
 Appropriated Receipts 86,854
 Net Appropriation 462,425(62)

Provided, that if the Hawaii National Guard and the Hawaii Air National Guard shall be called or ordered into the service of the United States, the foregoing appropriations or any part thereof remaining unexpended shall be available to the Hawaii State Guard. If only a part of the Hawaii National Guard or the Hawaii Air National Guard should be called or ordered into the service of the United States, the Adjutant General with the approval of the director of finance shall allocate the foregoing appropriation or any part thereof remaining unexpended between the Hawaii State Guard and the Hawaii National Guard.

HEALTH, DEPARTMENT OF 12,984,373(1566.9)
 General Administration

Departmental Administration 409,061(39)
 Health Education 92,149(10)
 Research, Planning and Statistics 225,272(29.5)
 Total Requirements 726,482(78.5)
 Less Estimated:
 Appropriated Receipts 69,454(10.5)
 Net Appropriation 657,028(68)

District Health Offices
 Total Requirements 295,118(40.5)
 Less Estimated:
 Appropriated Receipts 18,772(3)
 Net Appropriation 276,346(37.5)

Children's Health Services
 Administration 96,949(9)
 Crippled Children 627,994(34)
 Maternal and Child Health 124,124(8)
 Maternity and Infant Care 411,932(28.5)
 Total Requirements 1,260,999(79.5)
 Less Estimated:
 Appropriated Receipts 581,888(50)
 Net Appropriation 679,111(29.5)

Communicable Disease
 Administration 95,032(7)
 Epidemiology 88,544(4)
 Tuberculosis Control 253,800(26)
 Hansen's Disease:
 Hale Mohalu Hospital 489,218(48)
 Kalaupapa Settlement 953,744(59)
 Total Requirements 1,880,338(144)
 Less Estimated:
 Appropriated Receipts 1,217,500

Special Funds	103,000
Net Appropriation	559,838(144)
Dental Health	
Total Requirements	348,906(47.2)
Less Estimated:	
Appropriated Receipts	12,500(1.2)
Net Appropriation	336,406(46)
Environmental Health	
Administration	30,809(2)
Food and Drug	74,851(8)
Health Engineering	151,546(15)
Sanitation	493,458(55)
Mosquito Control	275,709(35)
Rodent Control	304,869(45)
Total Requirements	1,331,242(160)
Less Estimated:	
Appropriated Receipts	16,000(1)
Special Funds	10,072(1)
Trust Fund	6,000
Net Appropriation	1,299,170(158)
Medical Health Services	
Administration	25,955(2)
Chronic Disease	90,355(7)
Hospital and Medical Facilities	115,683(12)
Laboratory Services	309,401(33)
Medicare Administration	64,252(4)
Nutrition	45,862(5)
Public Health Nursing	879,087(116)
Total Requirements	1,530,595(179)
Less Estimated:	
Appropriated Receipts	348,404(37)
Net Appropriation	1,182,191(142)
Mental Health	
Administration	87,909(7)
Preventive and Clinical Services	1,374,630(106)
Hawaii State Hospital	
Administration	184,062(26)
Clinical Services	760,900(61)
Nursing Services	1,614,074(268)
Maintenance and Operations	410,858(43)
Support and Subsistence	748,484(66)
Total Requirements	5,180,917(577)
Less Estimated:	
Appropriated Receipts	77,124(4)
Net Appropriation	5,103,793(573)
Waimano Training School and Hospital	
Administration	45,337(3.4)
Extramural Activities	124,006(4)
Medical and Hospital Services	605,445(90.5)
Social Services and Placement	147,109(16)
Training	109,670(15)
Cottage Life	909,300(163)
Institution Facilities Administration	78,521(9)
Food Service	401,493(31)
Maintenance and Production	430,385(35)
Sewing Services	39,224(2)
Net Appropriation	2,890,490(368.9)
Research Projects	
Total Requirements	909,493
Less Estimated:	
Appropriated Receipts	909,493
Net Appropriation	-----

Provided, that if a sum less than \$1,200,000 is provided by Congress for the Hansen's disease program, then the difference between \$1,200,000 and the sum so pro-

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vided is hereby appropriated; and provided further, that if a sum greater than \$1,200,000 is so provided, then the amount of the net general appropriation shall be reduced to the extent that the actual realization shall exceed the estimated sum of \$1,200,000 for the fiscal year 1967-1968.

Provided, further, that the appropriation for Hawaii State Hospital is intended for an average daily inpatient population of 800.

Provided, further, that the appropriation for Waimano Training School and Hospital is intended for an average daily ward population of 835.

ACT 97—HEALTH FUNCTIONS	6,192,431(1285.8)
Hospital Administration	
Net Appropriation	57,245(4)
Maluhia Hospital	
Net Appropriation	2,326,298(287)
Hilo Hospital	
Total Requirements	2,914,428(373.3)
Less Estimated:	
Hospital Receipts	1,968,564
Net Appropriation	945,864(373.3)
Honokaa Hospital	
Net Appropriation	292,829(34)
Kohala Hospital	
Net Appropriation	227,638(31)
Kona Hospital	
Net Appropriation	359,649(40)
Kula Sanatorium and General Hospital	
Total Requirements	1,259,486(171)
Less Estimated:	
Hospital Receipts	574,244
Net Appropriation	685,242(171)
Maui Memorial Hospital	
Total Requirements	1,711,664(198.5)
Less Estimated:	
Hospital Receipts	1,266,000
Net Appropriation	445,664(198.5)
Hana Medical Center	
Total Requirement	73,744(5)
Less Estimated:	
Hospital Receipts	20,000
Net Appropriation	53,744(5)
Kauai Veterans Memorial Hospital	
Total Requirements	434,349(45)
Less Estimated:	
Hospital Receipts	339,813
Net Appropriation	94,536(45)
Samuel Mahelona Memorial Hospital	
Total Requirements	715,922(96)
Less Estimated:	
Hospital Receipts	18,500
Net Appropriation	697,422(96)
Miscellaneous Services	
Net Appropriation	6,300

Provided, that the appropriation for hospital operating under special funds is a supplement to the estimated receipts for the operation and maintenance of such hospitals for fiscal year 1967-1968.

Provided, further, that the appropriations for hospitals covered under Act 97, Session Laws of Hawaii 1965, are intended for the following average daily inpatient population: Maluhia (144); Hilo (300); Honokaa (30); Kohala (8); Kona (35); Kula (156); Maui Memorial (96); Hana (1); Kauai Veterans (25); and Mahelona (85).

Provided, further, that the appropriations for the hospitals covered under Act 97, Session Laws of Hawaii 1965, shall be allotted directly to the counties in quarterly allotments.

JUDICIAL BRANCH	5,618,134(478)
Supreme Court	
Supreme Court Proper	275,146(19)
Administrative Director	186,400(7)
State Law Library System	91,729(5)
Publication of Hawaii Reports	12,750
Bar Examination	2,000
District Court of Kalawao	250
Revisor of Statutes	311,843(4)
Total Requirements	880,118(35)
Less Estimated:	
Special Funds	2,000
Net Appropriation	878,118(35)
Land Court	
Net Appropriation	38,039(3)
First Circuit Court	
First Circuit Court Proper	966,509(94)
Jury Trial Expenses	320,798
Adult Probation	156,466(18)
Net Appropriation	1,443,773(112)
Family Court	
Family Court Proper	973,776(87)
Juvenile Detention Home	237,010(31)
Net Appropriation	1,210,786(118)
Second Circuit Court	
Second Circuit Court Proper	119,510(11)
Jury Trial Expenses	13,900
Probation Operations	159,357(17.5)
Net Appropriation	292,767(28.5)
Third Circuit Court	
Third Circuit Court Proper	193,011(17)
Jury Trial Expenses	25,000
Probation Operations	156,080(16)
Net Appropriation	374,091(33)
Fifth Circuit Court	
Fifth Circuit Court Proper	104,384(9)
Jury Trial Expenses	9,001
Probation Operations	61,087(5)
Net Appropriation	174,472(14)
District Court	
District Courts of Honolulu	
Judicial Services	353,105(32)
Traffic Violations Bureau	436,887(47)
Rural District Courts	201,359(26)
District Courts of Maui	82,776(10.5)
District Courts of Hawaii	100,542(12)
District Courts of Kauai	31,419(7)
Net Appropriation	1,206,088(134.5)

Provided, that the appropriation for jury trial expenses shall not be used for any other purpose.

Provided, further, that from the appropriation for the office of the administrative director, the Judicial Branch shall make funds available to cover operating expenses of the Judicial Council.

Provided, further, that from the appropriation for the Family Court, the sum of \$153,821 is to be used only for the purpose of placing delinquent wards in foster homes, including child care institutions.

Provided, further, that the appropriation for the Juvenile Detention Home is intended for an average daily ward population of 31 children.

Provided, further, that from the appropriation for the office of the administrative director of courts the sum of \$100,000, or so much thereof as may be necessary, is to be available for rental payments to the counties for space occupied by the district courts.

Provided, further, that in the Revisor of Statutes' program, \$246,000 shall be for the continuing purposes of Act 29 of the Session Laws of Hawaii 1966, and for the

publication of the Hawaii Revised Statutes and any provision in the bill and the law, including sections 34-45 and 35-29, RLH 1955, as amended, to the contrary notwithstanding, any portion of this \$246,000 which is unencumbered and unexpended on June 30, 1968, shall not lapse.

LABOR AND INDUSTRIAL RELATIONS,	
DEPARTMENT OF	918,025(100)
Administration	
Net Appropriation	199,877(20.3)
Computer Center No. 2	
Total Requirements	381,861(23)
Less Estimated:	
Appropriated Receipts	185,888(14.8)
Department of Taxation Requirements	155,545
Net Appropriation	40,428(8.2)
Apprenticeship	
Net Appropriation	47,974(5)
Labor Law Enforcement	
Net Appropriation	229,758(25)
Workmen's Compensation	
Net Appropriation	177,766(19)
Industrial Safety	
Net Appropriation	201,055(21)
Hawaii Employment Relations Board	
Net Appropriation	21,167(1.5)
Manpower Development & Training Act	
Total Requirements	163,000
Less Estimated:	
Special Funds	163,000
Net Appropriation	-----
Employment Security	
Total Requirements	2,042,793(211.2)
Less Estimated:	
Appropriated Receipts	2,042,793(211.2)
Net Appropriation	-----
SOCIAL SERVICES, DEPARTMENT OF	18,042,339(716.6)
Departmental Administration	
Total Requirements	576,415(58)
Less Estimated:	
Federal Funds	224,575(2.92)
Net Appropriation	351,840(55.08)
Parole and Pardon of Felons	
Net Appropriation	172,984(18.5)
Public Housing	
Total Requirements	4,829,120(219)
Less Estimated:	
Special Funds	4,829,120(219)
Net Appropriation	-----
Corrections Division	
Administration	
Net Appropriation	74,314(6)
Detention and Rehabilitation of Juvenile Offenders—	
Hawaii Youth Correctional Facility:	
Net Appropriation	807,412(89)
Juvenile Parole	
Net Appropriation	107,987(7)
Custody and Rehabilitation of Felons—State Prison	
Total Requirements	1,671,070(156)
Less Estimated:	
Special Funds	257,305(9)
Net Appropriation	1,413,765(147)
Custody and Rehabilitation of Felons—Kulani Honor Camp	
Net Appropriation	389,290(34)

Custody and Rehabilitation of Felons—Olinda Honor Camp	
Net Appropriation	221,908(19)
Public Welfare Services	
Administration	235,345(19)
Oahu Branch	1,498,129(191.5)
Rehabilitation Services Branch	346,097(25)
Hawaii Branch	305,581(38.27)
Maui Branch	185,687(23.25)
Kauai Branch	125,011(16.3)
Total Requirements	2,695,850(313.32)
Less Estimated:	
Appropriated Receipts	997,484(17.5)
Special Funds	139,423
Net Appropriation	1,558,943(295.82)
Vocational Rehabilitation	
Total Requirements	1,685,692(75.3)
Less Estimated:	
Appropriated Receipts	1,345,437(30.1)
Net Appropriation	340,255(45.20)
Economic Assistance	
Payments to Indigents and Medically Indigent:	
Aid to Aged, Blind and Disabled	8,145,362
Aid to Families with Dependent Children	10,704,102
Child Welfare Foster Care	784,683
General Assistance	2,131,079
Total Requirements	21,765,226
Less Estimated:	
Appropriated Receipts	9,462,164
Net Appropriation	12,303,062
Payments for Vocational Rehabilitation of the	
Visually Handicapped	
Total Requirements	104,613
Less Estimated:	
Appropriated Receipts	78,459
Net Appropriation	26,154
Payments for Disabled and Paraplegic Veterans	
Net Appropriation	21,425
Act 97—Burial of Indigents	
Net Appropriation	60,500
Act 97—Medical Payments for State and County Pensioners	
Net Appropriation	192,500

Provided, that for engineering services in the public housing program, the position ceiling to be financed out of project funds shall be 13.

Provided, further, that \$36,837 from the State prison program is available to transport and care for felons transferred to mainland penitentiaries.

Provided, further, that the appropriation for the detention and rehabilitation of juvenile offenders program is intended for an average daily ward population of 140 children.

Provided, further, that the appropriation for the custody and rehabilitation of felons—state prison program is intended for an average daily inmate population of 400 felons.

Provided, further, that the appropriation for the custody and rehabilitation of felons—Kulani Honor Camp Program is intended for an average daily inmate population of 60 felons.

Provided, further, that the appropriation for the custody and rehabilitation of felons—Olinda Honor Camp program is intended for an average daily inmate population of 40 felons.

Provided, further, that from the appropriation for the juvenile parole program, the sum of \$27,054 shall be used for purchasing foster home care and clothing for wards paroled from Hawaii youth correctional facility.

Provided, further, that the sum of \$41,261 in the social welfare services program shall be available for scholarships on a state-wide basis to any qualified applicant.

Provided, further, that the appropriation for payments for indigents is intended for average monthly caseloads of: aid to the aged, blind and disabled—2,904 cases;

aid to families with dependent children—3,641 cases; child welfare foster care—616 cases; and general assistance—1,100 cases.

Provided, further, that the appropriation for medical payments for indigents and medical indigents is intended for the following: inpatient care—7,365 patients for an average length of stay of 8.3 days per patient; chronic illness care—712 patients for an average length of stay of 211.9 days per patient; nursing home care—452 patients for an average length of stay of 273.3 days per patient; and out-patient care—30,926 patients for an average of 4.9 visits per patient.

FINANCE, COMMERCE AND STAFF DEPARTMENTS

ACCOUNTING AND GENERAL SERVICES,

DEPARTMENT OF	9,757,448(621)
Departmental Administration	
Net Appropriation	123,484(11)
Insurance Management Program	
Administration	750
Commercial Insurance Purchase of Auto Fleet Coverage	52,570
State Insurance Fund	
Workmen's Compensation	300,000
Fire and Other Casualties	170,000
Total Requirements	523,320
Less Estimated:	
Special and Federal Funds	76,285
Net Appropriation	447,035
Internal Post-Audit	
Net Appropriation	112,228(11)
Division of Accounting	
Funds Accounting	65,752(7)
Systems Accounting	54,714(3)
Pre-Audit	114,174(12)
Net Appropriation	234,640(22)
Computer Center No. 1	
Total Requirements	351,107(29)
Less Estimated:	
Reimbursements	38,400
Net Appropriation	312,707(29)
Public Archives Division	
Records Service	82,402(12.75)
Records Management	46,388(6.25)
Captain Cook Memorial	500
Total Requirements	129,290(19)
Less Estimated:	
Special Funds	500
Net Appropriation	128,790(19)
Division of Central Services	
Maintenance and Operation of Buildings and Grounds	1,495,831(168)
Repairs and Alterations of Buildings	310,901(20)
Central Messenger Service	20,870(5)
Total Requirements	1,827,602(193)
Less Estimated:	
Special Funds	87,893
Net Appropriation	1,739,709(193)
Automotive Services Division	
Parking	170,003(6.5)
Motor Pool	108,119(8.5)
Total Requirements	278,122(15)
Less Estimated:	
Special Funds	278,122(15)
Net Appropriation
Land Surveying	
Net Appropriation	279,126(28)
Division of Public Works	
Public Works Administration	
Net Appropriation	113,585(12)

Division of Purchasing and Supply	
Central Purchasing and Supply	96,542(13)
Inventory Management	8,981(1)
Federal Surplus Property	93,677(10)
State Surplus Property	9,836
Total Requirements	209,036(24)
Less Estimated:	
Federal Surplus Property Revolving Fund	93,677(10)
State Surplus Property Revolving Fund	9,836
Net Appropriation	105,523(14)
Kamehameha Day Celebration Commission	
Celebration Expenses	
City and County of Honolulu	10,000
Hawaii County	5,000
Kauai County	2,500
Maui County, including Kalaupapa	3,000
Net Appropriation	20,500
Act 97 Functions	
Auxiliary Services	
Departmental Administration	22,186(3)
Post-Audit	27,267(3)
Central Services	54,867(6)
Commercial Insurance Purchase of Auto Fleet Coverage	3,570
Workmen's Compensation	50,000
Net Appropriation	157,890(12)
Repairs and Maintenance of Schools	
Total Requirements	6,196,427(291)
Less Estimated:	
Bond Funds	214,196(21)
Net Appropriation	5,982,231(270)
Provided, that for the architectural and engineering services in the public works program, the ceiling for positions financed from project funds shall be 59.	
Provided, further, that an additional amount of \$10,000 is authorized to be appropriated from the general fund to cover any deficit incurred in the federal surplus property program.	
Provided, further, that the sum of \$100,000 included in the maintenance and operation of buildings and grounds programs for the expenses of the State Capitol shall not be expended for any other purposes.	
ATTORNEY GENERAL, DEPARTMENT OF THE	762,127(54)
Attorney General's Office Proper	753,064(58)
Litigations	100,000
Total Requirements	853,064(58)
Less Estimated:	
Special Funds	176,210(14)
Net Appropriation	676,854(44)
Office of the Sheriff	
Net Appropriation	9,900(1)
Bureau of Crime Statistics	
Net Appropriation	11,517(2)
Bureau of Civil Identification	
Net Appropriation	33,491(4)
Commission on Subversive Activities	
Net Appropriation	17,765(2)
Act 97 Functions	
Auxiliary Services	
Attorney General's Office Proper	
Net Appropriation	12,600(1)
BUDGET AND FINANCE, DEPARTMENT OF	44,720,056(118)
Departmental Administration	
Net Appropriation	96,362(8)
Budget Division	
Budget Services	240,147(20)

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Bonus to Pensioners	2,797,300
Equipment Contingency	25,000
Net Appropriation	3,062,447(20)
Management Division	
Management Services	68,391(6)
Children and Youth	24,882(2)
Net Appropriation	93,273(8)
State-Wide Information System Division	
Net Appropriation	379,282(42)
Finance Division	
Cash and Debt Management	61,773(6)
Public Debt Service	43,816
Bonded Debt	21,094,502
Veterans' Loans	1,886,021(2)
Total Requirements	23,086,112(8)
Less Estimated:	
Special Funds	1,886,021(2)
Net Appropriation	21,200,091(6)
Employees' Retirement System	
Administration	256,749(24)
Contributions	14,602,907
Pensions	35,788
Total Requirements	14,895,444(24)
Less Estimated:	
Counties' Pro-Rata Share	88,317
Net Appropriation	14,807,127(24)
Employees' Group Medical and Hospital care	
Administration	79,454(7)
Contributions	3,508,882
Net Appropriation	3,588,336(7)
Commission on Aging	
Total Requirements	125,174(3)
Less Estimated:	
Federal Fund—Older Americans Act	65,400
Net Appropriation	59,774(3)
Act 97 Functions	
Employees' Retirement System Contributions	
Net Appropriation	1,433,364
Provided, that the Governor may transfer funds and personnel from existing agencies and departments of the State government for the purpose of establishing an integrated state-wide data processing system of the State including all related activities.	
Provided, further, that the Board of Trustees of the Employees' Group Medical and Hospital Care program may use so much of the contributions appropriation as necessary to advance to employee-beneficiaries their monthly contributions to the Fund.	
EXECUTIVE	964,899(25)
Governor's Office	
Net Appropriation	347,788(16)
Washington Place	
Net Appropriation	75,363(6)
Governor's Contingent Fund	
Net Appropriation	150,000
Hawaii Office of Economic Opportunity	
Total Requirements	256,640
Less Estimated:	
Federal Funds	98,000
Net Appropriation	158,640
Western Interstate Commission for Higher Education	
Net Appropriation	83,100
Institute for Technical Exchange	
Net Appropriation	2,550

State Foundation on Culture and the Arts	
Net Appropriation	90,000(3)
Committee on Employment of the Handicapped	
Net Appropriation	22,458
Consumer Protection	
Net Appropriation	35,000
Provided, that the appropriation for the governor's office and Washington Place shall be expended at the discretion of the Governor.	
Provided, further, that expenditures from the governor's contingent fund may be made with the approval of the Governor for urgent needs; a detailed accounting of all expenditures shall be submitted to the legislature 20 days prior to the next regular session of the legislature.	
Provided, further, that from the appropriation for the State Foundation on Culture and the Arts, \$50,000 shall be used for matching Federal Funds.	
Provided, further, that the salary of the Executive Director of the State Foundation on Culture and the Arts shall not exceed \$17,000.	
LIEUTENANT GOVERNOR, OFFICE OF THE	185,289(11)
Lieutenant Governor's Office	
Net Appropriation	149,084(11)
Elections Administration	
Net Appropriation	36,205
Provided, that the appropriation for the lieutenant governor's office shall be expended at the discretion of the Lieutenant Governor.	
PERSONNEL SERVICES, DEPARTMENT OF	514,392(47)
Personnel Services	
Net Appropriation	479,318(44)
Appeals Board	
Net Appropriation	11,600
Act 97 Functions	
Auxiliary Services	
Personnel Services	
Net Appropriation	23,474(3)
REGULATORY AGENCIES, DEPARTMENT OF	1,121,867(112)
Administration	
Net Appropriation	128,815(13)
Bank Examination	
Net Appropriation	149,895(15)
Business Registration	
Net Appropriation	59,765(7)
Fire Marshal	
Net Appropriation	36,979(3)
Insurance Division	
Net Appropriation	107,769(12)
Regulatory Boards and Commissions	
Net Appropriation	27,901
Professional and Vocational Licensing	
Net Appropriation	293,684(32)
Public Utilities Commission	
Net Appropriation	317,059(30)
TAXATION, DEPARTMENT OF	3,305,998(365)
Headquarters Administration	
Net Appropriation	506,948(45)
Property Technical	
Net Appropriation	239,116(29)
Systems and Procedures	
Net Appropriation	249,933(13)
Field Administration	
Net Appropriation	183,330(15)
Property Assessment	
Net Appropriation	557,260(68)

ACT 54

Income Assessment and Audit	
Net Appropriation	1,121,180(136)
Collection	
Net Appropriation	435,806(59)
Tax Appeals	
Board of Review	5,500
Tax Appeal Court	6,925
Net Appropriation	12,425

SUBSIDIES TO COUNTIES AND PRIVATE AGENCIES

LEAHI HOSPITAL

Total Requirements	1,595,027(94)
Less Estimated:	
Hospital Receipts	89,020
Net Appropriation	1,506,007(94)
As a supplement to the estimated receipts for the operation and maintenance of the tuberculosis hospital in connection with the tuberculosis treatment program; provided, that the appropriation shall be reduced to the extent that the actual receipts and recoveries shall exceed the estimated sum of \$89,020 for the fiscal year 1967-1968. The appropriation above is intended for an average daily in-patient population of 170 for the tuberculosis program, including 50 partially rehabilitated mental patients transferred from state hospital.	
Provided, further, that no vacancies may be filled by Leahi Hospital without having first received the approval of the director of finance.	

PRIVATE HOSPITAL SUBSIDIES	188,681
Provided, that the subsidies for private hospitals shall be disbursed by the Department of Health.	

STRONG-CARTER DENTAL CLINIC	
Net Appropriation	5,000

LUNALILO HOME	
Net Appropriation	30,000

CEMETERIES	
Island of Hawaii	7,500
Island of Kauai	7,500
Island of Maui	7,500
Island of Molokai	3,750
Net Appropriation	26,250

PACIFIC WAR MEMORIAL COMMISSION	
Net Appropriation	4,200

SECTION 2. The sum of \$298,820(27), or so much thereof as shall be sufficient to accomplish the purposes, is hereby approved for the Hawaiian Homes administration account pursuant to the provisions of Section 213(f), Hawaiian Homes Commission Act of 1920, as amended, from the proceeds of leasing income from available lands as defined in Section 204 of said Act.

In addition to the sum approved in the previous paragraph, there is hereby appropriated out of the general revenues of the State the sum of \$100,000 or so much thereof as may be necessary, for deposit into a special account established for educational purposes pursuant to the provisions of Act 4, Session Laws of Hawaii 1965.

SECTION 3. The sum of \$82,717 of Sand Island income is hereby authorized to be expended for the operating expenses of the University of Hawaii. This amount shall be deposited into the general fund of the State and shall be considered to be a reimbursement to the general fund for moneys

appropriated for the operation of the University of Hawaii in Section 1 of this Act.

SECTION 4. The sum of \$206,000 of East-West Center direct support funds, or so much as may be made available by the East-West Center for direct support purposes, is hereby authorized to be expended by the University of Hawaii. This amount shall be deposited into the general fund of the State and shall be considered to be a reimbursement to the general fund for moneys appropriated for the operation of the University of Hawaii in Section 1 of this Act. In the event the actual amount of East-West Center direct support funds for the fiscal year 1967-1968 should fall under or exceed the amount of \$206,000 estimated, the appropriations made to the University of Hawaii in Section 1 of this Act shall be decreased or increased by the amount the actual direct support funds fall under or exceed the amount of \$206,000.

SECTION 5. One-half of all amounts received by the University of Hawaii for indirect overhead expenses on accounts of research and training grants and contracts engaged in by the University of Hawaii shall be deposited into the general fund of the State and shall be considered to be a reimbursement to the State for moneys appropriated for the operation of the University of Hawaii in Section 1 of this Act. The University of Hawaii is authorized to expend the remaining one-half for the purpose of meeting identifiable and necessary expenses connected with the acceptance of research and training contracts and grants or required as a condition for applying for research and training contracts and grants, provided however that a report of these expenditures shall be filed quarterly with the Governor and the Legislative Auditor.

SECTION 6. The director of finance may advance funds to the University of Hawaii when required to meet reimbursable costs incurred in connection with federally financed research and training projects.

SECTION 7. The Governor is hereby authorized to create not more than 40 permanent or temporary positions to be allocated by him to any of the executive departments as he shall deem proper, provided, that this section shall not apply to the Department of Education and the University of Hawaii.

SECTION 8. There is hereby appropriated out of the public trust fund created by Section 5(f) of the Admission Act (Public Law 86-3, 86th Congress), the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom, granted to the State by Section 5(b) or later conveyed to the State by Section 5(e), with the exception of such proceeds covered under Section 103A-19, Revised Laws of Hawaii 1955, to be disposed of by the board of land and natural resources, in order to reimburse the general fund for the appropriation made in Section 1 of this Act to the Department of Education for the support of public schools, to the extent such proceeds are realized for the period beginning

July 1, 1967 to June 30, 1968. The above proceeds shall be exclusive of the amount disposed of under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

SECTION 9. For the fiscal year 1967-1968, in the absence of legislative authorization for special funds in Section 1 of this Act as provided under Section 2 of Act 320, Session Laws of Hawaii 1957, departments and establishments shall be authorized to expend so much as is deemed necessary to carry out the purpose of each special fund, as approved by the Board of Education for the Department of Education and in all other cases by the Governor, or the director of finance if so delegated by the Governor, provided that such expenditures shall not exceed the moneys available in such special funds.

The University of Hawaii is hereby authorized to expend from their special funds any receipts in excess of the amount specified in Section 1 if such expenditures are approved by the Governor, or if so delegated, by the director of finance.

SECTION 10. The Governor is responsible for the effective coordination of the various federal programs, and for the acquisition of available federal grants which will be of benefit to the State. This function and \$40,000 may be delegated to the Lieutenant Governor. In carrying out this function, maximum use should be made of the congressional delegations and their staffs.

Up to \$40,000 may be used to supply supplemental staff assistance to Hawaii's member on the Commission on Marine Science, Engineering, and Resources, with the understanding that all or a substantial part of the amount will be matched by private funds. The basic purpose of such staff will be to identify and develop oceanographic research and development opportunities for the State, including programs or grants available to the University of Hawaii and other public or private agencies eligible under PL 89-688 and related legislation.

SECTION 11. Whenever the functions of a previously existing department, office, or other agency are transferred to any other department by legislation enacted during any session of the legislature which affects the appropriations made by this Act, the Governor, or the Department of Budget and Finance if so delegated by the Governor, shall transfer the necessary funds to support such function from the department to which the appropriation was made to the department to which the function has been transferred.

SECTION 12. The designations referring to divisions, bureaus, offices and other subdivisions of departments are used in this Act for convenience only and such use is not intended to create or confirm the existence of such departmental subdivision.

SECTION 13. In allotting funds to the Department of Health, Department of Social Services, tubercular hospitals, and other departments, com-

missions, and agencies having appropriations which are based on population and workload data as specified in this Act, 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, the departments and agencies concerned shall reduce expenditures below appropriations as prescribed by the Department of Budget and Finance in the event actual population and workload trend is less than the specified figure. In the event that the 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 upon which the appropriation therefor was based, the department is authorized to submit a deficiency appropriation request to the extent and on such basis as may be prescribed by the director of the Department of Budget and Finance.

SECTION 14. Except as otherwise provided, transfer of funds between program appropriations within a department may be made by the head of the department upon his certification, and approval by the director of the Department of Budget and Finance, that appropriation balances are or will be available for such transfers after the program objectives intended by the legislature have been accomplished and that such transfers are necessary to accomplish program objectives authorized by the legislature.

SECTION 15. Where the operation of a department of a program is financed by general appropriation as well as by non-general appropriation funds, the general appropriation portion shall be decreased to the extent that the receipt of non-general appropriation funds approved in this Act are exceeded, provided, that such decrease shall not jeopardize the receipt of such increased non-general appropriation funds; provided further, that this section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the Governor or the director of the Department of Budget and Finance if such authority is so delegated by the Governor.

SECTION 16. The maximum number of positions authorized for the state government during the fiscal year 1967-1968 is the sum of the positions enclosed in parentheses after the appropriation or approved amounts for state programs, provided, that this section shall not apply to any position required to perform a function or service of a temporary or non-recurring character, nor shall it apply to the Department of Education and the University of Hawaii.

SECTION 17. Funds appropriated in this Act shall not be used by a department for the purpose of conducting a study or survey of its management practices or for any other purpose, except as authorized by this Act or as authorized by the Governor. This section shall not apply to the Department of Education and the University of Hawaii.

SECTION 18. Any law to the contrary notwithstanding, any state or county official, body or agency, or any private person, association, partnership or corporation performing any repair or construction project financed

in part or in whole by state funds appropriated by this Act shall cooperate to the fullest extent possible with the Department of Labor and Industrial Relations in the hiring and utilization of unemployed persons; provided, that such persons may be employed on a temporary basis which shall be exempt from Chapters 3, 4 and 6 of the Revised Laws of Hawaii 1955, as amended, and provided further, that such persons shall meet the minimum requirements necessary for such position.

SECTION 19. The Department of Social Services, Department of Health, Department of Education and other departments within the state and county governments shall undertake to cooperate with each other in order that utilization of prison labor, welfare recipient workers and non-teaching employees of the Department of Education can be utilized whenever and wherever it is reasonably practicable to carry out the objectives and programs of the departments concerned.

SECTION 20. The sum of \$350,000 or so much thereof as may be necessary is hereby authorized to be expended to pay the costs of overhead expenses of the various counties for the administration of those functions made state responsibilities by Act 97, Session Laws of Hawaii 1965, in the event that legislation providing for the direct administration of these functions by the State is not enacted. In this event, an additional sum of \$150,000 is also authorized to be expended to pay for county overhead expenses instead of establishing positions provided for the direct administration of Act 97 programs by the State. In the event that legislation is enacted for only a partial direct state administration, the Governor or the Department of Budget and Finance, if so delegated, may pro-rate the funds to provide an equitable payment to the counties and to establish necessary positions not to exceed those provided for by Act 97 functions in this operating budget.

SECTION 21. The Governor may expend, in addition to the amount appropriated in Section 1 for the Hawaii Office of Economic Opportunity, a sum not to exceed \$435,000; provided further, that such amount, and any balance of the said appropriation in Section 1 not needed for Economic Opportunity Act matching purposes, may be used to make necessary advances subject to federal reimbursements to implement authorized projects, or to provide either matching or implementation money for Economic Opportunity Act projects or other related projects in areas such as health, education, housing, social welfare or employment.

SECTION 22. The Governor or the director of the Department of Budget and Finance, if so delegated, may create a "Payroll Contingency Fund" to which may be credited savings from the several departments sufficient to pay for the cost of classification actions.

SECTION 23. The amount of \$35,000 appropriated to the Executive for the coordination and development of consumer protection and education functions shall be expended for nonpermanent staff and supporting services

in order to provide coordination for existing consumer education and protection services, including those provided by the Department of the Attorney General, University Extension, the Department of Agriculture, the Department of Education, Legal Aid, and various programs under the Economic Opportunity Act of 1964. This function shall be delegated to the Department of Regulatory Agencies. The funds may also be expended for the development of new consumer services, including price and quality information, and for meeting the expenses of such appropriate advisory or coordinating committees as may be established. A report shall be submitted to the next session of the legislature detailing the action taken under this appropriation, recommending any needed consumer protection legislation and the proper functions and authority of a permanent office of Consumer Protector.

SECTION 24. If any section, subsection, paragraph, sentence, clause, phrase or appropriation contained in this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act.

SECTION 25. This Act shall take effect from and after July 1, 1967.
(Approved May 11, 1967.)

ACT 55

H. B. 263.

A Bill for an Act Making It a Felony to Bring in or Possess Alcohol, Harmful or Narcotic Drugs, or Firearms Within Any State Correctional Facility or City or County Jail.

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

SECTION 1. Chapter 83 of the Revised Laws of Hawaii 1955, as amended, is amended by adding a new section, to be designated section 83-49 to read as follows:

“Section 83-49. Bringing into or having possession in any state correctional facility or a county or the city and county jail, alcohol, harmful drug, narcotic drug or firearm; prohibited.

a. Any person bringing into or having possession of any alcohol, harmful drug, narcotic drug in any amount, or firearm within or on the grounds of any state correctional facility or any county or the city and county jail, unless in the course of his duty or profession, without the permission of the superintendent of any state correctional facility or the officer in charge of any jail, shall be imprisoned for not more than five years. The provisions and penalty of section 52-12, Revised Laws of Hawaii 1955, as amended, shall prevail over the foregoing when applicable.

b. Definitions. When used in this section, unless context otherwise requires:

‘Alcohol’—means alcohol as defined in section 159-1, Revised Laws of Hawaii 1955, as amended.

'Firearm'—means firearm as defined in section 157-1, Revised Laws of Hawaii 1955.

'Harmful drug'—The harmful drugs referred to herein mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (1) hypnotic drugs which include acetylureas, barbituric acid, chloral, paraldehyde, phenylhydantoin, sulfonated methane, and any salt derivative or compound of any substance, or any compounds or mixtures of preparations that may be used for producing hypnotic effects; (2) stimulant drugs derived from the amphetamine group and any salt, derivative or compound of any substance, or any compounds or mixtures of preparations that may be used as a stimulant; (3) any drug having a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect as defined in the Federal Food, Drug and Cosmetic Act (52 Stat. 1040, as amended)."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 56

H. B. 266.

A Bill for an Act Amending Chapters 333 of the Revised Laws of Hawaii 1955, as Amended, Relating to Family Courts.

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

SECTION 1. Section 333-7 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the first sentence of the last paragraph thereof to read as follows:

"Written notice of the referee's findings and recommendations shall be given to the minor if he is of sufficient age to understand the nature of the notice, and to the parent, guardian, or custodian of such minor, in all cases heard by a referee coming within the provisions of section 333-8, except uncontested cases coming within subsections (c) through (h), and to all parties in contested adoption cases and in contested cases coming within the provisions of section 333-11."

SECTION 2. Section 333-11 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new paragraph to be lettered "(f)" and to read as follows:

"(f) 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."

SECTION 3. Chapter 333 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be numbered section 333-27.5 and to read as follows:

“§ 333-27.5. Signing of papers. Unless otherwise specifically provided by law, any decree, order to show cause, injunction, summons, subpoena, warrant, or notice issued by the court in connection with any case or cause, shall have the same validity, force and effect whether signed by a judge, a referee, or a clerk of the court.”

SECTION 4. Section 333-23.5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new paragraph to be lettered “(h)” and to read as follows:

“(h) 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 5. Chapter 333 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be numbered section 333-23.6 and to read as follows:

“§ 333-23.6. Determination of legitimacy of child born in wedlock. Whenever, in any action involving the custody or support of a child apparently born in lawful wedlock, the legitimacy of the child is placed in issue, the court may make the child a party to the action, if not already a party, and shall thereupon determine the legitimacy of the child as one of the issues in the action. The court shall 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 any or all parties as the circumstances may justify. In the event the child is not made a party to the action, a determination that the child is illegitimate shall not be binding upon the child.”

SECTION 6. Chapter 333 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be appropriately numbered and to read as follows:

“§ 333-..... Assignment by court order of future wages for future payments of support. Whenever any person has been ordered to pay an allowance for the support, maintenance, or education of a minor child, or for the support and maintenance of a spouse or former spouse, and fails or refuses to obey or perform such order and has been adjudged guilty of contempt of court for such failure or refusal, the court may make an order which shall operate as an assignment by said person to the clerk of the court where such order is entered, for the benefit of the minor child or spouse, of such amounts at such times as may be specified in the order, from the salary, wages, or other income due or to become due in the future to such person from his employer or successor employers, until further order of the court. The order of assignment shall be effective immediately after service upon an employer of a true copy of the order, which service may be effected by certified or registered mail or by personal delivery. Thereafter, the employer shall for each pay period withhold from the salary, wages, or other

income due to said person from the employer, and not required to be withheld by any other provision of federal or state law, and transmit to the clerk of the court as set forth in the order, as much as may remain payable to said person for such pay period up to the amount specified in the order of assignment as being payable during the same period. The person ordered to pay shall inform the court immediately of any change which would affect the order of assignment or the disbursement thereof. An employer shall not use such order of assignment as a basis in whole or in part for the discharge of an employee or for any other disciplinary action against an employee. Compliance by an employer with the order of assignment shall operate as a discharge of the employer's liability to the employee for that portion of the employee's earnings withheld and transmitted to the clerk of court, whether or not the employer has withheld the correct amount. The term 'employer' as used in this section shall include the State and any political subdivision thereof."

SECTION 7. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 57

H. B. 360.

A Bill for an Act Authorizing the Commissioner of Securities to Promulgate Rules and Regulations.

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

SECTION 1. The first paragraph of section 199-2, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"Sec. 199-2. Commissioner of securities; rules and regulations; deputies; vacancies. The administration of the provisions of this chapter shall be vested in the director of regulatory agencies who shall ex officio be commissioner of securities. The commissioner shall have authority to make, amend and repeal such rules and regulations as may be necessary to carry out the provisions of this chapter, including rules and regulations governing the impoundment of the proceeds of speculative and promotional securities, defining technical and trade terms used in this chapter, and limiting the amount of interest-bearing securities that may be registered in intrastate offerings."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 58

H. B. 505.

A Bill for an Act Amending Section 4-5, Revised Laws of Hawaii 1955, as Amended, Relating to Appeals.

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

SECTION 1. Section 4-5, Revised Laws of Hawaii 1955, as amended, is amended by adding thereto the following sentence:

“The appeal shall be made within twenty days after notice of the action has been sent to such person and shall be heard in the manner provided in chapter 6C.”

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

(Approved May 11, 1967.)

ACT 59

H. B. 582.

A Bill for an Act to Amend Section 160-12, Revised Laws of Hawaii 1955, as Amended, Relating to Certificate of Registration Issued on Nonresident Owner of a Motor Vehicle.

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

SECTION 1. Section 160-12 of the Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

1. Amend the fourth paragraph by deleting the word “calendar” appearing in the seventh line after the word “current.”

2. Amend the fifth paragraph to read:

“Every certificate of registration issued pursuant to this section shall be valid for the unexpired portion of the current license number plates assigned to the vehicle in accordance with the law of such state or country of which the owner is a resident; provided, that in no case shall such a certificate be issued to exceed a twelve month period.”

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

(Approved May 11, 1967.)

ACT 60

H. B. 622.

A Bill for an Act Amending Section 324-23 of the Revised Laws of Hawaii 1955, as Amended, Regarding Jurisdiction Over the Person and Property of a Party to a Matrimonial Action.

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

SECTION 1. Section 324-23, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Section 324-23. Service.** (a) The complaint for annulment, divorce or separation, and the summons shall be served by an authorized process server on the defendant personally if he is within the State, unless he enters an appearance in the case, and except as hereinafter otherwise provided.

(b) If service by an authorized process server is not feasible or is inconvenient or if the defendant is without the State, the court may authorize the service to be made by any other responsible person, or the court may

authorize notice of the pendency of the action and of a time and place of hearing, which shall be not less than twenty days after the giving of personal notice, to be given to the defendant personally by such person and in such manner as the court shall designate and the case may be heard and determined at or after the time specified in the notice.

(c) If the defendant is without the circuit, the court may authorize service by registered or certified mail, with request for a return receipt and direction to deliver to addressee only. The return receipt signed by the defendant shall be prima facie evidence that the defendant accepted delivery of the complaint and summons on the date set forth on the receipt. Actual receipt by the defendant of the complaint and summons sent by registered or certified mail shall be equivalent to personal service on the defendant by an authorized process server as of the date of such receipt.

(d) If it appears that the defendant has refused to accept service by mail, or is concealing himself, or evading service, or that plaintiff does not know the address or residence of the defendant and has not been able to ascertain the same after reasonable and due inquiry and search for at least fifteen days either before or after the filing of the complaint, the court may authorize notice of the pendency of the action and of a time and place of hearing, which shall not be less than twenty days after the last publication of the published notice, to be given to the defendant by publication thereof at least once in each of three successive weeks in a newspaper suitable for the advertisement of notices of judicial proceedings, published in the State, and the case may be heard and determined at or after the time specified in the notice."

"Section 324-23.5. Sequestration of property. All property within the State of a defendant in a matrimonial action may by order of the court be sequestered and applied to the payment of any allowance in such action by the court for the support and maintenance of the plaintiff or for the support, maintenance and education of minor children, whether temporary or permanent, where service or notice has been effected by any of the methods set forth in section 324-23."

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

(Approved May 11, 1967.)

ACT 61

H. B. 633.

A Bill for an Act Relating to Records of the County Treasurers and Amending Section 160-5 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Section 160-5 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the words in the last paragraph between the words "records" and "which" the following: "and inactive ownership records."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 62

H. B. 638.

A Bill for an Act Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended, Relating to Intoxicating Liquor.

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

SECTION 1. Section 159-51 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 159-51. Public Hearing.** No license shall be granted except after a public hearing held by the commission upon notice as prescribed in this chapter; provided, that the provisions of sections 159-56 to 159-59 shall not apply to the holder of a wholesale general license, or a retail general license or a dispensers’ general license, who applies for a different kind of license within the class of his existing license, on the same premises, or to the holder of a dispensers’ beer and wine license who applies for a dispensers’ beer license, on the same premises, or to a licensee whose licensed premises have been demolished and replaced by another building on the same premises and who applies for the same or lesser class of liquor license previously held by him on said premises.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 63

H. B. 772.

A Bill for an Act Relating to the Enforcement of Orders for Support Entered by Family Courts.

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

SECTION 1. Purpose. The purpose of this Act is to provide for the enforcement of maintenance and alimony through a court trustee pursuant to Act 52, Session Laws of 1965. In the implementation of this provision, it frequently becomes necessary to issue orders to show cause and other process, in connection with which the assistance of legal counsel is desirable. One method of securing this assistance is to arrange with the legal department of the county to represent the court in presenting such cases, but a question has been raised as to the power of county attorneys to function in this area. In order to remove this doubt so that the remedial purposes of Act 52 may be fully realized, a specific enactment of authority is necessary.

SECTION 2. The county attorneys of Hawaii, Maui, and Kauai and the corporation counsel of the city and county of Honolulu, within their respective counties, shall when and to the extent authorized by their respective

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county governing bodies and upon request of the family court, represent the court in any contempt proceeding for the enforcement of any order or decree for wife support or child support or both.

SECTION 3. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 64

H. B. 830.

A Bill for an Act Relating to Jurors.

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

SECTION 1. Section 221-10, Revised Laws of Hawaii 1955, is amended by substituting for the words "three thousand" in the second paragraph the following:

"Such number, not less than three thousand, as the jury commission shall consider necessary."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 11, 1967.)

ACT 65

S. B. 256.

A Bill for an Act Relating to Insurance Contracts for Mentally Retarded and Handicapped Children and Amending Chapter 181, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 181, Revised Laws of Hawaii 1955, is amended by adding a new section thereto to be appropriately numbered and to read as follows:

"**Sec. 181-..... Contract limitations on mentally retarded and handicapped children.** Any law to the contrary notwithstanding, a life, health, or disability insurance contract, whether upon an individual, family, or group, shall not be made or effectuated to exclude an unmarried dependent child, regardless of age, who is incapable of self-support because of a mental or physical incapacity or disability, on account of his reaching the age of nineteen years."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 14, 1967.)

ACT 66

S. B. 126.

A Bill for an Act Relating to the Uniform Sales of Securities Act.

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

SECTION 1. Paragraph (f) of section 199-11, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the third sentence therein and substituting therefor the following:

“Applications for renewals shall be made not less than thirty nor more than sixty days before the first day of the ensuing year. Any applicant for such a renewal who does not submit his application within the time prescribed by this section shall pay a penalty of 100 per cent of the applicable renewal fee.”

SECTION 2. Section 199-11, Revised Laws of Hawaii 1955, is hereby amended by adding a new paragraph to the designated “(j),” to read as follows:

“(j) Capital requirement for dealers. The commissioner may by rule require a minimum capital requirement for registered dealers which shall not be less than \$5,000 and prescribe a ratio between net capital and aggregate indebtedness.”

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

(Approved May 15, 1967.)

ACT 67

S. B. 149.

A Bill for an Act Amending Section 106C-4, Revised Laws of Hawaii 1955, as Amended, Relating to Motor Carriers.

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

SECTION 1. Section 106C-4(i), Revised Laws of Hawaii 1955, as amended, is hereby amended by inserting the word “public” immediately before the word “roads”.

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

(Approved May 15, 1967.)

ACT 68

S. B. 176.

A Bill for an Act Relating to Harbors and Amending Chapter 112, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 112, Revised Laws of Hawaii 1955, is hereby amended by adding a new section to Part I to be numbered appropriately and to read as follows:

“Section 112-..... Enforcement. For the purpose of the enforcement of this part and of all rules and regulations adopted and promulgated pursuant to this part, the powers of police officers are hereby conferred upon the director and any officer, employee, or representative of the department appointed by the director. Without limiting the generality of the foregoing,

the director and any person appointed by him hereunder may serve and execute warrants, arrest offenders and serve notices and orders. Every state and county officer charged with the enforcement of laws and ordinances shall enforce and assist in the enforcement of this part and of all rules and regulations adopted and promulgated pursuant to this part.”

Section 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 69

S. B. 406.

A Bill for an Act Relating to Fair Employment Practices and Amending Chapter 90A, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 90A-5, Revised Laws of Hawaii 1955, is amended to read:

“**Section 90A-5. Hearing on accusation under administrative procedure act; hearing officer.** Any hearing on a written accusation issued under this part shall be conducted in accordance with chapter 6C by a hearing officer. The hearing officer shall be appointed by the director of labor and industrial relations and shall not be subject to the civil service laws of the State. No officer or employee of the State or any political subdivision thereof shall be eligible for the appointment.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 70

S. B. 407.

A Bill for an Act Relating to Industrial Safety and Amending Chapter 96, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 96-10, Revised Laws of Hawaii 1955, is amended to read:

“**Section 96-10. Fees.** The director may prescribe reasonable fees to be charged for:

- (1) inspection by the department of elevators, personnel hoists, man-lifts, aerial tramways, boilers, nuclear vessels and unfired pressure vessels;
- (2) inspection by the department of any machine, device, apparatus or equipment for which a permit or certificate is required for its operation or use and which is required to be inspected by this part or by any rule or regulation of the department;
- (3) permits, certificates or licenses, the issuance of which are required by this part or by any rule or regulation of the department; and

(4) examination of any person applying for permits, certificates or licenses as required by this part or by any rule or regulation of the department.

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

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

(Approved May 15, 1967.)

ACT 71

S. B. 491.

A Bill for an Act Relating to the Uniform Testamentary Additions to Trusts Act.

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

SECTION 1. Testamentary additions to trusts. A devise or bequest, the validity of which is determinable by the law of this State, may be made by a will to the trustee or trustees of a trust established or to be established by the testator or by the testator and some other person or persons or by some other person or persons, including a funded or unfunded life insurance trust, although the trustor has reserved any or all rights of ownership of the insurance contracts, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before or concurrently with the execution of the testator's will or in the valid last will of a person who has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust. The devise or bequest shall not be invalid because the trust is amendable or revocable, or both, or because the trust was amended after the execution of the will or after the death of the testator. Unless the testator's will provides otherwise, the property so devised or bequeathed (a) shall not be deemed to be held under a testamentary trust of the testator but shall become a part of the trust to which it is given and (b) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust, including any amendments thereto made before the death of the testator, regardless of whether made before or after the execution of the testator's will, and, if the testator's will so provides, including any amendments to the trust made after the death of the testator. A revocation or termination of the trust before the death of the testator shall cause the devise or bequest to lapse.

SECTION 2. Effect on prior wills. This Act shall have no effect upon any devise or bequest made by a will executed prior to the effective date of this Act.

SECTION 3. Uniformity of interpretation. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

ACT 72

SECTION 4. Short title. This Act may be cited as the Uniform Testamentary Additions to Trusts Act.

SECTION 5. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 72

S. B. 792.

A Bill for an Act Relating to Real Property Tax Exemption and Amending Section 128-22, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 128-22(a)(4), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(4) Such property where the occupancy by the tenant for commercial purposes has continued for a period of one year or more, whether such occupancy has been on a permit, license, month-to-month tenancy, or otherwise, shall be fully taxable to the tenant after the first year of occupancy, and such property shall be assessed in the manner provided in paragraphs (2) and (3) of this subsection for the assessment of properties held under a government lease; provided that such property occupied by the tenant solely for residential purposes on a month-to-month tenancy shall be excluded from the provisions of this paragraph.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 73

S. B. 859.

A Bill for an Act Relating to Industrial Safety and Amending Chapter 96, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 96, Revised Laws of Hawaii 1955, is amended in the following respects:

- a. Section 96-9 is repealed.
- b. Section 96-31 is amended to read:

“**Section 96-31. Violations; penalty.** Any person who violates this chapter or any rule or regulation issued under the authority of this chapter, or who violates or fails to comply with any notice or order made under or by virtue of this chapter or under or by virtue of any rule or regulation of the department, or who defaces, destroys, or removes without the authority of the department any notice or warning required by this chapter or any rule or regulation of the department shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Each day a violation continues shall constitute a separate offense.”

c. Section 96-32 is amended to read:

“Section 96-32. Arrest; summons or citations. (a) In addition to any other power and authority of the department under this chapter, the director or his authorized subordinate may arrest any person for violation of this chapter or any rule or regulation promulgated pursuant to this chapter. Upon arresting any person for the violation, the director or his authorized subordinate shall take the name and address of the person and shall issue to him a summons or citation, printed in the form hereinafter described, directing him to appear and answer to the charge against him at a certain place and at a time within seven days after the arrest.

(b) There shall be a form of summons or citation for use in citing violators of this chapter or rules or regulations promulgated thereunder which does not require the physical arrest of the violators. The summons or citation shall be printed in a form commensurate with the form of other summonses or citations used in modern methods of arrest, and shall be so designed to include all necessary information to make the same valid and legal. The form and content of the summons or citation shall be as adopted or prescribed by the district court.

In every case when a summons or citation is issued the original shall be given to the violator; provided that the district court may prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies.

Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

(c) If any person fails to comply with a summons or citation given on him or fails or refuses to deposit bail as required and within the time permitted, the department shall cause a complaint to be entered against the person and secure the issuance of a warrant for his arrest.”

d. The following section is added:

“Section 96-33. Rules and regulations. The director may prescribe rules and regulations as may be necessary for carrying out the purposes and provisions of this chapter. When approved by the governor and prescribed in accordance with chapter 6C, the rules and regulations shall have the force and effect of law.”

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

(Approved May 15, 1967.)

ACT 74

S. B. 860.

A Bill for an Act Relating to Industrial Safety and Amending Chapter 96, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 96, Revised Laws of Hawaii 1955, is amended by adding the following section:

“Section 96-12. Discharge or suspension of employee for refusal to engage in unsafe practices prohibited. No employer shall discharge or suspend any employee: (1) who fails or refuses to operate or handle any machine, device, apparatus or equipment which is in an unsafe condition; or (2) who fails or refuses to engage in unsafe practices in violation of this chapter or of any rule or regulation issued under the authority of this chapter; or (3) who fails or refuses to operate or handle any machine, device, apparatus or equipment in violation of this chapter or of any rule or regulation issued under the authority of this chapter.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 75

H. B. 261.

A Bill for an Act Relating to the Establishment of Conditional Release Centers and the Granting of Furloughs to Certain Prisoners.

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

SECTION 1. Chapter 83, Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new section, to be designated section 83-22.1, to read as follows:

“Section 83-22.1. Establishment of conditional release centers—furloughs for prisoners.

(a) The director of the department of social services may establish and operate facilities to be known as conditional release centers, each of which will house not more than fifteen prisoners.

(b) The primary purpose of such facilities is to provide housing, meals, supervision, counseling, and other correctional programs for prisoners committed to the department of social services, and to give prisoners, in selected cases, a chance to begin adjustment to life in a free society, and to serve as a test of an individual's fitness for release on parole.

(c) The director of the department of social services or his agent may transfer inmates from other correctional facilities to conditional release centers, and back.

(d) The director of the department of social services may grant furloughs to prisoners residing in an adult correctional facility or conditional release center of the department for the purpose of employment, social re-orientation, education or training.

(e) A prisoner who is engaged in private employment pursuant to the provisions of this act or is otherwise not under the immediate custody of the State shall not be considered an agent or employee of the State of Hawaii.

(f) The director of the department of social services shall make rules and regulations for the government of conditional release centers and for the granting of furloughs to prisoners.”

SECTION 2. The first paragraph of section 83-22, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“Section 83-22. Labor only for government. Except as authorized by section 83-22.1, prisoners shall not be employed in any labor except for the State or a political or other subdivision thereof.”

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

(Approved May 15, 1967.)

ACT 76

H. B. 265.

A Bill for an Act Amending Chapter 324 of the Revised Laws of Hawaii 1955, as Amended, Relating to Divorce, Annulment and Separation.

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

SECTION 1. Section 324-20 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) By deleting from paragraphs (i) and (j) thereof the phrase “no reconciliation has been effected, and the living together of the parties is insupportable” and substituting therefor the phrase “and no reconciliation has been effected.”

(b) By adding thereto immediately following paragraph (j) a new paragraph to be lettered “(k)” and to read as follows:

“(k) Upon the application of either party, when the parties have lived separate and apart for a continuous period of more than three years immediately preceding the application, there is no reasonable likelihood that cohabitation will be resumed, and the court is satisfied that, in the particular circumstances of the case, it would not be harsh and oppressive to the defendant or contrary to the public interest to grant a divorce on this ground on the complaint of the plaintiff.”

SECTION 2. Section 324-21 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“§ 324-21. Jurisdiction; hearing. Exclusive original jurisdiction in matters of annulment, divorce and separation, subject to the provisions of paragraph (f) of section 215-17 as to change of venue, and subject also to appeal according to law, is conferred upon the circuit judge or judges severally of the circuit in which the applicant has been domiciled or has been physically present for a continuous period of at least three months next preceding the application therefor. No absolute divorce from the bond of matrimony shall be granted for any cause unless either party to the marriage has been domiciled or has been physically present in the State for a continuous period of at least one year next preceding the application therefor. A person who may be residing on any military or federal base, installation or reservation within the State or who may be present in the State under military orders shall not thereby be prohibited from meeting the requirements of this section.”

SECTION 3. Section 324-27 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“§ 324-27. Guardian ad litem for incompetent defendant. In any case where the court has reason to believe that the defendant in a matrimonial action is not fully competent to conduct his defense or to comprehend the nature of the proceedings, the court may appoint a guardian ad litem to represent the interests of the defendant. The court 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. Chapter 324, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be numbered “324-31.5” and to read as follows:

“§ 324-31.5. Fund judgment; nunc pro tunc entry; validation of certain marriages. Whenever either party to a divorce action is entitled to a final decree dissolving the bonds of matrimony, but by mistake, negligence, or inadvertence the final decree has not been entered, the court on motion of either party or upon its own motion may cause a final decree to be entered granting the divorce as of the date when the decree could have been entered. Upon the entry of such final decree, the parties to the divorce action shall be deemed to have been restored to the status of single persons as of the date set forth in the final decree, and any marriage of either party after such date shall not be subject to attack on the grounds that the marriage was contracted at a time when such party was undivorced in such divorce action. The court may cause a final decree to be entered nunc pro tunc as aforesaid even though another final decree may have been entered previously but by mistake, negligence, or inadvertence was not entered as soon as a final decree could have been entered.”

SECTION 5. Section 324-37 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“§ 324-37. Support orders; division of property. Upon granting a divorce, the court may make such further orders as shall appear just and equitable compelling the parties or either of them to provide for the support, maintenance and education of the children of the marriage and compelling either party to provide for the support and maintenance of the other party and finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate. In making such further orders, the court shall take into consideration the respective merits of the parties, the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children of the marriage, and all other circumstances of the case, but no such final division of estate shall impair the power of the court to revise allowances for children. An order as to the custody, management, and division of property shall be final and conclusive as to both parties subject only to appeal as in civil cases, and provided that the court shall

at all times, including during the pendency of any appeal, have the power to grant any and all restraining orders that may be necessary to protect the parties and secure justice.

Upon the motion of either party supported by an affidavit setting forth in particular a material change in the physical or financial circumstances of either party, or upon the motion of the party against whom an order was entered supported by an affidavit setting forth in particular that the other party, although able and capable of substantially rehabilitating himself or herself financially, has wilfully failed to do so, the moving party may, in the discretion of the court, and upon adequate notice to the other party, be granted a hearing, and the fact that the moving party is in default or arrears in the performance of any act or payment of any sums theretofore ordered to be done or paid by him or her shall not necessarily constitute a bar to the granting of the hearing. The court, upon such hearing, shall consider all proper circumstances in determining the amount of the allowance, if any, which shall thereafter be ordered."

SECTION 6. Section 324-38 of the Revised Laws of Hawaii 1955, as amended, is hereby repealed.

SECTION 7. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 77

H. B. 297.

A Bill for an Act Relating to Personal Liability of Officers and Employees with Respect to Duties Under the Uniform Commercial Code.

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

SECTION 1. No officer or employee of the department of land and natural resources, including the registrar of conveyances and any deputy registrar, and no officer or employee of the land court, including the registrar of the land court and any assistant registrar, shall be subject to personal liability by reason of any error or omission in the performance of any duty under article 9 of the Uniform Commercial Code except in case of wilful negligence.

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 78

H. B. 343.

A Bill for an Act Excepting Fraternal Benefit Societies from the Regulatory Provisions Relating to Foreign Corporations.

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

SECTION 1. Chapter 174, Revised Laws of Hawaii 1955, as amended,

is hereby amended by adding a new section thereto to be appropriately numbered and to read as follows:

"Section 174-..... Fraternal benefit societies licensed under the provisions of chapter 181A shall not be subject to the provisions of this chapter."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 79

H. B. 356.

A Bill for an Act Relating to the Uniform Commercial Code: Amending Certain Provisions in Said Code and Amending Provisions in the Revised Laws to Clarify, Harmonize and Conform the Same to the Uniform Commercial Code.

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

SECTION 1. The Uniform Commercial Code (Act 208, Session Laws of Hawaii 1965, as amended by Act 18, Session Laws of Hawaii 1966) is amended in the following respects:

(a) By amending section 2-323(1) to read:

"(1) Where the contract contemplates overseas shipment and contains a term of C.I.F. or C.& F. or F.O.B. vessel, the seller unless otherwise agreed must obtain a negotiable bill of lading stating that the goods have been loaded on board or, in the case of a term C.I.F. or C.& F., received for shipment."

(b) By amending section 9-204 by deleting subsection (4)(a) and designating (4) (a) to be "Reserved."

(c) By amending section 9-401 to read:

"Section 9-401. Place of filing. (1) The proper place to file in order to perfect a security interest is with the registrar of conveyances, bureau of conveyances.

(2) (Reserved).

(3) (Reserved).

(4) If collateral is brought into this State from another jurisdiction, the rules stated in section 9-103 determine whether filing is necessary in this State."

(d) By amending section 9-404(2) to read:

"(2) The filing officer, on presentation of such a termination statement, must record and index it in the manner provided in chapter 343."

(e) By amending the last two sentences in section 9-405(1) to read:

"On presentation to the filing officer of such financing statement the filing officer shall process the same as provided in section 9-403(4). The fee for filing, indexing and furnishing filing data for a financing statement so indicating an assignment shall be \$2 per page."

(f) By amending section 9-405(2) to read:

"(2) A secured party may assign of record all or a part of his rights

under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record. Such statement shall set forth the name of the secured party of record and the debtor, the name and address of the assignee, the date of filing of the financing statement and the book and page number and shall contain a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. The filing officer, upon presentation of such a separate statement, shall record and index such separate statement in the manner provided in chapter 343. The fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be \$2 per page."

(g) By amending the third sentence in section 9-406 to read:

"The filing officer, upon presentation of such statement, shall record and index such statement in the manner provided in chapter 343."

(h) By amending section 9-408 by deleting subsection (1), (2) and (3) and amending the caption so that the section will read:

"Section 9-408. Combined real estate and fixture mortgage. Provision for a security interest in goods which are or are to become fixtures may be included in a mortgage or other like instrument transferring an interest in the real estate concerned. If such instrument contains a designation: 'Mortgage (or other appropriate designation) and Financing Statement', complies with the requirements for a financing statement specified in section 9-402, with the exception of the requirement of the secured party's signature, is recorded as an instrument affecting real estate in the manner provided in chapter 343 and has the appropriate recording fee paid for it, such recording and payment of fee shall be effective filing under this part without the necessity of any separate filing or payment of any separate fee under this part."

SECTION 2. All filings of financing statements, security agreements, amendments, continuation statements, termination statements, statements of assignments and statements of release relating to security interests in goods which are or are to become fixtures and which concern registered land, made on or after January 1, 1967 and prior to the effective date of this Act, shall be processed by the filing officer in the manner provided in section 9-403(4) of the Uniform Commercial Code and shall be recorded and indexed and shall be effective for all purposes as though the provisions of sections 9-401, 9-404, 9-405, 9-406 and 9-408 of the Uniform Commercial Code, as amended by this Act, had been in effect upon the date of such filing.

SECTION 3. Section 160-10(e), Revised Laws of Hawaii 1955, as amended, is hereby amended to read:

"(e) Until the treasurer has issued the new certificate of registration and certificate of ownership as in subdivision (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 the Uniform Commercial Code shall exclusively control the attachment and perfection of a security interest in such vehicle.”

SECTION 4. Section 180-53, Revised Laws of Hawaii 1955, is amended by amending the third paragraph thereof to read:

“First lien mortgages. Every real estate loan shall be secured by a mortgage or other instrument constituting a first lien, or the full equivalent thereof, upon the real estate securing the loan, according to any lawful or well recognized practice, which is best suited to the transaction. Any such instrument, constituting a first lien, is herein termed a ‘mortgage.’ Such mortgage shall provide specifically for full protection to the association with respect to usual insurance risks, taxes, assessments, other governmental levies, maintenance and repairs. It may provide for an assignment of rents, which assignment shall be valid. It may also provide that household fixtures and appliances shall be a portion of the security for such loan. Except as otherwise provided in Article 9, Secured Transactions, of the Uniform Commercial Code, every such mortgage or other instrument shall create, and preserve to the association a first lien, which shall equally secure the original loan and each and every subsequent advance and loan in any amount and for any purpose by the association to such borrower. No subsequent loan to such borrower by any other person shall establish an intervening lien, which shall disturb the first lien of such association as security for every advance and loan made to such borrower. All such mortgages shall be recorded in accordance with the law of this State.”

SECTION 5. Section 201A-32, Revised Laws of Hawaii 1955, is amended to read:

“**Section 201A-32. Security interest in seller governed by Uniform Commercial Code.** Every provision in a retail installment contract reserving a security interest in the seller after possession of the goods is delivered to the buyer shall be governed by the Uniform Commercial Code, except as in this chapter otherwise provided.”

SECTION 6. Material to be deleted is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

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

(Approved May 15, 1967.)

ACT 80

H. B. 536.

A Bill for an Act Relating to Service on Public Boards and Commissions by Public Officers and Employees.

* Edited accordingly.

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

SECTION 1. Chapter 5, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately numbered and to read as follows:

“Sec. 5-..... Public officer or employee serving on state or county board or commission. (a) Any prohibition in any law against the holding of outside employment or dual public office, employment, or position by a state or county officer or employee shall not bar the appointment of a state officer or employee to membership on a county commission or board, nor bar the appointment of a county officer or employee to membership on a state commission or board; unless service on the commission or board would be inconsistent or incompatible with or would tend to interfere with the duties and responsibilities of the other office, employment or position held by the officer or employee.

(b) The foregoing provision shall not be construed to permit a state or county officer or employee to serve as a member of any civil service commission nor to permit him to receive compensation, other than expenses, as a member of any board or commission.

(c) When any state or county officer or employee must be away from his regular state or county work because of service as a member on a state or county board or commission, he shall not, as a result of the absence, suffer any loss of his regular salary or wages.

The time spent in service as a board or commission member shall not be credited as time worked for purposes of overtime compensation.”

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

(Approved May 15, 1967.)

ACT 81

H. B. 673.

A Bill for an Act Relating to the Interlocutory Decree of Divorce and Amending Section 324-31 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The third paragraph of section 324-31 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

Any provision to the contrary notwithstanding, except as hereinafter provided regarding divorces granted pursuant to section 324-20(i) and 324-20(j), if after a full hearing, the court or judge is of the opinion that a divorce from the bonds of matrimony ought to be granted, and there is a child of the parties less than eighteen years of age or in posse, an interlocutory decree, effective from and after such time as may be fixed by the court or judge in the decree not earlier than the date of final hearing and not later than one month after the date of the decree, shall be signed, filed and entered adjudging that the party in whose favor the court or judge decides, is entitled to a divorce from the bonds of matrimony and granting or reserving for future determination such relief authorized by section 324-37 as may appear just

and equitable, but such interlocutory decree shall not operate to dissolve the bonds of matrimony. After the entry of the interlocutory decree, neither party shall have the right to dismiss the action without the consent of the other. When one year has expired after the effective date of such interlocutory decree, and no reconciliation between the parties has been effected, the court or judge on motion of either party, or upon its own motion, shall enter a final decree dissolving the bonds of matrimony and granting such other and further relief as may be necessary to complete disposition of the action; provided, that upon all the children of the parties either attaining eighteen years of age or becoming married or otherwise emancipated or adopted or deceased, or upon the decease of either party, within one year after the effective date of the interlocutory decree, the court or judge upon motion and due proof of the facts shall enter the final decree effective as of the date of such event; provided, further, that if any appeal has been taken from the judgment of divorce embodied in the interlocutory decree or if a motion for a new trial has been made, the final decree shall not be entered until such appeal or motion has been finally disposed of, nor then, if the judgment has been reversed or the motion granted. Motions for entry of final decree may be heard ex parte on affidavit or the court or judge may require notice to the other party or other interested persons and a hearing, as the circumstances and the interests of justice may dictate in the discretion of the court or judge.

SECTION 2. Section 324-31 of the Revised Laws of Hawaii 1955, as amended, is further amended by adding thereto a new fourth paragraph which shall read as follows:

If the parties have been separated for more than one year under a decree of separation or a decree of separate maintenance, then the court shall not enter an interlocutory decree but shall proceed to grant a divorce pursuant to the provisions of sections 324-20(i) and 324-20(j).

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

(Approved May 15, 1967.)

ACT 82

H. B. 788.

A Bill for an Act Permitting Dissolved Corporations to Continue as Parties in Civil Actions.

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

SECTION 1. Section 230-55, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 230-55. Death or dissolution of plaintiff or defendant. The death of a plaintiff or defendant or the dissolution of a corporate plaintiff or defendant shall not cause an action to abate, but it may be continued as hereinafter mentioned; and where an action would but for the provisions of this subtitle abate by reason of the death or dissolution of either party, and

in which the proceedings may be revived and continued under this subtitle, the defendant or person against whom the action may be so continued may apply by summons to compel the plaintiff, or person entitled to proceed with the action in the room of the plaintiff, to proceed according to the provisions of this subtitle, within such time as the judge shall order; and in default of such proceeding, the defendant, or other person against whom the action may be so continued as aforesaid, shall be entitled to enter a suggestion of such default and of the representative character of the person by or against whom the action may be proceeded with, as the case may be, and to have judgment for the costs of the action and suggestion against the plaintiff, or against the person entitled to proceed in his room, as the case may be, and in the latter case to be levied on the goods or assets of the testator, intestate or dissolved corporation.”

SECTION 2. Section 230-56, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 230-56. **Death or dissolution, in case of two or more plaintiffs or defendants.** If there be two or more plaintiffs or defendants, and one or more of them should die or be dissolved, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the action shall not be thereby abated; but such death or dissolution being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs, against the surviving defendant or defendants.”

SECTION 3. Section 230-57, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 230-57. **Death or dissolution of sole plaintiff.** In case of the death or corporate dissolution of a sole plaintiff or sole surviving plaintiff, the legal representative of such plaintiff may, by leave of the court or judge, enter a suggestion of the death and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion is made before the trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased or dissolved plaintiff; and such judgment shall follow upon the verdict in favor of or against the person making such suggestion as if such person were originally the plaintiff.”

SECTION 4. Section 230-58, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 230-58. **Death or dissolution of sole defendant.** In case of the death or corporate dissolution of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make a suggestion either in any of the pleadings, if the cause has not arrived at issue, or on the record, if it has so arrived, of the death or dissolution, and that a person named therein is the executor, administrator or trustee in dissolution of the deceased or dissolved defendant, and may thereupon serve such executor, administrator or trustee in dissolution with a copy of the suggestion and with a notice

signed by the plaintiff or his attorney requiring such executor, administrator or trustee in dissolution to appear within twenty days after service of the notice, and that in default of his so doing the plaintiff may apply for judgment against him as such executor, administrator or trustee in dissolution; and the same proceedings may be had and taken in case of nonappearance, after such notice, as upon a summons against such executor, administrator or trustee in dissolution in respect of the cause for which the action was brought; and in case the defendant shall not have pleaded or answered before the death or dissolution, the new defendant shall plead or answer at the same time to the petition and suggestion; and in case the defendant shall have pleaded before the death or dissolution, the new defendant shall be at liberty to plead to the suggestion only by way of denial, or such plea as may be appropriate to and rendered necessary by his character of executor, administrator or trustee in dissolution, unless by leave of the court or a judge he shall be permitted to plead fresh matter in answer to the petition, and the pleadings upon the petition and the pleadings upon the suggestion shall be tried together, and in case the plaintiff shall recover he shall be entitled to the like judgment in respect of the debt or sum sought to be recovered, and in respect of the costs prior to the suggestion and in respect of the costs of the suggestion and subsequent thereto, he shall be entitled to the like judgment as in an action originally commenced against the executor, administrator or trustee in dissolution."

SECTION 5. Section 230-59, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"§ 230-59. Death or dissolution between verdict and judgment. The death or corporate dissolution of either party between the verdict and the judgment shall not be alleged as error, if judgment be entered during the term in which such verdict was rendered, and if the plaintiff in any action happens to die or to be dissolved after an interlocutory judgment and before a final judgment obtained therein, the action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executor, administrator or trustee in dissolution of such plaintiff; and if the defendant dies or is dissolved after such interlocutory judgment and before final judgment therein obtained, the action shall not abate if such action might be originally prosecuted or maintained against the executor, administrator or trustee in dissolution of such defendant and the plaintiff, or if he be dead or it be dissolved after such interlocutory judgment, his executors or administrators, or its trustee in dissolution, shall and may have a writ of revivor in a form prescribed by rule of the Supreme Court, or to the like effect against the defendant if living or in existence after such interlocutory judgment, or if he be dead or it be dissolved, then against his executors or administrators or its trustee in dissolution, to show cause why damages in such action should not be assessed and recovered by such plaintiff, and if such defendant, his executors or administrators or its trustee in dissolution shall appear at the return of such writ and not show or allege any matter sufficient to arrest the final judgment, or shall make default, an inquiry of damages shall be there-

upon held, or the amount for which final judgment is to be signed shall be referred to the clerk of the court; and upon return of the writ or delivery of the order with the amount indorsed thereon to the plaintiff, his executors or administrators or its trustee in dissolution, judgment final shall be given for the plaintiff, his executors or administrators or its trustee in dissolution, prosecuting such writ of revivor against such defendant, his executors or administrators or its trustee in dissolution, respectively.”

SECTION 6. Section 230-60, Revised Laws of Hawaii 1955, is hereby repealed.

SECTION 7. Existing statutory language to be deleted is bracketed and new language is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed language or the underscoring.*

SECTION 8. This Act shall take effect on January 1, 1968.
(Approved May 15, 1967.)

ACT 83

H. B. 964.

A Bill for an Act Relating to Mortgage Foreclosures and Amending Chapter 336, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 336, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new subsection, to be designated as section 336-5.1, and to read as follows:

“Section 336-5.1. **Notice to mortgage creditors.** Whenever a mortgage creditor having a mortgage lien on certain premises desires notice that another mortgage creditor having a mortgage lien on the same premises intends to foreclose the mortgage and sell the mortgaged property pursuant to a power of sale under the provisions of section 336-5, or whenever a mortgage creditor having a mortgage lien on certain premises desires notice that another mortgage creditor having a mortgage lien on the same premises has obtained possession of the mortgaged property pursuant to foreclosure by entry under the provisions of section 336-10, he may submit a written request to the mortgagee foreclosing the mortgage, either by power of sale or by entry, as aforesaid, to receive notice of the mortgagee’s intention to foreclose the mortgage under power of sale or of the mortgagee’s obtaining possession of the mortgaged property by foreclosure by entry. This request for notice may be submitted any time after the recordation or filing of the subject mortgage being foreclosed at the Bureau of Conveyances or the Land Court, as the case may be, but, in the case of a foreclosure under power of sale, under section 336-5, this request for notice must be submitted prior to the completion of the publication of the mortgagee’s notice of intention to foreclose the mortgage and of the sale of the mortgaged property, and in the case

* Edited accordingly.

of foreclosure by entry, under section 336-10, this request for notice must be submitted within sixty (60) days after the mortgagee has obtained possession of the mortgaged property. This request shall be signed by the mortgage creditor, or its authorized representative, desiring to receive notice as aforesaid, specifying the name and address of the person to whom the notice is to be mailed. The mortgagee receiving such request shall thereafter give notice to all mortgage creditors who have timely submitted their request as aforesaid. Such notice shall be sent by mail or otherwise communicated to such mortgage creditors, not less than seven calendar days prior to the date of sale, in the case of a mortgage foreclosure under power of sale under section 336-5, and not more than ninety calendar days after the mortgagee has obtained possession of the mortgaged property, in the case of a mortgage foreclosure by entry under section 336-10.

“No request for copy of any notice pursuant to this section nor any statement or allegation in any such request nor any record thereof shall affect the title to real property or be deemed notice to any person that any party requesting copy of the notice as aforesaid has or claims any right, title, or interest in, or lien or charge upon the property described in the mortgage referred to therein.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 84

H. B. 1005.

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 199-5, Revised Laws of Hawaii 1955, as amended, is amended by adding a new subparagraph to read as follows:

“(n) Any offer or sale by or through a real estate broker or real estate salesman licensed under the laws of the State as such, of an apartment in a condominium project. The words ‘apartment,’ ‘condominium’ and ‘project’ shall be defined as they are defined in section 170A-2.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 85

S. B. 173.

A Bill for an Act Relating to Certain Executive Secretaries and Certain Other Employees Serving on State Regulatory Boards and Commissions.

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

SECTION 1. Section 165-7, Revised Laws of Hawaii 1955, is hereby amended by amending the first sentence thereof to read as follows:

“The department of regulatory agencies shall employ a secretary whose position shall be subject to the provisions of chapters 3 and 4.”

SECTION 2. Section 166-6, Revised Laws of Hawaii 1955, is hereby amended by amending the last paragraph to read as follows:

“The department of regulatory agencies shall employ, subject to the provisions of chapters 3 and 4, a secretary and such other clerical help as are necessary for the proper performance of the board’s work, and may make any reasonable expenditures which are necessary to carry out the functions of the board.”

SECTION 3. Section 166A-4(e)(1), Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the first sentence thereof to read as follows:

“The department of regulatory agencies shall employ an executive secretary of the board whose position shall be subject to the provisions of chapters 3 and 4.”

SECTION 4. Any noncivil service employee whose position becomes subject to civil service as a consequence of this Act shall become a civil service employee as of the effective date of this Act without loss of vacation or sick leave allowances, service credits or other rights and privileges and without the necessity of examination; provided, that such employee or officer possesses, at the time of the effective date of this Act, the minimum qualification for the position which he is holding; provided further, that subsequent changes in status may be made pursuant to applicable personnel laws.

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

(Approved May 16, 1967.)

ACT 86

H. B. 223.

A Bill for an Act Amending Section 14-5 of the Revised Laws of Hawaii 1955, as Amended, Relating to Commercial Use of the Seal and Coat of Arms of the State of Hawaii.

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

SECTION 1. Section 14-5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto the following paragraph:

“Whoever uses any representation of the great seal or the coat of arms of the State in any advertisement or for any commercial purpose or in any manner likely to give the impression of official state approval shall be guilty of a misdemeanor. The preceding sentence shall not be construed to apply to the use of the seal or the coat of arms in any newspaper, periodical, book or pamphlet wherein the seal or coat of arms is printed for informational purposes only.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 18, 1967.)

ACT 87

H. B. 775.

A Bill for an Act Amending Section 155-39 of the Revised Laws of Hawaii 1955, as Amended, Relating to Billiard Tables.

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

SECTION 1. Section 155-39 of the Revised Laws of Hawaii 1955 is amended to read as follows:

“Section 155-39. Fee. The annual fee for a license to keep a billiard table or a bowling alley, to be used for hire or pay, shall be \$5.00 for each table or alley. A billiard table shall not include miniature pool tables. No license to keep a billiard table shall be issued to any minor or to any person who has been convicted of gambling within three years prior to the date of application for such license.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 18, 1967.)

ACT 88

H. B. 44.

A Bill for an Act Relating to Sick Leave and Workmen’s Compensation Benefits of Public Officers and Employees.

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

SECTION 1. Add the following section after section 5-39 of the Revised Laws of Hawaii 1955, as amended, to read:

“Sec. Sick leave and workmen’s compensation benefits. Where a public officer or employee is eligible for workmen’s compensation benefits, he shall receive a sum which is the difference between his regular salary and the temporary disability compensation in addition to the temporary disability compensation he receives as workmen’s compensation benefits; provided that the officer or employee has accumulated sick leave allowance from which the sum shall be deducted. In computing the sum, the hourly rate shall be determined on the basis of forty hours of work per week.”

SECTION 2. This Act shall take effect on July 1, 1967.
(Approved May 20, 1967.)

ACT 89

H. B. 288.

A Bill for an Act Relating to Advertising for Hawaii Products and Amending Section 9-38, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The last paragraph of section 9-38 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Advertisement for bids by a governmental agency shall contain, if applicable, a notice referring to the preferences for Hawaii products and to section 9-39, and shall also contain a notice referring to the place where the Hawaii products list may be examined.”

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

(Approved May 20, 1967.)

ACT 90

H. B. 331.

A Bill for an Act Amending Chapter 172, Revised Laws of Hawaii 1955, as Amended, Relating to Certified Copies of Public Documents.

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

SECTION 1. Chapter 172, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section thereto to be appropriately numbered and to read as follows:

“**Section 172-..... Director’s certificate, evidence.** The director of regulatory agencies may certify, under the seal of his department, copies of documents filed in his office pursuant to this chapter and such copies so certified shall be admissible in evidence in any court or administrative hearing or proceeding as the original.

A certificate by the director under the seal of his department, as to the existence or nonexistence of the records relating to corporations shall be admissible in evidence in any court or administrative hearing or proceeding as prima facie evidence of the existence or nonexistence of the records therein stated.”

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

(Approved May 20, 1967.)

ACT 91

H. B. 484.

A Bill for an Act to Amend Chapter 172, Revised Laws of Hawaii 1955, as Amended, Relating to Corporations.

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

SECTION 1. Section 172-117, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending subsection (h) to read as follows:

“(h) Annual corporation exhibit of domestic and foreign corporations organized for profit—\$10;”

SECTION 2. Section 172-117, Revised Laws of Hawaii 1955, as

amended, is amended by adding thereto two new subsections, to be designated (p) and (q), and to read as follows:

“(p) Annual exhibit of nonprofit domestic and foreign corporations — \$1;

“(q) Agreement of merger or consolidation of nonprofit corporations — \$5.”

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

(Approved May 20, 1967.)

ACT 92

H. B. 579.

A Bill for an Act Relating to the Display of Number Plates on Motor Vehicles Operated on the Public Highways and Amending Section 160-11 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Paragraph (d) of section 160-11 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(d) No manufacturer or dealer shall permit the operation of any motor vehicle owned or controlled by him upon any public highway, unless number plates assigned to him are attached thereto, in the manner heretofore specified in this part, provided, however, that such vehicles may be operated without number plates attached thereto on the initial continuous movement from the place of entry of such vehicle into this State to the warehouse, storeroom, salesroom or other place of business selected by such manufacturer or dealer.”

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

(Approved May 20, 1967.)

ACT 93

H. B. 670.

A Bill for an Act to Amend Chapter 11, Revised Laws of Hawaii 1955, as Amended, to Authorize the Use of Electronic Voting Systems.

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

SECTION 1. Chapter 11, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section to be numbered section 11-171.5, and to read as follows:

“**Sec. 11-171.5. Electronic voting systems authorized.** Electronic voting systems which have been approved by the lieutenant governor are authorized for use in all state and county elections, whether a general, special or primary election; provided that such systems enable the voter to cast a vote in secrecy for all offices and all measures on which he is entitled to vote, and that the automatic tabulating equipment of such systems

may be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast.

“When used at primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, and will reject all votes for an office when the number of votes therefor exceeds the number which the voter is entitled to cast.

“The lieutenant governor may adopt, experiment with, or abandon any electronic voting system herein authorized and approved for use in the State, or any portion thereof.

“So far as applicable, the provisions of this part relating to voting machines including the provisions pertaining to the adoption of rules and regulations shall apply to electronic voting systems; provided, that the provisions of section 11-173 shall not apply to electronic voting systems.

“In every case where the ballots or ballot cards are handled by election officials, from the time such ballots and ballot cards are delivered to the several precincts to the time they are returned to the lieutenant governor for disposition upon completion of the tabulation, they shall be so handled in the presence of not less than two election officials who shall not be of the same political party.”

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

(Approved May 20, 1967.)

ACT 94

H. B. 866.

A Bill for an Act Relating to Donation of Bodies After Death for the Purposes of Medical Science and Education and Amending Chapter 322, Revised Laws of Hawaii 1955.

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

SECTION 1. The Revised Laws of Hawaii 1955 is amended by adding thereto a new chapter to be designated and to read as follows:

“CHAPTER 50F

DONATION OF BODIES AFTER DEATH

Sec. 50F-1. Donation of bodies authorized. Every person of testamentary capacity may provide for the disposition of his body after death, by a will or other written instrument which directs that his remains be donated to a university, hospital, or institution within the State authorized to teach and conduct research in medicine, anatomy, or surgery, or having a medical preparatory or medical graduate course of instruction, for teaching or scientific research purposes; provided that no person shall receive remuneration or anything of value for such disposition of his body. Every donation made pursuant to this chapter shall become effective immediately upon the death of the donor.

Sec. 50F-2. Duties of donor's heirs. The person or persons otherwise entitled by law to control the disposition of a decedent's body shall

faithfully carry out the directions of the decedent made pursuant to section 50F-1 subject only to the provisions of chapter 260 with respect to the duties of the coroner.

Sec. 50F-3. Duties of donee. Every university, hospital or institution which is a donee of a dead body as provided in section 50F-1 shall:

(a) Provide appropriate forms and other necessary papers approved by the director of health to be executed by the donor and shall also provide forms for the consent of the donor's spouse, adult children, parents, and adult brothers and sisters;

(b) Bear all reasonable expenses incurred in the transportation, preservation, and final disposition of the body;

(c) Use the body or parts thereof, solely for the purpose of teaching and research to promote medical science and education, including the retention of such material as may be needed for such purpose;

(d) Cooperate in carrying out any reasonable burial or funeral arrangements requested by the donor's surviving spouse, adult children, parents, or adult brothers and sisters; provided the costs of such arrangements shall not be the responsibility of the donee;

(e) In the absence of a request as specified in subsection (d), make final disposition of the body in a manner approved by the director of health;

(f) File with the local registrar of public health statistics of the district in which the death occurred a certificate of death within three days after death and comply with the provisions set forth in sections 57-11, 57-12, and 57-13.

Sec. 50F-4. Refusal of donated bodies. A university hospital or institution which is a donee of a dead body as provided in section 50F-1 may refuse to accept it under the following circumstances:

(a) The death occurs outside the island on which the university, hospital or institution is located;

(b) The body is autopsied or embalmed;

(c) The body is not intact;

(d) The university, hospital or institution has insufficient facilities to store and use the body; or

(e) Medical or health reasons endanger or threaten to endanger public health and safety.

Sec. 50F-5. Immunity from liability. A university, hospital, or institution to which a body is donated pursuant to this chapter, or any agent, officer, or employee of such university, hospital, or institution, shall not be liable for any damage or subject to criminal prosecution for using the body or parts thereof for teaching and scientific research purposes.

Sec. 50F-6. Form of disposing instrument; carrying out instructions; revocation. (a) No particular form or words shall be necessary or required for a person to donate his body pursuant to this chapter, except that in cases of a donation made by a written instrument other than a will, the instrument shall be witnessed by two adult persons and shall provide for the written consent to the donation by, to the extent applicable, the donor's

spouse, adult children, parents, and adult brothers and sisters.

(b) In cases of a donation made by a will the directions of the testator that his body be donated as provided in sections 50F-1 and 322-1 shall be immediately carried out regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

(c) Every donation made pursuant to this chapter may be revoked by the donor at any time prior to his death by the execution of a subsequent written instrument.

Sec. 50F-7. Construction. This chapter shall be administered and construed to the end that the expressed directions of any person in a will or other written instrument for the donation of his body as herein provided shall be faithfully and promptly performed.

Sec. 50F-8. Administration. The use of any dead body or parts thereof for medical science and education purposes and the subsequent final disposition of any such body made pursuant to the provisions of this chapter shall be administered by the department of health for administrative purposes."

SECTION 2. Section 322-1, Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 322-1. Age; sound mind; disposal of testator's body. Every person of the age of twenty years and of sound mind may dispose of his estate both real and personal by will. In addition, every such person may by will dispose of the whole or any part of his body to a university, hospital or institution within the State authorized to teach and conduct research in medicine, anatomy or surgery, or having a medical preparatory or medical graduate course of instruction, for teaching or scientific research purposes."

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

(Approved May 20, 1967.)

ACT 95

H. B. 928.

A Bill for an Act Relating to the Department of Education and Amending Chapter 38, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 38, Revised Laws of Hawaii 1955, is amended by adding a new section to be properly designated and to read as follows:

"Sec. 38- . Termination of employment; payment. Any provisions to the contrary notwithstanding, whenever the service of any teacher or educational officer of the department is to be terminated on account of the employee's retirement, such retiring employee shall be paid, at the time of retirement, all earned salary in a single lump sum payment."

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

(Approved May 20, 1967.)

ACT 96

H. B. 1004.

A Bill for an Act Relative to the Practice of Barbering.

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

SECTION 1. Section 58-8 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the following paragraph:

“The requirement of an eighth grade education or its equivalent shall not apply to applicants for examination and registration who practiced barbering in this State on or before January 1, 1947.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 20, 1967.)

ACT 97

S. B. 497.

A Bill for an Act Relating to Payment of Cash for Overtime Work of Public Officers and Employees.

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

SECTION 1. Section 5-72(d)(4) of the Revised Laws of Hawaii 1955, as amended by section 2 of Act 40, Session Laws of Hawaii 1966, is amended to read:

“(4) Any other provision herein to the contrary notwithstanding, if any fire-fighting member of the fire departments of the political subdivisions of the State is required to report for duty on any of the following days:

The first day of January,

The twenty-second day of February, known as President’s Day,

The twenty-sixth day of March, known as Kuhio Day,

The Friday preceding Easter Sunday, known as Good Friday,

The thirtieth of May, known as Memorial Day,

The eleventh day of June, known as Kamehameha Day,

The fourth of July,

The first Monday in September, known as Labor Day,

The eleventh day of November, known as Veteran’s Day,

The twenty-fifth day of December,

All election days, except primary election day, in the county wherein the election is held,

Any day designated by proclamation by the President of the United States as a day of thanksgiving, fasting or religious observance, or designated by proclamation by the governor of the State as a holiday, he shall receive in lieu of his straight time pay, payment in cash at the rate of two times his regular rate of pay for all hours of duty. The double time payment shall be in lieu of and not be in addition to his regular straight time pay.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 98

H. B. 53.

A Bill for an Act Relating to Payment of Retirement Benefits of Public Officers and Employees.

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

SECTION 1. Chapter 6, Revised Laws of Hawaii 1955, as amended, is amended by adding a new section to read as follows:

“**Sec. 6. . Payment of retirement benefits.** Notwithstanding any other provisions of this chapter, all retirees of the State retirement system or county pension funds shall be paid semimonthly.”

SECTION 2. Amend section 6-20, Revised Laws of Hawaii 1955, as amended, by deleting the last sentence in the subsection defining “Pensions”.

SECTION 3. This Act shall take effect on July 1, 1967.
(Approved May 22, 1967.)

ACT 99

H. B. 224.

A Bill for an Act Relating to Insurance on Public Vehicles.

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

SECTION 1. Section 134-6, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“**Section 134-6. Insurance on public vehicles.** Vehicles owned by the State or in the custody and use of any department may be insured against public liability, in limits not less than \$100,000/300,000, and against property damage in limits not less than \$10,000. The insurance may be effected by the department or other organization having custody or control of the vehicle, or, with the acquiescence of the head of the department or other organization, the vehicle may be insured under a fleet liability policy entered into by the State. Any such State fleet liability policy shall be administered by and be subject to the control of the comptroller.”

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

SECTION 3. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 100

H. B. 256.

A Bill for an Act Amending Sections 83-65 of the Revised Laws of Hawaii 1955, as Amended, Relating to Terms and Conditions of Parole, Suspension and Revocation; to Allow the Board of Pardons and Pardons to

* Edited accordingly.

Retake Absconders Without a Hearing and to Reimprison Mentally Ill Parolees.

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

SECTION 1. The second sentence of paragraph 1, section 83-65 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“No parole shall be revoked and no credits forfeited without cause, which cause must be stated in the order revoking the parole, or forfeiting the credits after notice to the paroled prisoner of his alleged offense and an opportunity to be heard; provided, that when a person is convicted in the State of a crime committed while on parole and is sentenced to imprisonment, or when it is shown by personal investigation that a parolee has left the State without permission from the board and due effort is made to reach him by registered mail directed to his last known address, no hearing shall be required to revoke his parole; and provided, further, that when any duly licensed psychiatrist finds that continuance on parole will not be in the best interests of a parolee or the community, the board, within the limitations of the sentence imposed, shall order the detention and treatment of such prisoner until such time as he shall be found by any duly licensed psychiatrist to be psychiatrically eligible for continuance on parole.”

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

(Approved May 22, 1967.)

ACT 101

H. B. 326.

A Bill for an Act Providing for an Investigation Fee in Application for the Relocation of Industrial Loan Companies.

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

SECTION 1. Section 194-8, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the following sentence to the end of the second paragraph:

“Licensees who apply for the relocation of their present offices shall pay to the director of regulatory agencies an investigation fee of \$50, which fee shall not be refundable.”

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

(Approved May 22, 1967.)

ACT 102

H. B. 344.

A Bill for an Act to Amend Chapter 59, Revised Laws of Hawaii 1955, Relating to the Beauty Culture Board.

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

SECTION 1. Section 59-4, Revised Laws of Hawaii 1955, is hereby amended by deleting the third and fourth paragraphs therefrom.

SECTION 2. Section 59-6, Revised Laws of Hawaii 1955, is hereby repealed.

SECTION 3. Section 59-12, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 59-12. Application for examination. Each person who desires to practice or instruct in any of the classified practices or occupations shall file with the board a written application, under oath, on a form prescribed and supplied by the board and shall submit satisfactory proof of the required age, educational qualifications, and good moral character; and pay the required fees.”

SECTION 4. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 103

H. B. 466.

A Bill for an Act Making an Appropriation to the Hawaiian Farm Loan Fund.

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

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$150,000, or so much thereof as may be necessary, to the department of Hawaiian Home Lands to be deposited into the Hawaiian farm loan fund which shall be made available only for loans to lessees as provided in the Hawaiian Homes Commission Act of 1920, as amended, and shall not be expended for any other purpose. This appropriation is in addition to any other moneys which the department of Hawaiian Home Lands is entitled to receive under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

SECTION 2. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 104

H. B. 631.

A Bill for an Act Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended, Relating to Intoxicating Liquor.

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

SECTION 1. Section 159-20 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“Sec. 159-20. Service of subpoenas by inspectors; witnesses’ fees. Any inspector may serve any subpoena issued by the commission.

Every witness attending or testifying at any hearing of the commission

in response to a subpoena issued by it shall be paid as provided for in section 222-7. If a witness is subpoenaed by direction of the commission, his fees shall be paid out of any funds which may be set aside for the expenses of the commission and, if the witness is subpoenaed on behalf of any interested party, his fee shall be paid by such party."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 105

H. B. 634.

A Bill for an Act Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended, Relating to Intoxicating Liquor.

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

SECTION 1. Section 159-30 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new paragraph to read as follows:

"A temporary license of any class and kind specified in this section may be granted under the following conditions:

(a) The premises shall have been operated under a license of the same class and kind issued by the commission at least one year immediately prior to the date of filing of the application for temporary license.

(b) The license of the same class and kind then in effect for the premises shall be surrendered in such manner and at such time as the commission shall direct.

(c) The applicant for temporary license shall have filed with the commission an application for the transfer to him of the license of the same class and kind then in effect for the premises.

(d) The application for temporary license shall be accompanied by a license fee in such amount as may be prescribed by the commission. If the application is denied or withdrawn, the fee which accompanied the application shall be refunded in full.

(e) A temporary license shall be for a period of not in excess of sixty days. The license may be renewed at the discretion of the commission for an additional sixty days upon payment of such additional fee as may be prescribed by the commission and upon compliance with all conditions required herein.

(f) A temporary license is a conditional license and shall authorize the licensee to purchase liquor only by payment in currency or certified check for such liquor before or at the time of delivery of such liquor to him.

(g) The provisions of sections 159-51, 159-53 and sections 159-55 to 159-60 shall not apply to any application for temporary license.

(h) Notwithstanding any other provision of law, a temporary license may be revoked or suspended summarily at any time if the commission determines that good cause for revocation or suspension exists. The provisions of sections 159-90 and 159-91 shall not apply to temporary licenses."

SECTION 2. This Act shall take effect on July 1, 1967.
(Approved May 22, 1967.)

ACT 106

H. B. 714.

A Bill for an Act Relating to Highways and Amending Section 111-22(c), Revised Laws of Hawaii 1955 (1965 Supplement).

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

SECTION 1. Section 111-22(c), Revised Laws of Hawaii 1955 (1965 Supplement), is hereby amended by deleting the figure "\$100" on line 2 and the figure "\$300" on line 3 and inserting in lieu thereof the figures "\$200" and "\$3000," respectively.

SECTION 2. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 107

H. B. 202.

A Bill for an Act Relating to Shoplifting and Providing a Defense for Merchants and Others.

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

SECTION 1. Chapter 246, Revised Laws of Hawaii 1955, is amended by adding a new section to be numbered and to read as follows:

"Sec. 246-1.1. Defense of lawful detention. In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass or invasion of civil rights, brought by any person by reason of having been detained on or in the immediate vicinity of the premises of a retail mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise, it shall be a defense to such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a police officer or by the owner of the retail mercantile establishment, his authorized employee or agent, and that such police officer, owner, employee or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit larceny of merchandise on the premises. As used in this section, "reasonable grounds" includes, but is not limited to, knowledge that a person has concealed possession of unpurchased merchandise of the retail mercantile establishment, and a "reasonable time" means the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise.

For the purpose of this section, the term "retail mercantile establishment"

means a place where goods, wares or merchandise are offered to the public for sale.

This section applies to legal action resulting from detentions occurring on and after the date it becomes effective.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 108

H. B. 831.

A Bill for an Act Relating to Survival of Tort Actions and Amending Section 246-5, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 246-5, Revised Laws of Hawaii 1955, is amended to read as follows:

“**Sec. 246-5. Death of wrongdoer or other person liable prior to suit, time for commencing action against the estate.** In any case where the wrongdoer or other person who may be liable for damages for physical injury or death as provided in section 246-2 dies before an action has been brought against him, such action may be brought against the legal representative of his estate; provided, that every such action shall be instituted within two years after the death of the injured person in any action brought under section 246-2 or within two years after the date of physical injury in all other cases, whichever shall be earlier.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 22, 1967.)

ACT 109

H. B. 856.

A Bill for an Act Amending Section 11-59.5, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 11-59.5, Revised Laws of Hawaii 1955, is amended by adding the following to the end of the first paragraph:

“Presentation of a voter’s receipt by an employee to his employer shall constitute proof of voting by the employee.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 15, 1967.)

ACT 110

H. B. 930.

A Bill for an Act Relating to Group Life Insurance and Making an Appropriation Therefor.

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

SECTION 1. Add the following paragraph at the end of section 5A-3, Revised Laws of Hawaii 1955:

“To the extent that contributions are provided for group life insurance benefits in section 5A-4, the fund shall also be used for the purpose of providing group life insurance benefits to employees.”

SECTION 2. Add the following paragraph before the last paragraph of section 5A-4, Revised Laws of Hawaii 1955:

“Effective January 1, 1968 and every month thereafter, the State through the department of budget and finance shall pay to the fund a monthly contribution of \$2.25 for each employee to be used towards the payment of group life insurance benefits for each employee.”

SECTION 3. Add the following section after section 5A-13, Revised Laws of Hawaii 1955:

“Section 5A-13.1. Determine Group Life Insurance Benefits. Pursuant to section 5A-4, the board shall provide group life insurance benefits to employees in the following manner:

(a) For those employees who are not participating in a group life insurance program of an employee organization (hereafter “nonparticipating employees”), the board shall determine a group life insurance benefit plan and eligibility requirements for such benefits based upon the contribution of \$2.25 per month per employee. Any rate credit or reimbursement from any carrier of any earnings or interest derived from the group life insurance plan of nonparticipating employees shall be used to improve the group life insurance benefits of nonparticipating employees.

(b) For those employees who participate in a group life insurance program of an employee organization, the board shall allot \$2.25 per month towards the purchase of group life insurance benefits under the group life insurance program of an employee organization, provided that no employee shall have more than one allotment of \$2.25 per month.”

SECTION 4. Appropriation. There is hereby appropriated out of the general funds of the State the sum of \$385,763 or so much thereof as may be necessary to the department of budget and finance to cover the contributions of the State for group life insurance benefits as provided in chapter 5A, Revised Laws of Hawaii 1955, for the period January 1, 1968 and ending June 30, 1968.

SECTION 5. Construction and Severability. This Act shall be liberally construed in order to accomplish its purposes. If any part of the Act shall be declared unconstitutional, the remaining part shall be valid.

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

(Approved May 22, 1967.)

ACT 111

S. B. 468.

A Bill for an Act Relating to Votes of Bank Shareholders and Amending Chapter 178, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 178-24.1, Revised Laws of Hawaii 1955, is amended by deleting in the second sentence the word "three-fourths of the stock" and substituting in lieu thereof the words "two-thirds of the stock".

SECTION 2. Section 178-28, Revised Laws of Hawaii 1955, is amended by deleting in the first sentence the words "three-fourths of the stock" and substituting in lieu thereof the words "two-thirds of the stock".

SECTION 3. Section 178-31, Revised Laws of Hawaii 1955, is amended by deleting in the first sentence the words "three-fourths of the stock" and substituting in lieu thereof the words "two-thirds of the stock".

SECTION 4. This Act shall take effect upon its approval.
(Approved May 23, 1967.)

ACT 112

S. B. 495.

A Bill for an Act Relating to Hawaii Insurance Law and Amending Section 181-282, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The purpose of this Act is to (a) increase the investments allowed by domestic insurers in real estate mortgages from 75 per cent to eighty per cent of the fair value of residences and from 66 2/3 per cent to 75 per cent of the fair value of the property in all other cases, and (b) to allow the mortgage loan to be amortized over a period of 30 years instead of 20 years.

SECTION 2. Section 181-282, subsection (a)(1), Revised Laws of Hawaii 1955, is amended by deleting the words "seventy-five per cent" and "twenty years" and substituting the words "eighty per cent" and "thirty years", respectively.

SECTION 3. Section 181-282, subsection (a)(2), is amended by deleting the words "sixty-six and two-thirds per cent" and substituting the words "seventy-five per cent".

SECTION 4. This Act shall take effect upon its approval.
(Approved May 23, 1967.)

ACT 113

S. B. 532.

A Bill for an Act to Amend Chapter 160, Part V, Revised Laws of Hawaii 1955, as Amended, Relating to Bond of Automobile Dealers.

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

SECTION 1. Chapter 160, Part V, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respect:

A. By amending subsections (a) and (b) of section 160-168, as amended, to read:

“Section 160-168. Bond of dealer. (a) Each new motor vehicle dealer receiving a license shall keep in force a bond to the board in the penal sum of \$25,000 if the license is for a county with a population of 200,000 or more and \$3,000 if the license is for any county with a population of less than 200,000. Each used motor vehicle dealer shall give and keep in force a bond to the board in the penal sum of \$10,000 if the license is for a county with a population of 200,000 or more and \$2,000 if the license is for any county with a population of less than 200,000. More than one bond may be furnished by the same applicant, provided they aggregate the full amount prescribed by this section. If any bond is not (a) executed by a surety company authorized to do business in the state or (b) secured by a deposit of cash with the board in lieu of surety, then the provisions of sections 9-32, 9-33 and 9-34 shall be applicable as nearly as may be to furnishing of such bond and the surety or sureties and the security thereof, with the substitution of the board hereunder for the awarding officer mentioned in sections 9-32 and 9-34 mutatis mutandis.

(b) It is provided: (1) that if the applicant maintains an established place of business in the county concerned which is used, or will be used, for the purpose of selling, displaying, or offering to negotiate for the purchase of motor vehicles, the market value of which, over and above all liens, charges and encumbrances thereon is equal to or greater than ninety per cent of the amount of bond required by this section, and the financial condition of the applicant is such that, in the judgment of the board the excess over ten per cent of such bond may be waived without unduly jeopardizing the possible rights and interests of present and prospective claimants against the applicant intended to be secured by such bond, then the amount of such bond for new motor vehicle dealers or used motor vehicle dealers may be reduced by the board to \$10,000 for a county with a population of 200,000 or more, and \$1,000 for any other county with a population of less than 200,000; and (2) that if the dealer is licensed to engage, in the business of selling only motorcycles and motor scooters, the bond shall be only in the amount of \$5,000 for a county within a population of 200,000 or more, and \$500 for any other county with a population of less than 200,000.”

B. By amending the first sentence of subsection (d) of section 160-168 to read as follows:

“The board, director of finance or the treasurer, or any person, who has been or claims to have been injured by the breach of the conditions shall have the right of action to recover on any such bond, plus a reasonable attorney’s fee (to be allowed by the court, no other attorney’s fees shall be permitted from the bond proceeds) incurred to procure the recovery under

the bond, but the aggregate liability of the surety or sureties to all such persons shall in no event exceed the amount of the bond.”

C. By adding a new section thereto to be designated section 160-168.1 and to read as follows:

“**Bond of broker.** (a) Each broker receiving a license shall give to the board and keep in force a bond or bonds in the penal sum totaling not less than \$10,000.

(b) All provisions contained in section 160-168 of this part pertaining to reduction of bond, bond condition, and suit on bond for a used motor vehicle dealer shall be applicable to a broker.”

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

(Approved May 23, 1967.)

ACT 114

H. B. 213.

A Bill for an Act Relating to the Interstate Compact on Mental Health, Making the State of Hawaii a Party Thereto.

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

SECTION 1. The Interstate Compact on Mental Health is hereby enacted into law and entered into by the State of Hawaii with all other states legally joining therein in the form as follows:

“The contracting states solemnly agree that:

Article I

The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

Article II

As used in this compact:

(a) ‘Sending state’ shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

(b) ‘Receiving state’ shall mean a party state to which a patient is trans-

ported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

(c) 'Institution' shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency.

(d) 'Patient' shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

(e) 'After-care' shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

(f) 'Mental illness' shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

(g) 'Mental deficiency' shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

(h) 'State' shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Article III

(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

Article IV

(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

Article V

Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

Article VI

The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

Article VII

(a) No person shall be deemed a patient of more than one institution

at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

Article VIII

(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for whom he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

(b) The term 'guardian' as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

Article IX

(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional insti-

tution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

Article X

(a) Each party state shall appoint a 'compact administrator' who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

Article XI

The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

Article XII

This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

Article XIII

(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of the compact.

(b) Withdrawal from any agreement permitted by Article VII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

Article XIV

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.”

SECTION 2. Pursuant to said compact, the director of health shall be the compact administrator and the officer who, acting jointly with like officers of other party states, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this State and its subdivisions in facilitating the present administration of the compact or of any supplementary agreement or agreements entered into by this State thereunder.

SECTION 3. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to Article VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of this State or require or contemplate the provision of any service by this State, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

SECTION 4. The compact administrator, subject to the approval of the comptroller, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this State by the compact or by any supplementary agreement entered into thereunder.

SECTION 5. The compact administrator is hereby directed to consult with the immediate family of any proposed transferee.

SECTION 6. Duly authorized copies of this Act shall upon its approval be transmitted by the Lieutenant Governor to the Governor of each state, the Attorney General and the Administrator of General Services of the United States, and the Council of State Governments.

SECTION 7. This Act shall take effect upon its approval.
(Approved May 23, 1967.)

ACT 115

H. B. 227.

A Bill for an Act Relating to the Compact for Education.

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

SECTION 1. Purpose. The Education Commission of the States has voted to change the Compact for Education by providing for equal numbers of governors and legislators on the steering committee, and to change its name from "The Educational Commission of the States" to "The Education Commission of the States". At present one-third of the voting membership of the steering committee consists of governors and the remainder consists of other members of the commission. It is necessary that compact states amend the Compact adopted in their respective states.

SECTION 2. The Compact for Education, set forth in Section 2 of Act 32, Session Laws of Hawaii 1966, is amended in the following respects:

(a) The words "The Educational Commission of the States", appearing in the first sentence of Article III-A of the Compact, are amended to read "The Education Commission of the States".

(b) Article VI-A of the Compact is amended to read as follows:

"To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One-fourth of the voting membership of the steering committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation."

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

(Approved May 23, 1967.)

ACT 116

H. B. 286.

A Bill for an Act Relating to Highways and Amending Section 111-6, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 111-6, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“Section 111-6. Combination of federal and state funds. (a) Every agreement for the engineering or construction of federal-aid highways or for the acquisition of rights-of-way for these highways shall be made on behalf of the State by the director of transportation. The provisions of section 9-36 shall be applicable only to that portion of the price as is payable out of local funds. As to that portion of the price as is payable out of federal-aid funds, the agreement is that the State will pay the contractor only out of federal funds actually received for that portion of the project and is not a general agreement on the part of the State to pay that portion out of any other funds. Each agreement shall be deemed to contain a provision to that effect whether specifically included or not.

“(b) Any moneys appropriated for the State’s share of the price or any moneys in the state highway fund created by section 129-11, in the discretion of the director of transportation, may be drawn upon to advance the federal share of payments (1) earned by contractors on federal-aid projects for completed portions of the work or (2) due the owners for property conveyed by them where the necessary federal-aid moneys are not immediately forthcoming, the appropriation or fund to be reimbursed for such advances when federal-aid moneys are received.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 23, 1967.)

ACT 117**H. B. 839.**

A Bill for an Act Relating to Tax Exempt Annuity and Trust Contributions for the Self-Employed.

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

SECTION 1. Section 121-1.01, Revised Laws of Hawaii 1955, as amended, is hereby further amended to incorporate therein certain amendments of the Internal Revenue Code of 1954 allowing deductions from gross income for contributions made by self-employed persons to certain trusts and annuity plans, by adding under column 1 and column 2 the following:

“COLUMN 1	COLUMN 2
Taxable year beginning on or after January 1, 1968.	Public Law 87-792, sections 2, 3, 4, 6, 7(b), 7(c), 7(d), 7(e), and 7(f). Public Law 87-863, subsections 2(a) and (b); Public Law 89-809, sections 204 and 205.”

SECTION 2. This Act, upon its approval, shall apply to the taxable year stated in section 1.

(Approved May 23, 1967.)

ACT 118

H. B. 731.

A Bill for an Act Relating to Value Engineering in Public Works Contracts.

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

SECTION 1. **Purpose.** The purpose of this Act is to adopt for the State of Hawaii the principle of value engineering such as is being used by the United States Department of Defense in many of its contracts.

SECTION 2. **Value engineering clauses.** The State of Hawaii and each of the respective counties shall insert clauses providing for value engineering incentives in all public works contracts for amounts in excess of \$100,000. Such clauses shall provide:

(1) That cost reduction proposals submitted by contractors:

(a) Must require, in order to be applied to the contract, a change order thereto; and

(b) Must result in savings to the State or county, as the case may be, by providing less costly items than those specified in the contract without impairing any of their essential functions and characteristics such as service life, reliability, economy of operation, ease of maintenance, and necessary standardized features.

(2) That accepted cost reduction proposals shall result in an equitable adjustment of the contract price so that the contractor will share a portion of the realized cost reduction.

SECTION 3. **Rules and regulations.** The comptroller of the State or the treasurer or director of finance of each of the counties, as the case may be, shall promulgate, pursuant to chapter 6C, Revised Laws of Hawaii 1955, such rules and regulations as may be necessary and proper to implement this Act, provide adequate incentive to contractors, realize savings for the State or counties, as the case may be, and to otherwise carry out the purposes of this Act.

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

(Approved May 25, 1967.)

ACT 119

H. B. 632.

A Bill for an Act Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended, Relating to Intoxicating Liquor.

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

SECTION 1. Section 159-41 of the Revised Laws of Hawaii 1955, as

amended, is hereby amended by inserting the following sentence after the second sentence in the first paragraph thereof:

“Where a license is held by a partnership, the commission may, notwithstanding the provisions of 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.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 26, 1967.)

ACT 120

S. B. 183.

A Bill for an Act Relating to Real Property Tax and Amending Chapter 128, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 128-1, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“**Sec. 128-1. Property defined.** ‘Property’ or ‘real property’ means and includes all land and appurtenances thereof and the buildings, structures, fences and improvements erected on or affixed to the same, and any fixture which is erected on or affixed to such land, buildings, structures, fences and improvements, including all machinery and other mechanical or other allied equipment and the foundations thereof, whose use thereof is necessary to the utility of such land, buildings, structures, fences and improvements, or whose removal therefrom cannot be accomplished without substantial damage to such land, buildings, structures, fences, and improvements, excluding, however, any growing crops.”

SECTION 2. Chapter 128, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to be designated as section 128-21.6, and to read as follows:

“**Sec. 128-21.6. Fixtures used in manufacturing or producing tangible personal products.** There shall be exempted and excluded from the measure of the taxes imposed by this chapter, all fixtures which are categorized as machinery and other mechanical or other allied equipment which are primarily and substantially used in manufacturing or producing tangible personal products.”

SECTION 3. This Act shall take effect upon its approval.
(Approved May 26, 1967.)

ACT 121

S. B. 262.

A Bill for an Act Relating to Credit for Time Spent in Custody or Confinement.

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

SECTION 1. Chapter 258 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new section to be appropriately numbered by the revisor of statutes and to read as follows:

“Sec. 258-..... Effective date of sentence; credit for time in custody or confinement prior to imposition of sentence. The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which such person is received at the jail, prison or other institution designated for his incarceration for service of such sentence. The director of the department of social services and the board of paroles and pardons shall give any such person credit toward service of his sentence for any days spent in custody or confinement in connection with the offense or acts for which sentence was imposed.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 26, 1967.)

ACT 122

S. B. 563.

A Bill for an Act Related to the Labeling of Poultry Products.

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

SECTION 1. Sections 22C-11 through 22C-15, Revised Laws of Hawaii 1955, as amended, be deleted, and sections 2 through 11 of this Act, appropriately renumbered, be substituted therefor.

SECTION 2. **Section Definitions.** When used in this Act:

- (a) “Board” means the Board of Agriculture.
- (b) “Department” means the State Department of Agriculture.
- (c) “Person” means any individual, partnership, corporation, association, or any other business party.
- (d) “Inspector” means any employee or official of this State authorized by the board.
- (e) “Label” means the information required by this Act to be placed upon the poultry product or upon the immediate container in which a poultry product is offered for sale.
- (f) “Poultry product” means the uncooked edible carcass of poultry or any part thereof including giblets.
- (g) “Poultry” means any kind of domestic bird, including but not being limited to chickens, turkeys, ducks, geese, pigeons and guineas.
- (h) “Container” and “package” include any box, carton, bag or any other receptacle, wrapper or cover.
- (i) “Geographic origin” means the place or country in which the poultry was grown. The geographic origin shall be either “MAINLAND” or “FOREIGN” or “LOCAL.”
- (j) “Processed” or “processing” shall include cutting or disjointing, re-

packing or packing in immediate container, or in any way changing the physical form of the poultry product.

(k) "Immediate container" means any consumer package, or any other container used for transporting poultry products, or in which poultry products are offered for sale.

(l) "New York-dressed" means fowl from which the feathers have been removed and the blood drawn and which is offered for sale as a whole fowl with head, feet and entrails intact.

(m) "Sell" covers all sales of poultry products to the ultimate consumer either at wholesale or at retail.

Section Labeling requirement.

(a) Any poultry product or immediate container in which the poultry product is packed, which is sold, displayed, exposed or offered for sale shall be labeled with, not being limited to the following information:

1. Product name (kind, class, part).
2. Net weight.
3. Name and address of the processor, packer or distributor.

(b) All chilled poultry products shall be labeled to indicate "MAINLAND" or "FOREIGN" or "LOCAL" GROWN by a label as provided in section

(c) Any poultry product further processed and enclosed in an immediate container by the importer, wholesaler or retailer shall be labeled to indicate "MAINLAND" or "FOREIGN" or "LOCAL" GROWN by a label as provided in section

(d) Poultry product not enclosed in an immediate container shall be properly identified with a label securely fastened or placed on each poultry or shall be identified with a sign or placard, indicating the geographic origin as either "MAINLAND" or "FOREIGN" or "LOCAL" GROWN.

(e) Label for institutional and bulk pack shall be placed on the original shipping package, crate or carton, with or without individual labeling of each poultry product therein.

(f) Labeling to indicate geographic origin shall not apply to frozen poultry products in original immediate container.

(g) The labeling requirements shall not apply to New York-dressed poultry which is sold to ultimate consumer at the farm or ranch where the poultry was grown; or to sales subsequent to a sale at retail.

Section Labeling of thawed-out poultry product.

(a) No person shall sell or offer for sale any poultry product which has at any time been frozen and defrosted without a label notifying the purchaser of that fact and the geographic origin in which the poultry product was grown. Insert the geographic origin as either "MAINLAND" or "FOREIGN" or "LOCAL" GROWN and words "PREVIOUSLY FROZEN".

(b) There shall be no other letter, figures, or marks within the label that will detract from the prominence of the words on the label.

(c) The label shall be in accordance with the rules and regulations of the department of agriculture.

Section **Misrepresentation concerning geographical area where grown.** No person shall by any statement either verbal, printed or written, or by improper use of labels or advertisements, wilfully represent or pretend that poultry products were grown by any person, or in any area, other than by the person and in the geographic area where the poultry were in fact grown.

Section **False labeling.** The use of any written, printed or graphic matter upon or accompanying any poultry product required to be labeled pursuant to this Act or upon the container or package in which the product is sold which is false or misleading in any particular is prohibited.

Section **Rules and regulations.** The department is hereby charged with the enforcement of this Act, and after public hearing conducted in accordance with Chapter 6C, Revised Laws of Hawaii 1955, is empowered to promulgate and adopt such rules and regulations as may be necessary in order to secure the efficient administration of this Act.

Section **Authorization for inspection.** Any authorized officer of the Department of Agriculture may enter and inspect any place or conveyance where poultry products are processed, stored, packed, delivered for shipment, shipped, offered for sale, or sold, and may inspect all such poultry products, containers and labels thereof found in such place or conveyance. Records relating to importation and distribution of poultry products may be inspected and upon verified complaint by person or persons, the department may conduct an investigation.

Section **Authorization for stop sale.**

(a) Any authorized officer of the Department of Agriculture upon determining that the provisions of this Act or the rules and regulations promulgated under authority of this Act are being violated may place STOP SALE NOTICES in front of or upon such products, or otherwise display to persons purchasing or intending to purchase such poultry product.

(b) Poultry product upon which a STOP SALE NOTICE has been issued shall not be sold, offered for sale, transferred or otherwise disposed of until such STOP SALE NOTICE has been removed by an authorized officer of the Department of Agriculture.

Section **Penalties.**

(a) Any person convicted of violating any of the provisions of this Act or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent its duly authorized agent in performance of his duty in connection with the provisions of this Act shall be adjudged guilty of a misdemeanor and shall be fined not less than \$100.00 or more than \$200.00 for the first violation, and not less than \$200.00 or more than \$500.00 for any subsequent violation.

(b) Before any violation of this Act is reported by the board to the attorney general of this State for institution of a criminal proceeding, the

person against whom such proceeding is contemplated shall be given reasonable notice of the alleged violation and opportunity to present his views orally or in writing with regard to such contemplated proceeding.

(c) Nothing in this Act shall be construed as requiring the Board or its representative to report for prosecution or for the institution of proceedings as a result of minor violations of the Act when he believes that the public interest will be best served by suitable notice of warning in writing.

Section **Constitutionality.** Should any part of this Act be judged invalid, Act 109, Session Laws of Hawaii 1961, shall apply.

Section This Act shall take effect upon its approval.

(Approved May 26, 1967.)

ACT 123

S. B. 748.

A Bill for an Act Relating to Payment of Dividends by Building and Loan Associations, and Amending Sections 180-43 and 180-47 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 180-43 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the first paragraph to read as follows:

“Section 180-43. Restrictions on stock. No stock shall be issued upon which a different or stipulated rate of dividends or interest is guaranteed or paid before or regardless of the amount of dividends distributed to other classes of shares, except as authorized by this chapter. Nothing in this chapter shall be construed to prohibit or limit the right of an association to pay a different or higher rate of dividend on guaranty stock than on other classes of stock or shares of the association.”

SECTION 2. Section 180-47 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the fourth paragraph to read as follows:

“Dividends shall be credited to accounts on the books of the association on the dividend payment date unless a shareholder has requested and the board of directors has agreed to pay dividends on all or part of any account in cash. Dividends payable in cash shall be paid on the dividend payment date and may be paid by check or bank draft. The holder of each withdrawable share in the same class shall participate equally in dividends pro rata to the book value of their respective accounts; provided, however, with the prior approval of the bank examiner for each class of withdrawable shares, an association shall have the right to issue different classes of withdrawable shares determined according to the character, amount, duration thereof or regularity of additions thereto, and in the discretion of the board of directors may from time to time pay dividends on each such class of shares at the same or a different rate. No association shall be required to pay or credit

dividends on accounts of \$5 or less. An association shall also have the right to issue such different classes of withdrawable shares in each of the different states in which it may operate which, in the discretion of the board of directors, may, from time to time, receive the same or a different rate of dividends, provided that as to each state, the same rate of dividends shall be paid on all withdrawable shares of the same class.”

SECTION 3. This Act shall take effect on July 1, 1967.
(Approved May 26, 1967.)

ACT 124

H. B. 54.

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

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

SECTION 1. Add the following section to the Revised Laws of Hawaii 1955, as amended, to read:

“Sec..... **Credits for employees receiving workmen’s compensation benefits.** Where an employee or officer in the service of the State or of the several counties is absent from work because of injuries incurred within the scope of his employment and the employee or officer is receiving workmen’s compensation benefits, the employee or officer shall continue to earn vacation, sick leave and retirement credits as though he were not absent but performing duties of his regular employment.”

SECTION 2. This Act shall take effect on July 1, 1967.
(Approved May 26, 1967.)

ACT 125

H. B. 174.

A Bill for an Act Making an Appropriation to Study, Review and Revise the Criminal, Correctional and Juvenile Laws of the State of Hawaii.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$40,000, or so much thereof as may be necessary, to study, review and revise the criminal, correctional and juvenile laws of the State of Hawaii.

SECTION 2. The sum appropriated shall be expended by the Judicial Branch.

SECTION 3. This Act shall take effect upon its approval.
(Approved May 26, 1967.)

ACT 126

H. B. 332.

A Bill for an Act to Amend Chapter 172, Revised Laws of Hawaii 1955, as Amended, Relating to Corporations.

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

SECTION 1. Section 172-15.5, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the first sentence to read as follows:

“The officers of a corporation for profit shall consist of a president, one or more vice-presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected or appointed by the board of directors at such time and in such manner as may be prescribed by the bylaws.”

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

(Approved May 26, 1967.)

ACT 127

H. B. 372.

A Bill for an Act Relating to County Liquor Commissions and Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 159-10, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new paragraph immediately following the sixth paragraph of said section, to read as follows:

“In any county having a population of more than 100,000 the chairman and each member of that county’s liquor commission shall be compensated for their services at the rate of \$35.00 per day for the chairman and \$25.00 per day for each member, for their reasonable expenses incidental to the discharge of their duties; provided that the chairman shall not receive more than \$350.00 per month and each member shall not receive more than \$250.00 each per month on account of such compensation.”

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

(Approved May 26, 1967.)

ACT 128

H. B. 569.

A Bill for an Act Providing Safety Measures for Amusement Rides, and Amending Chapters 96 and 155 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Section 96-3, Revised Laws of Hawaii 1955, is hereby amended by inserting a new subsection (e) before the last paragraph of the section, to read as follows:

“(e) Shall inspect, at least semiannually, all mechanically or electrically operated devices considered as major rides and used as amusement rides at a carnival, circus, fair or amusement park for the purpose of protecting the safety of the general public. This section shall not apply to any coin operated

ride or mechanically or electrically operated devices considered or known in the amusement trade as kiddie rides.”

SECTION 2. That part of chapter 155, Revised Laws of Hawaii 1955, subtitled “PUBLIC SHOWS” is amended by adding a new section to be appropriately numbered and to read as follows:

“Sec. 155-..... Amusement rides; safety measures; penalty. (a) No mechanically or electrically operated device considered as a major ride and used as an amusement ride shall be permitted to be used or operated at a carnival, circus, fair or amusement park unless: (1) a safety belt or other safety device of similar purpose is installed and used so as to minimize or prevent injury to persons riding on the device and other persons on the premises; (2) an attendant is present at all times during the operation of the device; and (3) the device has been inspected by the department of labor and industrial relations as required by section 96-3(e). This section shall not apply to any coin operated ride and mechanically or electrically operated devices considered or known in the amusement trade as kiddie rides.

(b) Any person who violates this section shall be fined not more than \$500 or imprisoned not more than one year, or both.”

SECTION 3. This Act shall take effect on January 1, 1968.
(Approved May 26, 1967.)

ACT 129

H. B. 262.

A Bill for an Act Relating to Authorized Visitors to Prisons or Jails and Delivery to and Receipt from Prisoners of Unauthorized Articles.

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

SECTION 1. Section 83-48 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Section 83-48. Others by permission. None but official visitors named in section 83-47 and any others specifically authorized by law shall be allowed to visit any prison or jail or to have any oral or written communication with the prisoner, unless with the written permission of the superintendent or the director as to state prisons, or the written permission of the chief of police or the officer in charge of a county or the city and county jail, nor shall any visitor deliver to or receive from any prisoner any letter or message, or supply any prisoner with any article, except with permission granted by the superintendent of a state correctional facility or the officer in charge of a county or the city and county jail, under penalty of a fine of not more than \$1,000 or imprisonment of not more than five years, or both.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 26, 1967.)

ACT 130

H. B. 48.

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

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

SECTION 1. Section 6-20, Revised Laws of Hawaii 1955, as amended, is amended by adding the following definitions thereto:

“Firemen’: All regularly employed members of the fire departments of the several counties whose principal duties are to prevent and fight fires.”

“Policemen’: All duly commissioned members of the police departments of the several counties whose principal duties are law enforcement and who are paid on a monthly salary basis, including without limiting the generality of the foregoing, all police matrons and guards who work under the jurisdiction of such departments.”

SECTION 2. Subsections B1 and B2 of section 6-42, Revised Laws of Hawaii 1955, as amended, is amended to read as follows:

“1. If the member has attained age fifty-five, a retirement allowance equal to one-fiftieth of the average final compensation of the member multiplied by the total number of years of his creditable service; provided, that after June 30, 1968, in the case of a member who has at least ten years of creditable service of which the last five or more years prior to retirement is creditable service as a fireman or a policeman, for each year of service as a fireman or a policeman the retirement allowance shall be 2.5 per cent of his average final compensation; provided further, that the maximum retirement allowance for such a member shall not exceed 80 per cent of his average final compensation. If the member has not attained the age of fifty-five, a retirement allowance computed as though he had attained age fifty-five, reduced in accordance with factors of actuarial equivalence adopted by the board upon the advice of the actuary.”

SECTION 3. Section 6-82, Revised Laws of Hawaii 1955, as amended, is amended to read as follows:

“Sec. 6-82. **Employee contributions.** On or after July 1, 1965, the normal contributions by all members to the annuity savings fund shall be six per cent of their compensation; provided, that after June 30, 1967, all firemen and policemen shall contribute 10.4 per cent of their compensation.

“In addition to the foregoing, all members, including firemen and policemen, shall contribute one-half of one per cent of their compensation to the post retirement fund.”

SECTION 4. Renumber the remaining subsection B3 of section 6-42, Revised Laws of Hawaii 1955, as amended, accordingly.

SECTION 5. If S. B. No. 863 is passed during this General Session of 1967, whether before or after the effective date of this Act, the corresponding provision of S. B. No. 863 shall be amended to conform with this Act.

SECTION 6. This Act shall take effect on July 1, 1967.

(Approved May 26, 1967.)

ACT 131

H. B. 299.

A Bill for an Act Relating to Policemen, Firemen and Bandsmen Pension System and Making an Appropriation Therefor.

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

SECTION 1. Amend paragraph (c) of section 6-140 of the Revised Laws of Hawaii 1955, as amended, to read:

“(c) Any member of the police force, fire department or band who has been in the service of the county as a member of the police force, fire department or band for more than twenty-five years, upon his written application to the board to be retired, shall be retired from the police force, fire department or band and such member shall thereafter receive from the pension system a monthly payment equal to fifty per cent of the average monthly compensation for the five years of his service, as hereinafter defined, immediately preceding the date of his retirement, plus two per cent for each year in excess of twenty-five years, but not in excess of eighty per cent.”

SECTION 2. Appropriation. There is hereby appropriated out of the general funds of the State of Hawaii, the sum of \$2,000, or so much thereof as may be necessary, to the appropriate authorities under the policemen, firemen and bandsmen pension system, for the purpose of satisfying the increase in benefits provided in Section 1 herein.

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

(Approved May 29, 1967.)

ACT 132

H. B. 852.

A Bill for an Act Making an Appropriation for the Commissioning of Two Statues of the Rev. Joseph Damien DeVeuster, SS.CC., and to Provide for all Expenses Necessary to Place One Statue in Statuary Hall and a Second Statue on Permanent Display in the State of Hawaii.

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

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$73,350, or so much thereof as may be necessary, for the commissioning of two statues of the Rev. Joseph Damien DeVeuster, SS.CC., in the likeness submitted to the statuary hall commission by Marisol Escobar, and to provide for all expenses necessary to place one statue in Statuary Hall and a second statue on permanent display in the State of Hawaii.

SECTION 2. The sum appropriated shall be expended by the statuary hall commission for the purposes herein stated.

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

(Approved May 29, 1967.)

ACT 133

H. B. 431.

A Bill for an Act Relating to a Statue of King Kamehameha I in the National Statuary Hall and Making an Appropriation Therefor.

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

SECTION 1. King Kamehameha I is selected as one of the two illustrious, deceased persons whose statue shall be furnished by the State of Hawaii for placement in the National Statuary Hall in the national capitol pursuant to Title 40 USC 187.

SECTION 2. The statuary hall commission appointed pursuant to Act 197, Session Laws of Hawaii 1965, shall contract as soon as reasonably possible for appropriate services to duplicate the statue representing Kamehameha I installed in the front of Aliiolani Hale (Judiciary Building), City and County of Honolulu.

SECTION 3. There is hereby appropriated out of the general revenues of the State of Hawaii, the sum of \$50,000, or so much thereof as may be necessary, to provide for contractual services and for all expenses necessary to place the statue in the National Statuary Hall.

SECTION 4. The sum appropriated shall be expended by the statuary hall commission for the purposes herein stated.

SECTION 5. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 134

S. B. 179.

A Bill for an Act Relating to Taxation and Amending Chapters 115, 116, and 121, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The heading and subsections (a) and (b) of section 115-43, Revised Laws of Hawaii 1955, are hereby amended to read as follows:

“Section 115-43. Additions to taxes for noncompliance or evasion; interest on underpayments and overpayments. (a) Except as otherwise provided, this section shall apply to every tax or revenue law of the State that provides for the filing with the director of a return or statement of the tax or the amount taxable.

“(b) There shall be added to and become a part of the tax imposed by such tax or revenue law, and collected as such:

“(1) Failure to file tax return. In case of failure to file any tax return required to be filed on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to neglect, there shall be added to the

amount required to be shown as tax on such return 5 per cent of the amount of such tax if the failure is for not more than one month, with an additional 5 per cent for each additional month or fraction thereof during which such failure continues, not exceeding 25 per cent in the aggregate. For purposes of this paragraph, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return. This paragraph shall not apply to any failure to file a declaration of estimated tax required by section 121-31.

“(2) Failure to pay tax. (A) If any part of any underpayment is due to negligence or intentional disregard of rules and regulations (but without intent to defraud), there shall be added to the tax an amount up to 10 per cent of the underpayment as determined by the director.

“(B) If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount up to 50 per cent of the underpayment as determined by the director.

“(C) If any penalty is assessed under subparagraph (B) (relating to fraud) for an underpayment of tax which is required to be shown on a return, no penalty under paragraph (1) (relating to failure to file such return) shall be assessed with respect to the same underpayment.

“(3) Interest on underpayment or nonpayment of tax. (A) If any amount of tax is not paid on or before the last date prescribed for payment, interest on such amount at the rate of two-thirds of one per cent per month or fraction of a calendar month shall be paid for the period beginning with the first month following the date prescribed for payment, or if the prescribed date for payment is the end of a calendar month, and section 115-25.5 is applicable, beginning with the month on which the due date as so extended is a part, to the date paid.

“(B) If the amount of any tax is reduced by reason of a carryback of a net operating loss allowed under chapter 121, such reduction in tax shall not affect the computation of interest under this paragraph for the period ending with the last day of the taxable year in which the net operating loss arises.

“(C) Interest prescribed under this paragraph on any tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as taxes.

“(D) No interest under this paragraph shall be imposed on interest provided by this paragraph.

“(E) If any portion of a tax is satisfied by credit of an overpayment, then no interest shall be imposed under this paragraph on the portion of the tax so satisfied for any period during which, if the credit had not been made, interest would have been allowable with respect to such overpayment.

“(F) Interest prescribed under this paragraph on any tax may be assessed and collected at any time during the period within which the tax to which such interest relates may be collected.

“(G) This paragraph shall not apply to any failure to pay estimated tax required by section 121-31.”

SECTION 2. Section 115-28 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new subsection after subsection (d) which shall be designated as subsection (e) and which shall read as follows:

“(e) The provisions of this subsection shall apply to a refund for an overpayment of a tax.

“(1) If the tax return as filed by a taxpayer shows the amount already paid, whether or not the basis of installments exceeds the amount determined to be the correct amount of the tax due, and the taxpayer requests a refund of such overpayment, the amount of overpayment together with interest, if any, shall be refunded in the manner provided in subsection 115-28(d). Such interest shall be allowed and paid at the rate of two-thirds of one per cent for each calendar month or fraction thereof, beginning with the first month after the due date of the return and continuing until the date that the director approves the refund voucher. If the director approves the refund voucher within 90 days from the due date or the date the return is received, whichever is later, and the comptroller of the State sends the taxpayer a refund warrant within 45 days from the date of the director's approval as aforesaid, no interest on the overpayment will be allowed or paid. However, if either the director or the comptroller exceeds the time allowed herein, interest will be computed from the due date of the return as aforesaid until the date that the comptroller sends the refund warrant to the taxpayer.

“(2) If any overpayment of taxes results or arises from (A) the taxpayer filing an amended return, or from (B) a determination made by the director and such overpayment is not shown on the original return as filed by the taxpayer, interest on the overpayment shall be allowed and paid from the first month after the due date of the original return to the date that the director signs the refund voucher. If the comptroller does not send the refund warrant to the taxpayer within 45 days after the director's approval as aforesaid, interest will continue until the date that the comptroller sends the refund warrant to the taxpayer.

“(3) For purposes of a net income tax return, if any overpayment of any taxes results from a carryback of a net operating loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss arises. To the extent that such carryback of net operating loss results in reducing the amount of underpayment of taxes for prior taxable year or years, interest which would be chargeable because of such underpayment shall not be applicable with respect to that amount or amounts which are carried back as aforesaid.

“(4) In the case of credit, interest shall be allowed and paid from the due date of the return or the date of payment, whichever is later, to the date the credit is taken; provided that the director may make a refund of

ACT 135

any credit to a taxpayer where such taxpayer has no underpayment against which to apply the credit.”

SECTION 3. Section 116-21 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by substituting the word “eight” for the word “two” which appears in the second sentence thereof.

SECTION 4. Subsection (f) of section 121-31, Revised Laws of Hawaii 1955, is hereby deleted in its entirety and subsections (g) and (h) of section 121-31 shall be renumbered (f) and (g), respectively, and the introductory paragraph of subsection (f), as renumbered, of section 121-31, beginning with the words “If an estimate or return is filed” and ending with the words “That is:”, is hereby amended to read as follows:

“(f) In the case of any underpayment of estimated tax, except as provided by paragraph (3) of this subsection, there shall be added to the tax for the taxable year an amount determined at the rate of 8 per cent per annum upon the amount of the underpayment (determined under paragraph (1) of this subsection) for the period of the underpayment (determined under paragraph (2) of this subsection).”

SECTION 5. This Act shall take effect on January 1, 1968.

(Approved May 29, 1967.)

ACT 135

S. B. 375.

A Bill for an Act Relating to Real Property Tax Exemptions for Certain Housing Projects and Amending Chapter 128, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 128 of the Revised Laws of Hawaii is amended by adding a new section to be appropriately numbered and to read as follows:

“**Sec. 128-..... Exemption for low and moderate-income housing.**

(a) Real property used for a housing project regulated by federal or state laws or by a political subdivision of the State or agencies thereof, as to rents, charges, profits, dividends, development costs, and methods of operation, and developed, owned, and operated by a nonprofit corporation or association, shall be exempt from property taxes.

(b) For the purpose of this section ‘nonprofit corporation or association’ means a mortgagor who qualifies for an insured mortgage loan under section 221(d)(3) of the National Housing Act as a nonprofit corporation or association.

(c) Exemptions claimed under this section shall disqualify the same property from receiving an exemption under section 143-37.”

SECTION 2. The director of taxation shall, pursuant to chapter 6C, promulgate rules and regulations necessary to administer this Act.

SECTION 3. This Act shall take effect on January 1, 1968.
(Approved May 29, 1967.)

ACT 136

H. B. 416.

A Bill for an Act Relating to the Malicious Burning of Motor Vehicles and Amending Chapter 263 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The purpose of this act is to deter and to punish the malicious burning of motor vehicles by constituting such malicious burning an offense subject to criminal sanctions.

SECTION 2. Section 263-9 shall be amended so that the second paragraph thereunder shall read as follows:

“Whoever wilfully and maliciously burns any motor vehicle, pile or parcel of wood, timber or lumber, or any field, patch, stack or parcel of grass, grain, cane or other vegetable product, whether severed from the soil or not, or any standing product of the soil of another, is guilty of a malicious burning in the third degree, and shall be fined not more than \$500 or imprisoned at hard labor not more than five years.

“‘Motor vehicle’, as used in this section, includes any vehicle, motor vehicle or truck as defined in sections 130-1 and 130-2.”

SECTION 3. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 137

S. B. 422.

A Bill for an Act Relating to Antique Motor Vehicles and Amending Chapter 130 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Section 130-1, Revised Laws of Hawaii 1955, is amended by adding a new paragraph to read as follows:

“Antique motor vehicle” means any motor vehicle of the age of thirty-five years or more from the date of manufacture, that is of the original factory specifications or restored to the original specifications in an unaltered or unreconstructed condition, operated or moved over the highway primarily for the purpose of historical exhibition or other similar purposes.

SECTION 2. Section 130-2, Revised Laws of Hawaii 1955, is amended by adding immediately after the words in the first paragraph “Except as otherwise provided in sections 130-1 to 130-11,” the following words:

“and except in the case of antique motor vehicles which shall be subject to an annual tax of \$10 in lieu of the annual tax otherwise imposed by this section.”.

SECTION 3. Section 130-9, Revised Laws of Hawaii 1955, is amended by adding a new paragraph at the end to read as follows:

“Notwithstanding any other provision of law, any antique motor vehicle shall be issued a special number plate for a fee of \$10 which plate shall be permanent and valid for use on such vehicles without renewal so long as the vehicle is in existence in lieu of the uniform state number plates. In addition to the payment of any other fee required by law, applicable to antique motor vehicles, the owner of any such vehicle shall pay the fee for the issuance of the special license plate. The registration numerals and special number plates assigned to antique motor vehicles shall be labeled “Horseless Carriage” and “Permanent” and shall run in a separate numerical series, commencing with Horseless Carriage No. 1.”

SECTION 4. This Act shall take effect on January 1, 1968.

(Approved May 29, 1967.)

ACT 138

S. B. 428.

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

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

SECTION 1. Subsection (c) of section 97-30, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“The aggregate liability of the employer for weekly benefit payments under both preceding subsections shall not exceed the sum of \$35,100.”

SECTION 2. Subsection (c) of section 97-31, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read:

“No determination of partial disability shall be made until two weeks from the date of the injury. The aggregate liability of an employer for benefits under this section and section 97-30(b) shall not exceed \$35,100.”

SECTION 3. This Act shall take effect on July 1, 1967.

(Approved May 29, 1967.)

ACT 139

S. B. 451.

A Bill for an Act Relating to Computation of Average Weekly Wages for Workmen's Compensation Purposes.

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

SECTION 1. The first paragraph of section 97-50, Revised Laws of 1955, is amended to read as follows:

“Average weekly wages shall be computed in such a manner that the resulting amount represents most fairly, in the light of his employment pattern and the duration of his disability, the injured employee's average weekly wages from all covered employment at the time of the personal injury. In

no event, however, shall an employee's average weekly wages be computed to be less than his hourly rate of pay multiplied by thirty-five."

SECTION 2. This Act shall take effect upon its approval and shall apply to claims for compensation for injuries sustained after such effective date.

(Approved May 29, 1967.)

ACT 140

S. B. 472.

A Bill for an Act Relating to General Excise Tax Exemptions for Non-Profit Housing Projects and Amending Chapter 117 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 117 of the Revised Laws of Hawaii 1955 is amended by adding a new section to be appropriately numbered and to read as follows:

"Sec. 117-..... Exemptions for low and moderate income housing.

(a) For the purposes of this section "nonprofit corporation or association" means a mortgagor who qualifies for an insured mortgage loan under section 221(d)(3) of the National Housing Act as a nonprofit corporation or association.

(b) All of the gross proceeds received by contractors for the construction in the State of multi-unit residential buildings developed, owned and operated by nonprofit corporations or associations regulated by federal or state laws or by a political subdivision of the State or agencies thereof shall be exempt from general excise taxes.

(c) All of the gross proceeds received from or on behalf of a tenant or lessee as rent for a residential unit in a nonprofit corporation housing project shall be exempt from general excise taxes."

SECTION 2. The director of taxation shall, pursuant to chapter 6C, promulgate rules and regulations necessary to administer this Act.

SECTION 3. This Act shall take effect on January 1, 1968.

(Approved May 29, 1967.)

ACT 141

S. B. 520.

A Bill for an Act Amending Section 6-143 of the Revised Laws of Hawaii 1955, as Amended, Relating to Death Benefits for Dependents.

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

SECTION 1. Subsection (a) of section 6-143 of the Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

(a) Upon the death of any member of the police force, fire department

or band, as a result of any injury received or disease contracted while in the performance of his duty, or when entitled to a pension under this part or who has been pensioned under this part there shall be paid, for funeral expenses, a sum not to exceed \$100. Should the deceased member leave a dependent widow and a child or children under the age of eighteen years, then there shall be paid out of the system \$50 per month to such widow until her death or remarriage and \$7.50 per month to the widow for each such child so long as such child shall reside with such widow or is supported by her. Upon the death of such widow, or in the event the deceased member leaves no widow but a child or children under the age of eighteen years, then there shall be paid out of the system \$50 per month to the child or children of the deceased member under the age of eighteen years with each child, if there be more than one, receiving an equal share of the \$50 per month payment plus \$7.50 per month. All payments to a child of a deceased member provided for herein shall cease when he or she arrives at the age of eighteen years.

SECTION 2. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 142

S. B. 533.

A Bill for an Act Amending Section 7B-5 of the Revised Laws of Hawaii 1955, as Amended, Relating to Deposits of Legal Tender to Accompany Bids for Concessions.

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

SECTION 1. Section 7B-5 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

Section 7B-5. Deposits of legal tender, etc., to accompany bid. All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit or certified check on a bank doing business within the State, for or in a sum equal to five per cent of the amount bid but in no event to be less than \$50, payable at sight to the officer advertising for tenders; provided that when the amount bid exceeds \$50,000, the certificate of deposit or certified check shall be \$2,500 plus two per cent of the amount in excess thereof.

SECTION 2. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 143

S. B. 686.

A Bill for an Act Relating to Taxation and Amending Chapter 98T, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 98T, Revised Laws of Hawaii 1955, as amended,

is hereby amended by adding thereto a new section to be designated as section 98T-9, and to read as follows:

“§ 98T-9. Notwithstanding any law to the contrary, sales of all products which are categorized as privileged foreign merchandise, privileged domestic merchandise, nonprivileged foreign merchandise, nonprivileged domestic merchandise, or zone-restricted merchandise, and which are admitted into a foreign trade zone, as more specifically set forth in the Act of Congress, and any rules and regulations promulgated thereunder, made directly to any common carrier in interstate or foreign commerce, or both, whether ocean-going or air, for consumption out-of-state by the crew or passengers on such shipper's vessels or airplanes, or for use out-of-state by such vessels or airplanes, shall be exempt from those taxes imposed under chapters 117, 119, 123, 124 and 125, Revised Laws of Hawaii 1955, as amended.”

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

(Approved May 29, 1967.)

ACT 144

H. B. 31.

A Bill for an Act Providing for the Licensing and Regulation of Escrow Depositories.

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

SECTION 1. The Revised Laws of Hawaii 1955, as amended, are hereby amended by adding thereto a new chapter to be appropriately numbered and to read as follows:

“CHAPTER

ESCROW DEPOSITORIES

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

- (a) ‘Bank examiner’ means the bank examiner of this State.
- (b) ‘Person’ means, in addition to the singular, persons, group of persons, cooperative association, company, firm, partnership, corporation, or other legal entity, and includes the agents and employees of any person.
- (c) ‘Escrow’ means any transaction affecting the title to real property, including leaseholds, proprietary leaseholds and condominiums, in which a person not a party to the transaction and neither having nor acquiring any interest in the title receives from one party to the transaction, holds until the happening of an event or performance of a condition and then delivers to another party to the transaction, any money or other consideration or any instrument affecting the title to that real property, all in accordance with the terms of the agreement between the parties to the transaction.

(d) ‘Escrow depository’ means the person who, in an escrow, and for compensation, receives, holds and delivers the money, other consideration or instrument affecting title to real property.

Sec. -2. **Rules and regulations.** Subject to chapter 6C and with the approval of the governor, the bank examiner may adopt such rules and

regulations as he may deem necessary for the effective administration and enforcement of this chapter.

Sec. -3. Excepted from this chapter. This chapter does not apply to any of the following when acting as escrow depositories:

(a) Banks, trust companies, building and loan associations, savings and loan associations, and insurance companies, authorized under any law of this State or of the United States to do business in the State of Hawaii.

(b) Any person licensed as a real estate broker in the State who is the broker for a party to the escrow.

(c) Any person licensed to practice law in the State who, in escrow, is not acting as the employee of a corporation.

Sec. -4. Penalty. Any person who violates any provision of this chapter shall be fined not more than \$5,000 or imprisoned not more than six months, or both.

Sec. -5. License required to act as escrow depository. No person shall act as an escrow depository in this State unless it is a corporation licensed to do so by the bank examiner.

Sec. -6. Application for license. Any corporation desiring to be licensed as an escrow depository shall file an application with and pay a fee for investigation thereof to the bank examiner, upon forms to be furnished by the bank examiner which shall state:

(a) The corporate name, amount of capital and office address of the applicant.

(b) The names of the stockholders, officers and directors of the applicant.

(c) Evidence of the character, financial responsibility, experience and ability of the officers and directors.

Sec. -7. Investigation and ruling. The bank examiner shall make an investigation into the information furnished by the applicant and may require the applicant to furnish additional information. If he is satisfied, with or without a hearing upon the application, that the character, financial responsibility, experience, ability and general fitness of the officers and directors are such as to command the confidence of the business community in the State and to warrant the beliefs that the officers and directors are competent to successfully manage an escrow business and that the applicant will be an honest and efficient escrow depository, he shall approve the application. The bank examiner shall not disapprove an application without giving the applicant a hearing thereupon. The hearing and any appeal from a ruling of disapproval shall be conducted in accordance with chapter 6C, Revised Laws of Hawaii 1955, as amended, and rules adopted by the bank examiner in accordance with that chapter.

Sec. -8. Issuance and renewal of license. After approval of the application, and payment of the license fee, the bank examiner shall issue to the applicant a license to act as an escrow depository. The license shall be effective only upon the applicant's filing with the bank examiner an escrow

depository's bond and evidence that fidelity bonds and errors and omissions insurance have been obtained, all as provided in sections 9, 11 and 12 hereafter following. The license shall be renewed annually, as of July 1, upon payment of the annual renewal fee and the finding of the bank examiner, from the information contained in the annual corporate exhibit of the licensee or investigation or hearing, that the licensee continues to meet the qualifications for licensing and has continued in force said bonds and insurance. An escrow depository's license may not be transferred.

Sec. -9. Escrow depository's bond. Before an escrow depository's license shall become effective, the escrow depository shall give a bond to the bank examiner in the penal sum of not less than \$100,000 executed by a surety insurer authorized in this State, conditioned:

(a) That the escrow depository will honestly, faithfully and with diligence apply all funds, other consideration or property and instruments affecting title in accordance with the instructions under which the same were deposited with it, and will promptly account for the same, and

(b) That the escrow depository will satisfy all judgments and decrees which may be recovered against it in any action or proceeding brought under this Act.

(c) The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the penal sum of the bond. In lieu of such bond, an escrow depository may deposit cash or securities acceptable to the bank examiner.

Sec. -10. Suit on bond. The bank examiner, or any person claiming to have sustained damage by reason of the failure of the escrow depository to comply with the provisions of its bond, may bring an action on such bond to recover said damage therefrom.

Sec. -11. Fidelity bonds. A licensed escrow depository shall at all times maintain fidelity bonds executed by a surety insurer authorized to do business in the State and in amounts of not less than \$5,000 and not more than \$25,000, to be approved by the bank examiner, upon all of its officers and employees who have access to money or negotiable securities or instruments in its possession or under its control. Notwithstanding the above provision, the escrow depository may carry bonds above the amounts required by the bank examiner.

Sec. -12. Errors and omissions insurance. A licensed escrow depository shall at all times maintain a policy of errors and omissions insurance executed by an insurer authorized to do business in the State in an amount of not less than \$50,000, and not more than \$100,000, to be approved by the bank examiner.

Sec. -13. Cancellation of bonds or insurance. None of the bonds or insurance hereinabove required by sections 9, 11 and 12 shall be cancelled as to future accruing liability except upon sixty days' written notice to the bank examiner. An escrow depository's license shall not be in effect at any time when any of said bonds or insurance is not in full force and effect.

Sec. -14. Fees. The following fees shall be paid by licensed escrow depositories to the bank examiner and into the general fund.

(a) For filing and investigation of an escrow depository's application for license: \$40.

(b) For initial issuance and annual renewal of an escrow depository's license: \$25.

Sec. -15. Audited statements. Each escrow depository shall at its own expense submit to the bank examiner within 90 days after the close of its fiscal year a certified audit of its books and records made by an independent certified public accountant. The audit shall include a direct verification of all deposits of money made with or by the escrow depository. The failure to comply with this section shall be grounds for the suspension or revocation of the escrow depository's license and such failure shall authorize the bank examiner to order an independent audit at the expense of the escrow depository.

Sec. -16. Accounting for monies, property, etc. Every licensee under this chapter shall have the responsibility of a trustee for all monies, other consideration, or instruments received by it. No licensee shall mingle any such monies or other property with its own monies or other property, or with monies or other property held by it in any other capacity. All monies held by a licensee in escrow as herein defined shall be held intact and deposited in insured Hawaii banks, payable on demand; provided, however, that the bank examiner may, by adopting appropriate rules and regulations, permit deposits in other insured Hawaii depositories.

Sec. -17. Revocation and suspension of licenses. The bank examiner may revoke any license issued hereunder, or suspend the right of the licensee to use such license, for any of the following causes:

(a) Making any misrepresentation concerning any escrow transaction;

(b) Making any false promises concerning any escrow transaction of a character likely to mislead another;

(c) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through advertising or otherwise;

(d) Without first having obtained the written consent so to do of both parties involved in any escrow transaction, acting for both such parties in connection with such transaction, or collecting or attempting to collect commissions or other compensation for its services from both of such parties;

(e) Failing, within a reasonable time, to account for any monies belonging to others which may be in the possession or under the control of the licensee;

(f) Any other conduct constituting fraudulent or dishonest dealings;

(g) Violating any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto;

(h) Splitting fees with or otherwise compensating others not licensed hereunder for referring business;

(i) Commingling the monies or other property of others with its own.

No licensee shall be suspended for longer than two years and no cor-

poration whose license has been revoked shall be eligible to apply for a new license until the expiration of two years.

Sec. -18. Power to investigate. If the bank examiner has reason to believe that a licensee has violated any of the provisions of this chapter or the rules and regulations adopted pursuant thereto, or that any license issued under this chapter may be subject to suspension or revocation, the bank examiner may make such investigation as he deems necessary and is hereby granted the power to examine such licensee's offices and place of business, books, accounts, records, papers, files, safes and vaults which are necessary to carry out the investigation. The licensee shall bear the expenses of such investigation."

Sec. -19. This Act shall take effect upon its approval; provided that it shall not apply to escrows in process at the effective date of this Act and that persons acting as escrow depositories at that date need not obtain an escrow depository's license for new escrows until January 1, 1968.

(Approved May 29, 1967.)

ACT 145

H. B. 131.

A Bill for an Act Relating to the Transfer of the Soil Conservation Function and Amending Chapter 14A of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 14A-20 of the Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

(a) The fifth paragraph is hereby amended to read as follows:

"The department shall manage and administer the public lands of the State and the water resources and minerals thereon, including the soil conservation function; shall manage and administer the forest, fish and game resources of the State; and manage the forest reserve and state parks, including historical sites."

(b) The last paragraph is hereby amended to read as follows:

"The function and authority heretofore exercised by the commissioner and board of public lands (including the hydrography division and bureau of conveyances), the Hawaii water authority, the commission on ground-water resources, the Hawaii land development authority, the soil conservation committee and the commission on historical sites and the function of managing the state parks and the function of promoting the conservation, development and utilization of forest, including the regulatory powers over forest reserve, fish and game resources of the State heretofore exercised by the board of commissioners of agriculture and forestry as heretofore constituted are hereby transferred to the department of land and natural resources established by this chapter."

SECTION 2. Section 14A-21 of the Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

(a) By deleting the words and comma "soil conservation," from the fifth paragraph thereof.

(b) By deleting the words "the Hawaii soil conservation committee and" from the last paragraph thereof.

SECTION 3. Upon the transfer of functions of any previously existing department, office or other agency as provided by this Act, all records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations and other property theretofore made, used, acquired or held by any such previously existing department, office or agency in the exercise of the functions transferred shall be transferred under the direction of the governor to the department succeeding to such functions.

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

(Approved May 29, 1967.)

ACT 146

H. B. 138.

A Bill for an Act Amending the Hawaiian Homes Commission Act of 1920, as Amended.

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

SECTION 1. The second sentence of subsection 208(5) of the Hawaiian Homes Commission Act of 1920, as amended, is hereby amended to read as follows:

"Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, including loans from governmental agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process."

SECTION 2. Section 208 of the Hawaiian Homes Commission Act of 1920, as amended, is hereby amended by adding a new subsection to read as follows:

"(8) The department may assure the repayment of loans to lessees from governmental agencies where such loans have been approved by the department, up to the limits prescribed in section 215; provided that the lessee has no indebtedness due the department and the department shall not make any loans to the lessee while loans from governmental agencies are outstanding; provided further that upon receipt of notice of default in the payment of such loans, the department may, upon failure of the lessee to cure the default within 60 days, cancel the lease and thereupon use its best efforts to redispense of the tract to a qualified and responsible native Hawaiian or Hawaiians as a new lessee who will assume the obligation of the outstanding debt thereby assured, and make payments to the governmental agency from available funds either for the monthly payments as they become due and pay-

able or for the amount of the debt. In no event shall the aggregate amount of the loan assured by the department exceed \$500,000."

SECTION 3. Subsection 213(b)(3) of the Hawaiian Homes Commission Act of 1920, as amended, is hereby amended to read as follows:

"Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or governmental agencies, may make loans, and the loans made in connection with the purchase or erection or improvement of dwellings shall be subject to applicable provisions of the Act, and such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided that this section is not intended to change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department."

SECTION 4. The fourth sentence of the first paragraph of section 216, Hawaiian Homes Commission Act of 1920, as amended, is amended to read as follows:

"The department shall have a first lien upon the borrower's or lessee's interest in any lease, growing crops, either on his tract or in any collective contract or program, livestock, machinery and equipment purchased with moneys loaned by the department, and in any dwellings or other permanent improvements on any leasehold tract, to the amount of all principal and interest due and unpaid and of all taxes and insurance and improvements paid by the department, and of all indebtedness of the borrower, the payment of which has been assured by the department, including loans from governmental agencies where such loans have been approved by the department."

SECTION 5. Section 218 of the Hawaiian Homes Commission Act of 1920, as amended, is hereby repealed in its entirety.

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

(Approved May 29, 1967.)

ACT 147

H. B. 190.

A Bill for an Act to Amend Part III, Chapter 5 of the Revised Laws of Hawaii 1955, as Amended, Relating to Hours of Work of Public Officers and Employees, and Making an Appropriation Therefor.

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

SECTION 1. Part III of chapter 5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section, to be appropriately numbered and to read as follows:

“Sec. **Night-shift work.** Except for employees assigned to shifts of more than eight hours per day on a regular basis, any employee of the State or any county, or independent board or commission thereof, who is required to perform work between the hours of 6:00 in the evening and 6:00 in the morning shall be compensated, in addition to his basic compensation, at the rate of five cents per hour for the hours worked between 6:00 in the evening and 6:00 in the morning.

“The City and County of Honolulu and the various counties may provide by ordinance for night-shift pay for employees assigned to shifts of more than eight hours per day on a regular basis.”

SECTION 2. There is hereby appropriated out of the general fund of the State, the sum of \$126,900 or so much thereof as may be necessary, to carry out the purpose of this Act.

SECTION 3. This Act shall take effect on July 1, 1967.

(Approved May 29, 1967.)

ACT 148

H. B. 253.

A Bill for an Act Relating to Legislative Employees and Amending Chapters 2 and 5A of the Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. The purpose of this Act is to provide all full-time legislative employees the opportunity to participate in any employee benefit program privileges.

SECTION 2. Section 2-52 of the Revised Laws of Hawaii 1955 is amended by adding a sentence at the end to read as follows:

“The members of the permanent staff shall be entitled to every state employee benefit and privilege.”

SECTION 3. Clause (v) of section 5A-1, paragraph 9, of the Revised Laws of Hawaii 1955 is amended to read:

“(v) an employee of the legislature other than a member of the permanent staff.”

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

(Approved May 29, 1967.)

ACT 149

H. B. 271.

A Bill for an Act Relating to the Loyalty Oath in Public Employment.

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

SECTION 1. The loyalty oath in the first paragraph of section 5-120, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“I,, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Hawaii, and that I will faithfully do my duties as to the best of my ability. So help me God (and so I do affirm.)”

SECTION 2. Section 5-129, Revised Laws of Hawaii 1955, is hereby repealed.

SECTION 3. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 150

H. B. 354.

A Bill for an Act to Amend Chapter 11, Revised Laws of Hawaii 1955, as Amended, Relating to Absentee Voting.

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

SECTION 1. Section 11-144, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“§ 11-144. **Marking and return of ballot; voting by absentee voter at polls prohibited.** The absentee voter shall mark the ballot in such manner that no person can see or know how the ballot is marked and refold the ballot in the same folds it was received and deposit same in the ballot envelope and securely seal the same. The voter shall then complete and subscribe to the statement on the ballot envelope. The ballot envelope shall then be enclosed and sealed in the covering reply envelope and shall be (a) mailed to reach the county clerk issuing the absentee ballot not later than the established closing hour of business on the day before a primary election, nor later than twelve o'clock noon on the sixth day following a general election; provided that no such ballot shall be accepted by the county clerk unless the reply envelope is postmarked no later than the day before the primary election in the case of the primary election or the day before the general election in the case of the general election; or (b) delivered (other than by the postal service) to the county clerk issuing the absentee ballot not later than the established closing hour of business on the day before the primary or general election.

No person having voted an absentee ballot pursuant to this section shall be entitled to cast a ballot at the polls on election day.”

SECTION 2. Section 11-145, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“§ 11-145. **Receipt and disposition of absentee ballots.** Upon the receipt of the envelope marked ‘Absentee Ballot Enclosed’ from any person

voting under the provisions of this part, the county clerk shall, if said ballot is received not later than the established closing hour of business on the day before/a primary or general election, open it and remove the ballot envelope and examine the statement as to its proper execution and to the person's qualification to register as an elector and to vote. If the county clerk determines that the person is qualified, the ballot envelope shall be deposited unopened in a container retained for that purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballot envelopes and shall be marked with the name and official title of the county clerk and the words "This container holds absentee ballots and must be opened only pursuant to law." The county clerk shall safely keep each container in his office until the day of election and at such time he shall publicly open the container, proceed to count and tabulate said absentee ballots in the same manner as prescribed for the counting and tabulation of ballots in Part I of this chapter, and when the tabulation is completed he shall forthwith notify the lieutenant governor of the result. Records involved in the tabulation of such absentee ballots shall be disposed of in the same manner as prescribed in Part I of this chapter.

In case the statement is found to be insufficient or in case the signatures do not correspond, or in case the voter has not complied with the requirements of section 11-140, or is not a duly qualified elector or the ballot envelope is open or has been opened and resealed, the ballot envelope shall not be opened and the county clerk shall mark across its face 'Rejected', giving the reason therefor, and shall preserve the same in the manner provided by law.

In a general election, if the ballot is received after the established closing hour of business on the day before the election, or at any time thereafter up to twelve o'clock noon on the sixth day following the election, the county clerk shall open it and remove the ballot envelope and examine the statement as to its proper execution and to the person's qualification to register as an elector and to vote. If the county clerk determines that the person is qualified, the ballot envelope shall be deposited unopened in a container retained for that purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballot envelopes and shall be marked with the name and official title of the county clerk and the words "This container holds absentee ballots and must be opened only pursuant to law." The county clerk shall safely keep the container in his office until noon on the sixth day following the election and at such time he shall publicly open the container, proceed to count and tabulate said absentee ballots in the same manner as prescribed for the counting and tabulation of ballots in Part I of this chapter, and when the tabulation is completed he shall forthwith notify the lieutenant governor of the result. Records involved in the tabulation of such absentee ballots shall be disposed of in the same manner as prescribed in Part I of this chapter.

If the ballot is postmarked or received after the time or date fixed in section 11-144, the ballot envelope shall be endorsed by the county clerk

with the day and hour of receipt and it shall be safely kept unopened by the county clerk for the period of time required for the preservation of ballots used at such election, and shall then, without being opened, be destroyed pursuant to the provision of section 11-69.

If in case the statement is found to be insufficient or in case the signatures do not correspond, or in case the voter has not complied with the requirements of section 11-140, or is not a duly qualified elector or the ballot envelope is open or has been opened and resealed, the ballot envelope shall not be opened and the county clerk shall mark across its face 'Rejected', giving the reason therefor, and shall preserve the same in the manner provided by law.

If it is found that the voter has already voted, the county clerk shall immediately cancel the ballot envelope and write 'Rejected' across its face, giving the reason therefor and shall preserve the same in the manner provided for by law."

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

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

(Approved May 29, 1967.)

ACT 151

H. B. 355.

A Bill for an Act Providing for the Nomination of Nonpartisan Candidates at Primary Elections by Amending Chapters 11 and 149 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 11-90, Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

(a) By amending the definition of the word "primary" to read as follows:

"'Primary,' a preliminary election in which voters nominate candidates for office as provided for in this part."

(b) By adding thereto the following, next following the definition of "primary";

"'Primary ballot,' the ballot of a party or a nonpartisan ballot used at a primary."

SECTION 2. Section 11-94, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By amending the second principal paragraph thereof to read as follows:

"All nomination papers shall have substantially the above form written

* Edited accordingly.

or printed thereon; provided, that those filed for nonpartisan candidates may omit the words 'and members of the party' and the certificate at the foot thereof. No signatures shall be counted, unless they are upon sheets, each having this form written or printed thereon, which shall be provided by the county clerk."

(b) By amending the last paragraph thereof to read as follows:

"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."

SECTION 3. Section 11-96, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting said section in its entirety and substituting therefor the following:

"§ 11-96. Nonpartisan candidates. Nomination papers may be filed on behalf of nonpartisan candidates. Such papers shall be similar in form and signed in the manner as in the case of party candidates, and no nominator shall be allowed to sign any paper who has previously signed any nomination paper for the same primary as a member of a political party."

SECTION 4. Section 11-98, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"§ 11-98. List of candidates. At least fifteen days before any primary the lieutenant governor shall transmit to each county clerk certified lists containing the names of all persons, with their party designation, or designation of nonpartisanship, as the case may be, for whom nomination papers have been duly filed in his office and who are entitled to be voted for in the county at the primary, also designating the office for which each is a candidate.

"The county clerk shall, at least twelve days before any primary, prepare lists containing the names of all persons, with their party designation, or designation of nonpartisanship, for whom nomination papers have been duly filed in his office and who are entitled to be voted for in the county at the primary, also designating the office for which each is a candidate.

"The clerk shall transmit without delay to each candidate named in the lists a true copy of such lists."

SECTION 5. Chapter 11, Part II, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to be designated and to read as follows:

"§ 11-99.5. Official nonpartisan ballots. There shall be only one primary ballot containing the names of all nonpartisan candidates to be voted for and the offices for which they are candidates. At the top of said ballot shall be printed in large capital letters the words 'NONPARTISAN PRIMARY BALLOT'. Said ballot shall, in all other respects, conform to the requirements relative to official party ballots."

SECTION 6. Section 11-101, Revised Laws of Hawaii 1955, as

amended, is hereby amended by amending the second paragraph thereof to read as follows:

“In all primary elections held in 1970 and subsequently the clerk shall include on the list of duly qualified electors information to show the primary ballot selected by each of such electors at the next preceding primary election or the registered change of primary ballot selection by any such elector.”

SECTION 7. Section 11-102, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the second paragraph thereof to read as follows:

“Any person desiring to vote at a primary shall state his name, residence and party preference, or nonpartisanship, to the inspectors of election. If the person desiring to vote is not challenged, one of the inspectors shall give to him one and only one official primary ballot of the party designated, or the official nonpartisan primary ballot if so designated, folded in a uniform manner so that the contents thereof shall be concealed, or direct him to the appropriately marked machine. The voter shall proceed to one of the compartments provided for the purpose and therein mark the ballot. In the instance of a paper ballot, he shall then refold the ballot in the same fold as handed to him and return it to an inspector. The marked ballot shall immediately be placed in the ballot box provided for the purpose.”

SECTION 8. Section 11-102.5, Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

“No person shall be entitled to vote at a primary election who shall refuse to state his party preference or nonpartisanship as required by this part.

“In any primary election in the year 1970 and thereafter, no person shall be entitled to select a primary ballot of a type other than that which he had selected at the next preceding primary election in which he voted, unless, prior to three months preceding the primary election in which such ballot is to be selected, he has registered with the county clerk to change his selection of primary ballot to that primary ballot which he now chooses to select. If a person did not vote in the next preceding primary election he shall be entitled to select any one primary ballot without being restricted by a selection of ballot at any previous primary election.

“Any provision in this chapter to the contrary notwithstanding, at all primary elections to be held prior to the year 1970, all duly registered voters shall be entitled to select any one primary ballot without being restricted by a selection of ballot at any previous primary election.

“The several boards of inspectors shall transmit to the county clerks, immediately after every primary election, the list of voters furnished by the county clerk and a list showing the names of all who voted in the primary; provided, that after each primary election held in the year 1968 and thereafter the lists of all who voted shall also show the primary ballot selected by each voter.”

SECTION 9. Section 11-105, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“The person receiving the greatest number of votes at the primary as a candidate of a party for an office shall be the candidate of the party at the following election; provided that any candidate for any county office who is the sole candidate for such office at the primary election, or who is only opposed by a candidate or candidates running on his own ticket and is not opposed by any candidate running on any other ticket, nonpartisan or otherwise, and is nominated at such primary shall, after such primary, be deemed and declared to be duly and legally elected to the office for which he is a candidate at such primary regardless of the number of votes received by him. Any nonpartisan candidate receiving at least 10 per cent of the total votes cast for the office for which he is a candidate at such primary shall also be a candidate at the following election; provided, however, that when more nonpartisan candidates qualify for nomination than there are offices to be voted for at the general election, there shall be certified as candidates for the following election those receiving the highest number of votes, but not more candidates than are to be elected.”

SECTION 10. The provisions of any law which are contrary to or inconsistent with the provisions of this Act are hereby amended to conform herewith.

SECTION 11. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 152

H. B. 358.

A Bill for an Act Relating to the Hawaii Food, Drug and Cosmetic Act; Amending Chapter 51, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 51-1, Revised Laws of Hawaii 1955, is amended by adding thereto the following new paragraphs:

“(i) ‘Pesticide chemical’ means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an ‘economic poison’ within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C., secs. 135-135k) as now enacted or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities;

“(j) ‘Raw agricultural commodity’ means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

“(k) ‘Food additive’ means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if

such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958 through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use, except that such term does not include: (1) a pesticide chemical in or on a raw agricultural commodity; or (2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or (3) a color additive; or (4) any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the Federal Act, the Poultry Products Inspection Act (21 U.S.C. 451 and the following), or the Meat Inspection Act of March 4, 1907 (34 Stat. 1260), as amended and extended (21 U.S.C. 71 and the following),

“(1)(1) ‘Color additive’ means a material which—(A) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or (B) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the Federal Act. (2) The term ‘color’ includes black, white and intermediate grays. (3) Nothing in clause (1) of section 51-1(1) shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.”

SECTION 2. Section 51-4(b), Revised Laws of Hawaii 1955, is amended to read as follows:

“(b) ‘New drug’ means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.”

SECTION 3. Section 51-6, Revised Laws of Hawaii 1955, is amended:

(a) by amending paragraph (i) to read:

“(i) 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 such act is done while such article is held for sale and results in such article being adulterated or misbranded;”

(b) by amending paragraph (j) to read:

“(j) 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 the provisions of this Act or of the Federal Act;”

(c) by amending paragraph (m) to read:

“(m) 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 such drug who makes written request for information as to such 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 Act.”

(d) by adding thereto the following new paragraphs:

“(n) (1) 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 (2) 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 subsection (1) hereof; or (3) 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;

“(o) 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.”

SECTION 4. Section 51-9, Revised Laws of Hawaii 1955, is amended to read as follows:

“51-9. Foods to be deemed adulterated when. A food shall be deemed to be adulterated: (a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quality of such substance in such food does not ordinarily render it injurious to health; or (2) (A) if it bears or contains any added poisonous or added deleterious substance, other than one which is (i) a pesticide chemical in or on a raw agricultural commodity, or (ii) a food additive, or (iii) a color additive, which is unsafe within the meaning of section 51-13 (a); or (B) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of

section 408 (a) of the Federal Act as amended; or (C) if it is or it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Act as amended; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under section 408 of the Federal Act, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of section 51-13 and clause (C) of this paragraph (a), not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat, is not greater than the tolerance prescribed for the raw agricultural commodity; or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health;

(b)(1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is;

(c) If it is confectionery and—

(1) has partially or completely embedded therein any nonnutritive object; provided, that this clause shall not apply in the case of any non-nutritive object if, in the judgment of the director as provided by regulations, promulgated under the provisions of this Act, such object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health;

(2) bears or contains any alcohol other than alcohol not in excess of one-half of 1 per centum by volume derived solely from the use of flavoring extract; or

(3) bears or contains any nonnutritive substance: provided, that this clause shall not apply to a safe nonnutritive substance which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of any provisions of this Act: and provided further, that the director may, for the purpose of avoiding or re-

solving uncertainty as to the application of this clause, issue regulations under the provisions of this Act, allowing or prohibiting the use of particular non-nutritive substances;

(d) If it is or bears or contains any color additive which is unsafe within the meaning of the Federal Act.”

SECTION 5. Section 51-10, Revised Laws of Hawaii 1955, is amended:

(a) by amending paragraph (c) to read as follows:

“(c) If it is an imitation of another food for which a definition and standard of identity has been prescribed by regulation as provided by section 51-8; or if it is an imitation of another food that is not subject to subsection (g) of this section, unless its label bears in type of uniform size and prominence, the word ‘imitation’ and, immediately thereafter, the name of the food imitated;”

(b) by adding thereto the following new paragraphs:

“(1) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;

“(m) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the Federal Act.”

SECTION 6. Section 51-13, Revised Laws of Hawaii 1955, is amended to read as follows:

“51-13. Adding of poisonous or deleterious substance, regulation of. (a) Any added poisonous or deleterious substance, and food additive, any pesticide chemical in or on a raw agricultural commodity, or any color additive, shall with respect to any particular use or intended use be deemed unsafe for the purpose of application of clause (2) (A) of section 51-9 (a) with respect to any food, section 51-14 (a) with respect to any drug or device, or section 51-17 (a) with respect to any cosmetic, unless there is in effect a regulation pursuant to subsection (b) of this section limiting the quantity of such substance, and the use or intended use of such substance conform to the terms prescribed by such regulation. While such regulation relating to such substance is in effect, a food, drug or cosmetic shall not, by reason of bearing or containing such substance in accordance with the regulation, be considered adulterated within the meaning of clause 1, section 51-9 (a), section 51-14 (a) or section 51-17 (a).

(b) The director, whenever public health or other considerations in the State so require, is authorized to adopt, amend, or repeal regulations whether or not in accordance with regulations promulgated under the Federal Act prescribing therein tolerances for any added poisonous or deleterious substances, for food additives, for pesticide chemicals in or on raw agricultural commodities, or for color additives, including, but not limited to, zero tolerances, and exemptions from tolerances in the case of pesticide chemicals in or on raw agricultural commodities, and prescribing the conditions under which a

food additive or a color additive may be safely used and exemptions where such food additive or color additive is to be used solely for investigational or experimental purposes, upon his own motion or upon the petition of any interested party requesting that such a regulation be established, and it shall be incumbent upon such petitioner to establish by data submitted to the director that a necessity exists for such regulation, and that its effect will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such regulation should be promulgated, the director may require additional data to be submitted and failure to comply with the request shall be sufficient grounds to deny the request. In adopting, amending or repealing regulations relating to such substances the director shall consider among other relevant factors, the following which the petitioner, if any, shall furnish: (1) the name and all pertinent information concerning such substance including where available, its chemical identity and composition, a statement of the conditions of the proposed use, including directions, recommendations and suggestions and including specimens of proposed labeling, all relevant data bearing on the physical or other technical effect and the quantity required to produce such effect; (2) the probable composition of any substance formed in or on a food, drug, or cosmetic resulting from the use of such substance; (3) the probable consumption of such substance in the diet of man and animals taking into account any chemically or pharmacologically related substance in such diet; (4) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of such substances for the use or uses for which they are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data; (5) the availability of any needed practicable methods of analysis for determining the identity and quantity of (i) such substance in or on an article, (ii) any substance formed in or on such article because of the use of such substance, and (iii) the pure substance and all intermediates and impurities and; (6) facts supporting a contention that the proposed use of such substance will serve a useful purpose."

SECTION 7. Section 51-13.5, Revised Laws of Hawaii 1955, is repealed.

SECTION 8. Section 51-14 (a), Revised Laws of Hawaii 1955, is amended to read as follows:

"(a)(1) If it consists in whole or in part of any filthy, putrid or decomposed substance; or (2) (A) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (B) if it is a drug and the methods used in, or the facilities or controls used for its manufacture, processing, packing, or holding do not conform to or are not operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess, or (3) if it is

a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if (A) it is a drug that bears or contains, for purposes of coloring only, a color additive which is unsafe within the meaning of the Federal Act or (B) it is a color additive, the intended use of which in or on drugs is for purposes of coloring only, and is unsafe within the meaning of the Federal Act.”

SECTION 9. Section 51-15, Revised Laws of Hawaii 1955, is amended:

(a) by amending paragraph (b) to read as follows:

“(b) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (2) of this paragraph (b) reasonable variations shall be permitted, and exemptions as to small packages shall be allowed, in accordance with regulations prescribed by the director.”

(b) by amending paragraph (d) to read as follows:

“(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, cabromal, chloral, coca, cocaine, codine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphomethane, or any chemical derivative of such substance, which derivative, after investigation, has been found to be and designated as, habit-forming, by regulations issued by the director under this Act, or by regulations issued pursuant to section 502 (d) of the Federal Act, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement ‘Warning—May be habit-forming.’”

(c) by amending paragraph (e) to read as follows:

“(e) (1) If it is a drug unless its label bears, to the exclusion of any other non-proprietary name (except the applicable systematic chemical name or the chemical formula), (i) the established name, as defined in subparagraph (2), of the drug, if such there be; and (ii) in case it is fabricated from two or more ingredients, the established name and quantity of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided, that the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall apply only to prescription drugs; provided further, that to the extent that compliance with the requirements of clause (ii) of this subparagraph is impracticable, exemptions shall be allowed under regulations promulgated by the director.

(2) As used in this paragraph (e), the term 'established name,' with respect to a drug or ingredient thereof, means (A) the applicable official name designated pursuant to section 508 of the Federal Act, or (B) if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient: provided further, that where clause (B) of this subparagraph applies to an article recognized in the United States Pharmacopoeia and in the Homeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the Homeopathic Pharmacopoeia shall apply."

(d) by amending paragraph (f) to read as follows:

"(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided, that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the director shall promulgate regulations exempting such drug or device from such requirements; provided further, that articles exempted under regulations issued under section 502 (f) of the Federal Act may also be exempt."

(e) by amending paragraph (g) to read as follows:

"(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: provided, that the method of packing may be modified with the consent of the director, or if consent is obtained under the Federal Act. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to the packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia: provided further, that in the event of inconsistency between the requirements of this paragraph and those of paragraph (e) as to the name by which the drug or its ingredients shall be designated, the requirements of paragraph (e) shall prevail."

(f) by amending paragraph (h) to read as follows:

"(h) If it has been found by the director to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the regulations issued by the director or under the Federal Act require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the director shall have informed the appropriate body

charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.”

(g) by amending paragraph (k) to read as follows:

“(k) If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 506 of the Federal Act, and (2) such certificate or release is in effect with respect to such drug.”

(h) by amending paragraph (1) to read as follows:

“(1) If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 507 of the Federal Act, and (2) such certificate or release is in effect with respect to such drug; provided, that this paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under section 507 (c) or (d) of the Federal Act. For the purpose of this subsection the term ‘antibiotic drug’ means any drug intended for use by man containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including the chemically synthesized equivalent of any such substance).”

(i) by amending paragraph (m) to read as follows:

“(m) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of section 13(b).”

(j) by adding thereto the following new paragraphs:

“(n) In the case of any prescription drug distributed or offered for sale in this State, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of (1) the established name, as defined in section 51-15 (e) (2) of this Act, (2) the formula showing quantitatively each ingredient of such drug to the extent required for labels under section 502 (e) of the Federal Act, and (3) such other information in brief summary relating to side effects, contra-indications, and effectiveness as shall be required in regulations issued by the director;

“(o) If a trademark, trade name or other identifying mark, imprint or device of another or any likeness of the foregoing has been placed thereon or upon its container with intent to defraud;

“(p) Drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed shall be exempt from any labeling or packaging requirements of this Act, provided

that such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with regulations issued by the director.”

SECTION 10. Chapter 51, Revised Laws of Hawaii 1955, is amended by adding thereto a new section to be numbered section 51-15.1 and to read as follows:

“Section 51-15.1. Drugs limited to dispensing on prescription.

(a) A drug intended for use by man which—(A) is a habit-forming drug to which section 51-15 (d) applies; or (B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or (C) is limited by an approved application under section 505 of the Federal Act or section 51-16 of this Act to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug, or (ii) upon an oral prescription of such practitioner, provided, the seller promptly records in his books the oral prescription in full, the kind, quantity of the drug and directions for use, the date the oral prescription is received, the name of the seller, the name and code designation of the prescriber, and the name and address of the person for whom such drug is prescribed or the name of the owner of the animal for which the drug is prescribed, the department of health assigning such code designation to such subscriber, and such books being subject at all times to the inspection of the department of health or its agents, or (iii) by refilling any such written or oral prescription if such refilling is authorized by the prescriber either in the original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist, and (iv) its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such practitioner. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug shall be exempt from the requirements of section 51-15 (except paragraphs (a), (i), (k), and (1), and the packaging requirements of paragraphs (g) and (h)), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (a) of this section.

(c) The director, may, by regulation, remove drugs subject to section 51-15 (d) and section 51-16 from the requirements of paragraph (a) of this section when such requirements are not necessary for the protection of the

public health. Drugs removed from the prescription requirements of the Federal Act by regulations issued thereunder may also, by regulations issued by the director, be removed from the requirements of paragraph (a) of this section.

(d) A drug which is subject to paragraph (a) of this section shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement 'Caution: Federal law prohibits dispensing without prescription', or 'Caution: State law prohibits dispensing without prescription'. A drug to which paragraph (a) of this section does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

(e) Nothing in this section shall be construed to relieve any person from any requirement, prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications of narcotic drugs or marihuana as defined in the applicable Federal and State laws relating to narcotic drugs and marihuana."

SECTION 11. Section 51-16, Revised Laws of Hawaii 1955, is amended to read as follows:

"51-16. New drugs, regulation of sale, etc.; exceptions. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has been approved and said approval has not been withdrawn under section 505 of the Federal Act, or (2) when not subject to the Federal Act, unless such drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the director an application setting forth (A) full reports of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use; (B) a full list of the articles used as components of such drug; (C) a full statement of the composition of such drug; (D) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing and packing of such drugs; (E) such samples of such drug and of the articles used as components thereof as the director may require; and (F) specimens of the labeling proposed to be used for such drug.

(b) An application provided for in subsection (a) (2) shall become effective on the one hundred eightieth day after the filing thereof, except that if the director finds, after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

(c) An order refusing to permit an application under this section to become effective may be revoked by the director.

(d) This section shall not apply—

(1) to a drug intended solely for investigational use by experts qualified

by scientific training and experience to investigate the safety and effectiveness of drugs, provided the drug is plainly labeled in compliance with regulations issued by the director or pursuant to section 505 (i) or 507 (d) of the Federal Act; or

(2) to a drug sold in this State at any time prior to the enactment of this Act or introduced into interstate commerce at any time prior to the enactment of the Federal Act; or

(3) to any drug which is licensed under the Virus, Serum, and Toxin Act of July 1, 1902 (U.S.C. 1958 ed. Title 42 Chapter 6A Sec. 262); or

(4) to any drug which is subject to section 51-15 (1) of this Act.

(e) The provisions of section 51-4(b) shall not apply to any drug which, on October 9, 1962 or on the date immediately preceding the enactment of this subsection, (1) was commercially sold or used in this State or in the United States, (2) was not a new drug as defined by section 51-4 (b) as then in force, and (3) was not covered by an effective application under section 16* of this Act or under section 505 of the Federal Act, when such drug is intended solely for use under conditions prescribed, recommended or suggested in labeling with respect to such drug."

SECTION 12. Section 51-17 (e), Revised Laws of Hawaii 1955, is amended to read as follows:

"(e) If it is not a hair dye and it is or bears or contains a color additive which is unsafe within the meaning of the Federal Act."

SECTION 13. Section 51-18, Revised Laws of Hawaii 1955, is amended by adding thereto a new paragraph (e) to read as follows:

"(e) If it is a color additive, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the provisions of the Federal Act. This paragraph shall not apply to packages of color additives which, with respect to their use for cosmetics, are marketed and intended for use only in or on hair dyes (as defined in the last sentence of section 51-17(a))."

SECTION 14. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and applicability thereof to other persons and circumstances shall not be affected thereby.

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

(Approved May 29, 1967.)

ACT 153

H. B. 427.

A Bill for an Act Relating to Passenger Fares for a Blind Person and His Guide and Amending Chapter 109 of the Revised Laws of Hawaii, 1955.

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

SECTION 1. Section 109-22 of the Revised Laws of Hawaii 1955 is amended by changing the first sentence to read as follows:

* So in original.

“It shall be lawful under the law of the State for any carrier, whether public or private, whether a public utility or not a public utility, to carry on any conveyance operated by the carrier any blind person and his guide and not to charge them passenger fares.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 154

H. B. 485.

A Bill for an Act Increasing the Penalty for the Escape of Those Charged with or Convicted of Felonies or Held as Witnesses Thereto and of Those Charged with or Convicted of Misdemeanors.

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

SECTION 1. Section 282-1 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“Section 282-1. **Escape defined; penalty.** Whoever being lawfully made prisoner on charge or conviction of a felony, escapes from imprisonment or detention against the will of the officer or other person legally having him in custody, shall be imprisoned not more than five years.”

SECTION 2. Section 282-2, Revised Laws of Hawaii 1955, is hereby repealed.

SECTION 3. Section 282-3, Revised Laws of Hawaii 1955, is hereby renumbered 282-2 and amended to read as follows:

“Section 282-2. **Same.** Whoever being lawfully made prisoner, or lawfully detained as a witness, on charge or conviction of a misdemeanor, escapes from imprisonment or detention against the will of the officer or other person legally having him in custody, shall be fined not more than \$1,000 or imprisoned not more than one year.”

SECTION 4. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 155

H. B. 497.

A Bill for an Act Relating to Taxation.

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

SECTION 1. Section 117-5, Revised Laws of Hawaii 1955, as amended, is hereby amended by substituting a semicolon for the period after the word “section” appearing at the end of the first paragraph thereof, adding the word “or” after the word “section” as aforesaid, and by adding thereto the following clause, to be designated as clause (f), to be inserted at the end of the first paragraph thereof, and to read as follows:

“(f) sales to a licensed producer, or to a cooperative association described in section 117-20 (j) for sale to such producer; of cartons and such other containers, wrappers and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; of seedlings and cuttings for producing nursery plants; or of chick containers; which cartons and such other containers, wrappers and sacks, binders, seedlings, cuttings and containers are to be used as described in section 117-6, or to be incorporated in a manufactured product as described in clause (b) of this section.”

SECTION 2. Subsection 119-4 (a), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(a) If a licensed producer, or a cooperative association acting under the authority of chapter 176 in order to sell to such producer, or a licensed person operating a feed lot, imports into the State or acquires in the State, cartons and such other containers, wrappers and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; seedlings and cuttings for producing nursery plants; chick containers; or poultry or animal feed, hatching eggs, semen, or replacement stock, in such a manner and for such purposes that if such cartons and such other containers, wrappers and sacks, binders, seedlings, cuttings, chick containers, poultry, animal feed, hatching eggs, semen, or replacement stock so imported or acquired had been purchased in the State, clause (d) or clause (f) of section 117-5 would apply, or”.

SECTION 3. This Act shall take effect on January 1, 1968.

(Approved May 29, 1967.)

ACT 156

H. B. 566.

A Bill for an Act Relating to Exemptions from the Motor Carrier Law.

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

SECTION 1. Section 106C-5.2, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Notwithstanding any other provisions of this chapter, any sampan bus; station wagon used for the carriage of property; truck or trailer weighing less than 10,000 lbs. gross weight other than a truck tractor; motor vehicle covered by section 106C-5(c) (2) or motor vehicle described in section 106C-5(c) (2) and similarly operating in other parts of the State shall be exempted from the safety rules and regulations promulgated under this chapter; provided, that the owners or operators of the motor vehicles shall comply with the safety ordinances and rules and regulations of the county in which they are operating and other applicable State safety laws and rules and regulations.”

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

(Approved May 29, 1967.)

A Bill for an Act Relating to Candidates' Election Expenses.

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

SECTION 1. Section 11-78, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“§ 11-78. **Candidates' election expenses, statement.** Within twenty days following any election, each candidate for a state office and each agent or committee acting for or on behalf of any such candidate shall file with the lieutenant governor, and each candidate for a county office and each agent or committee acting for or on behalf of any such candidate shall file with the clerk of the county, an itemized statement of his or their expenses, by, for, or on behalf of the candidate for election, showing each amount expended, the purpose or object for which each expenditure was made, and the person or persons to whom made; provided that as to any person who was nominated at the primary election as a candidate for the general election, the itemized statements of expenses for each election shall be prepared separately but filed together within 20 days following the general election. Such statements shall be sworn to by each person making the expenditures and shall be open to public inspection.”

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

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

(Approved May 29, 1967.)

A Bill for an Act Relating to the Regulation of Solicitors.

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

SECTION 1. That part of Chapter 155, Revised Laws of Hawaii 1955, entitled “SOLICITORS” is amended by adding a new section to be appropriately numbered and to read as follows:

“**Sec. 155-..... Solicitation by telephone.** Solicitation of orders by telephone to individuals at their homes which offer the opportunity to receive prizes, gifts, premiums, stamps, coupons, tickets, or other redeemable devices as an inducement for sales or for appointments for sales to be made is prohibited; provided that a solicitor may telephone prospective customers for an appointment and solicit orders during the appointment; and provided further that disabled or handicapped persons shall be exempt from the provisions of this section.

“This section shall apply only to persons, manufacturers, producers and

* Edited accordingly.

their employees, representatives or authorized agents and solicitors engaging in the business of selling products, goods, wares, and merchandise in the State at retail for consumption or use by the purchaser and not for resale.”

SECTION 2. Chapter 171, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately numbered and to read as follows:

“**Sec. 171**—..... **Solicitation by telephone.** Solicitation of orders, options of sale, contracts, or subscriptions by persons granted a permit under this chapter by telephone to individuals at their homes which offer the opportunity to receive prizes, gifts, premiums, stamps, coupons, tickets, or other redeemable devices as an inducement for sales or for appointments for sales is prohibited; provided that a solicitor may telephone prospective customers for an appointment and solicit orders during the appointment; provided further that disabled or handicapped persons shall be exempt from the provisions of this section.

This section shall apply only to persons, manufacturers, producers and their employees, representatives or authorized agents and solicitors engaging in the business of selling products, goods, wares, and merchandise in the State at retail for consumption or use by the purchaser and not for resale.”

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

(Approved May 29, 1967.)

ACT 159

H. B. 802.

A Bill for an Act Relating to Exemptions from the General Excise Tax.

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

SECTION 1. Section 117-20, subsection (g), of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“(g) Corporations, associations 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.” (underlined portion added).

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

(Approved May 29, 1967.)

ACT 160

H. B. 845.

A Bill for an Act Relating to the Public Employment of the Mentally and Physically Handicapped.

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

SECTION 1. Chapter 5, Revised Laws of Hawaii 1955, is amended by adding a new section to be designated as section 5-2 and to read as follows:

“**Section 5-2. 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 or safety of his fellow employees or others.”

SECTION 2. Section 3-20(m), Revised Laws of Hawaii 1955, as amended, is amended to read as follows:

“(m) Positions filled by inmates, kokua, patients or students of state institutions, and persons with severe physical or mental handicaps participating in the work experience training programs under Titles 1 and 2 of the Federal Manpower Development and Training Act of 1962, as amended.”

SECTION 3. Section 3-61(e), Revised Laws of Hawaii 1955, as amended, is amended to read as follows:

“(e) Positions filled by inmates, patients or students in county institutions or in schools and persons with severe physical or mental handicaps participating in the work experience training programs under Titles 1 and 2 of the Federal Manpower Development and Training Act of 1962, as amended.”

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

(Approved May 29, 1967.)

ACT 161

H. B. 869.

A Bill for an Act Relating to Revenue Bonds for University Projects and Amending Section 44-61(c), Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection (c) of section 44-61, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(c) With the approval of the governor, issue revenue bonds, to finance in whole or in part the cost of construction, or maintenance, or both, of any university project;”.

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

(Approved May 29, 1967.)

ACT 162

H. B. 948.

A Bill for an Act Amending Chapter 38, Revised Laws of Hawaii 1955, as Amended, Relating to Probationary Period of Employment.

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

SECTION 1. Amend the first proviso of the first sentence of section 38-5 of the Revised Laws of Hawaii, as amended, to read as follows:

“provided that such consecutive employment may be interrupted by maternity leave, sick leave or any other leave approved by the department not exceeding a period of three years, or by military leave not exceeding a period of five years, without loss of credit for the period of probationary employment.”.

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

(Approved May 29, 1967.)

ACT 163

H. B. 970.

A Bill for an Act Relating to Highways and Amending Chapter 111, Revised Laws of Hawaii 1955.

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

SECTION 1. Sections 111-12, 111-13, 111-14, 111-15, 111-16, and 111-17, Revised Laws of Hawaii 1955, are repealed.

SECTION 2. Part III of Chapter 111, Revised Laws of Hawaii 1955, is amended by adding the following:

“**Section 111-41.1. State highway not to be disturbed, etc., without permit.** No person or government agency, whether federal, state or county, shall, in any manner or for any purpose, 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 without a written permit from the director of transportation or his authorized representative.

“**Section 111-41.2. Permits, fees, etc.** Any person or government agency desiring the permit required by section 111-41.1 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 111-41.3 and 111-41.4.

The director of transportation, subject to chapter 6C, shall establish a fee schedule for the issuance of the permit. The fee schedule established shall be calculated to provide revenues sufficient to defray any expenses the department of transportation may incur in connection with the permit under sections 111-41.1 to 111-41.7. An applicant for a permit shall pay the applicable fee; provided, that the director of transportation may waive the fee payable by any government agency; and provided further, that no fee shall be required where the only work to be done is the setting of poles and guys to carry overhead wires.

“**Section 111-41.3. Specifications.** Specifications and procedures to be followed in the excavation and backfilling of trenches or other openings in state highways and the restoration or repair of the base course, pavement

surfaces, highway structures, and other improvements shall be prescribed by the director of transportation. At the request of an applicant for a permit, a copy of the specifications and procedures shall be furnished. In prescribing the specifications and procedures, the director of transportation need not comply with the provisions of law relating to the adoption of rules and regulations.

“Section 111-41.4. Backfilling, repaving, repairing, expense on permit holder. (a) All excess materials remaining at the site of the work done under any permit shall be removed at the expense of the permit holder. The excess material shall not be deposited or placed within any highway right of way except with the approval of the director of transportation or his authorized representative.

(b) The permit holder, at his own expense and upon completion of the work for which the permit was issued, shall backfill all trenches or other openings and make all necessary repairs to any concrete gutter, curb, sidewalk or any other structure in public use and restore or replace any plants, landscaping, signs, markers, or other facilities or improvements as were cut or damaged by the permit holder to a condition similar to that which existed prior to work being done under the permit.

“Section 111-41.5. Deposit of fees, etc.; inspectors. Fees collected pursuant to section 111-41.2 shall be deposited in the state highway fund.

The department of transportation shall employ one or more persons who shall inspect the work of the permit holder and require that it be done in accordance with sections 111-41.3 and 111-41.4.

“Section 111-41.6. Performance bond. The director of transportation may require that prior to the issuance of a permit the applicant give a cash bond, surety company bond or personal surety bond in favor of the State, and for an amount equal to the estimated cost of backfilling, restoring or repairing the base course pavement surface, structures, improvements and landscaped area, and any other additional costs that may be incurred as a result of the work done under the permit during the one-year period following the satisfactory completion of the work. The bond shall be conditioned upon the compliance of the permit holder with the requirements of sections 111-41.3 and 111-41.4.

“Section 111-41.7. Penalty for violations. Any person, including any public officer or employee who violates section 111-41.1, shall be fined not more than \$250 or imprisoned not more than three months, or both.”

SECTION 3. Part V, chapter 111, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately numbered and to read as follows:

“Section 111-..... Maintenance of state highway system. The maintenance of the state highway system may be performed either by public employment or by contract, or the director of transportation may have the maintenance performed by the county in which the highways are situated, by public employment or by contract, upon authorization of the legislative body of the county concerned.”

SECTION 4. This Act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 164

H. B. 1003.

A Bill for an Act Relating to Child Labor and Amending Section 88-22, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 88-22, Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting from subparagraph (f) of said section the figures "1967" appearing at the end thereof and substituting therefor the figures "1969."

SECTION 2. This act shall take effect upon its approval.
(Approved May 29, 1967.)

ACT 165

H. B. 1010.

A Bill for an Act to Amend a Franchise Held by Kauai Electric Company, Ltd., and to Repeal Certain Franchises for Electric Service on the Island of Kauai.

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

SECTION 1. S. L. 1927, Act 24, ratified, confirmed and approved by Act of Congress (45 Sts. at L. 159, c. 117, with a proviso) approved March 2, 1928; as enacted as law by S. L. 1935, Act 1; as amended by S. L. 1951, Act 27, ratified, confirmed and approved by Act of Congress (68 Sts. at L. 264, c. 322) approved June 18, 1954; as amended by S. L. 1961, Act 134, is hereby amended to read as follows:

"FRANCHISE

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

(a) The 'corporation' shall mean, include and represent Kauai Electric Company, Ltd. as a body corporate under that or such other name as said company may hereafter adopt and its successors and assigns.

(b) The 'public utilities commission' shall mean and include any officer, board or commission authorized or empowered to regulate public utilities under Revised Laws of Hawaii 1955, chapter 104, or any amendments thereto.

Section 2. Franchise. The corporation is hereby granted the right, authority and privilege to manufacture, sell, furnish and supply electric light, electric current or electric power on the island of Kauai, State of Hawaii, for lighting the streets, roads, public and private buildings and property, or for

motive power, or for any other purpose which it may deem advisable, and from time to time for the purposes above mentioned to construct, maintain, and operate suitable poles, lines, wires, cables, lamps, lamp posts, conductors, conduits and such other appliances and appurtenances as may from time to time be necessary or convenient for the transmission, distribution or supply of electricity to consumers thereof, under, along, upon and over the streets, sidewalks, roads, squares, bridges, alleys and lanes on said island, and to connect the same wires, lines and conductors with any manufactory, private or public buildings, lamps, lamp posts or other structure or object and the place or source of supply.

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

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

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

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

reasonable rates as may from time to time be fixed and determined by the public utilities commission.

Section 7. Extensions of lines and charges for making connections. The public utilities commission is hereby granted the power to order said corporation to make extensions of its service lines whenever it shall be made to appear that said extension is a public necessity and that the total plant of said corporation, including such extension or extensions, can be made to earn a reasonable profit on the cost and maintenance of same.

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

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

Section 10. Power to borrow money and bonds. The corporation whenever from time to time it shall be deemed expedient in the furtherance of the objects of the corporation shall have the power to borrow money and secure the payment thereof, with interest agreed upon, by mortgage of all or any part of its property, and this franchise; or, if it be deemed advisable, bonds may be issued, secured by deed of trust of such property and this franchise as aforesaid, not to exceed sixty per centum of the actual value thereof, together with all future acquired property and franchises, as well as the income and receipts of the property from whatever sources derived, and in such form and under such terms as said corporation may deem advisable; provided, that nothing in this section contained shall operate to prevent said corporation from obtaining the usual business credits or making promissory notes without security. No director or officer of the corporation, or any assignee or successor of the same, shall become interested, directly or indirectly, in any contract made by the corporation, its assignees or successors, in the construction of any part of the works, unless such contract is first approved by the public utilities commission.

Section 11. Franchise not exclusive. It is hereby expressly provided that nothing herein contained shall be construed to grant to the corporation an exclusive right to furnish, sell or supply electric current for light and power.

Section 12. Forfeiture of franchise. If said corporation, its repre-

sentatives, successors and assigns, shall fail or refuse to do or perform or comply with any of the provisions of this franchise or the laws of the State of Hawaii, and continue to refuse or fail to perform or comply therewith after reasonable notice given by the public utilities commission to comply therewith, said public utilities commission may, with the consent of the governor and of the attorney general, cause proceedings to be instituted before any appropriate tribunal to have the franchise hereby granted and all rights and privileges accruing hereunder forfeited and declared null and void.

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

Section 14. Annual statement, payment to government. The corporation shall, within one month after the expiration of each calendar year, file with the treasurer of the county of Kauai, a detailed statement showing all of its receipts and expenditures during the preceding calendar year, and shall, at the time, pay to the treasurer of the said county of Kauai, for and on behalf of said county, two and one-half per centum of the gross receipts of the corporation from all electric current or power furnished to consumers on the island of Kauai during the preceding year; and all its books, papers, records and accounts shall at all reasonable times be open to inspection by the treasurer of said county, and his respective agents appointed for such purposes.

Section 15. Regulation. The corporation shall have all the powers and be subject to all of the liabilities provided by law for corporations and shall be subject in all respects to the provisions of Revised Laws of Hawaii 1955, chapter 104, or amendments thereto, and to all other laws relating to public utilities and all laws as may be applicable from time to time to electric light and power companies or the persons or corporations operating them; provided, however, that from every ruling, decision and/or order an appeal shall lie as provided by law.

Section 16. Amendment and repeal of franchise. This franchise may at any time be amended or repealed by the legislature of the State of Hawaii.”

SECTION 2. The following Acts are hereby repealed:

(1) S. L. 1913 Act 153, ratified, approved and confirmed by Act of Congress (39 Sts. at L. 246, c. 199) approved June 30, 1916; as enacted as law by S. L. 1935 Act 1.

(2) S. L. 1921 Act 105, ratified, approved and confirmed by Act of Congress (42 Sts. at L. 185, c. 81) approved August 24, 1921; as amended by S. L. 1929 Act 88; as enacted as law by S. L. 1935 Act 1; as amended

by S. L. 1939 Act 214, ratified, approved and confirmed by Act of Congress (54 Sts. at L. 1105, c. 847) approved October 10, 1940.

(3) S. L. 1927 Act 25, ratified, approved and confirmed by Act of Congress (45 Sts. at L. 243, c. 138, with a proviso) approved March 7, 1928; as enacted as Law by S. L. 1935 Act 1.

(4) S. L. 1929 Act 29, ratified, approved and confirmed by Act of Congress (46 Sts. at L. 161, c. 137, with a proviso) approved April 12, 1930; as enacted as law by S. L. 1935 Act 1; as amended by S. L. 1939 Act 65, ratified, approved and confirmed by Act of Congress (54 Sts. at L. 1104, c. 846) approved October 10, 1940.

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

(Approved May 29, 1967.)

ACT 166

S. B. 378.

A Bill for an Act Relating to the Retirement System's Investment in Home Mortgages and Amending Chapter 6 of the Revised Laws of Hawaii 1955.

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

SECTION 1. The first sentence of subsection 6-75(b) of the Revised Laws of Hawaii 1955, is amended to read as follows:

"Bonds and notes secured by first mortgages or deeds of trust on unencumbered, improved real estate in the State owned in fee simple, such bond or note not to exceed 60.6 per cent of the appraised market value of the real estate over and above all taxes due; provided that for first mortgages or deeds on such real estate securing bonds and notes of \$50,000 or less, such bond or note shall not exceed 75 per cent of the appraised market value of the real estate over and above all taxes due; provided further that no building shall be included in such value beyond the amount of the insurance thereon for which a policy shall have been transferred to the board and kept in force as long as the loan continues; investments in real estate and improvements shall not exceed 75 per cent of the total amount in the several funds of the system."

SECTION 2. The first sentence of subsection 6-75(o) of the Revised Laws of Hawaii 1955, as amended, is amended to read as follows:

"Such leasehold interests in improved real property as may be conveyed to it by way of mortgage; provided that such leasehold interest shall continue for a period of not less than two years after the maturity of the mortgage debt and that such mortgage constitutes a first lien upon the leasehold interest and improvements and does not secure an amount greater than 70 per cent of the value of the improvements, except that for mortgages of \$50,000 or less, such mortgage may secure an amount which is not greater than 75 per cent of the value of the improvements; and provided that such mortgage shall provide specifically for full protection to the system with respect to the

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usual insurance risks, taxes, assessments, other governmental levies, maintenance and repairs.”

SECTION 3. This Act shall take effect upon its approval.
(Approved May 30, 1967.)

ACT 167

S. B. 514.

A Bill for an Act Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended, Relating to Intoxicating Liquor.

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

SECTION 1. Section 159-52 of the Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By amending the first paragraph thereof to read as follows:

“**Sec. 159-52. Application; penalty for false statements.** Every application for a license or for the renewal of a license or for the transfer of a license shall be in writing, signed and, except for the renewal of a license, verified by the oath of the applicant, or in the case of a corporation or unincorporated association by the proper officers thereof, or if a partnership by a majority of the general partners thereof, made before any official authorized by law to administer oaths, and shall be addressed to the commission, and set forth:”.

(b) By amending the last paragraph thereof to read as follows:

“If any false statement is knowingly made in any application which is verified by oath, the applicant, and in the case of the application being made by a corporation, association or club, the persons signing the application, shall be guilty of perjury, and shall be subject to the penalties prescribed by law for such offense. If any false statement is knowingly made in any application which is not verified by oath, the person or persons signing the application shall be guilty of a misdemeanor and upon conviction thereof shall be punished as in section 159-101 provided.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 30, 1967.)

ACT 168

S. B. 515.

A Bill for an Act Amending Section 143-20.1, Revised Laws of Hawaii 1955, as Amended, Relating to Urban Redevelopment and Renewal.

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

SECTION 1. Section 143-20.1 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the definition of “Undeveloped vacant land” to include an additional paragraph as follows:

“(c) any land acquired by the agency from the federal, state, or county governments for the purpose of relocating displaced families as provided in this section and in section 143-20, whether or not such land is free or substantially free of buildings, structures or other improvements at the time of acquisition by the agency.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 30, 1967.)

ACT 169

S. B. 528.

A Bill for an Act Amending Section 6-150 of the Revised Laws of Hawaii 1955, as Amended, Relating to Forfeiture of Pension.

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

SECTION 1. Section 6-150 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Section 6-150. Forfeiture of pension.** Whenever any person who has received a pension from the pension system fails to report himself for examination for duty (unless excused by the board of trustees), or disobeys the requirements of the board in respect to such examination, or fails to perform such duty as may be required of him if found able to perform such duty, then the board shall order that the pension allowed and paid to him shall cease permanently or temporarily.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 30, 1967.)

ACT 170

S. B. 535.

A Bill for an Act Relating to the Licensing of Chauffeurs, Drivers, and Operators of Motor Vehicles and Amending Sections 160-43 and 160-54 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 160-43 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by the deletion of the following words appearing after the word “chauffeurs” in the second line of the second paragraph:

“on the reverse side of which there shall be a space where any clerk of court or any district magistrate shall enter all records of conviction of violations of the traffic laws or regulations of the State or any political subdivision thereof involving a motor vehicle and all suspensions effected by any court.”

SECTION 2. Section 160-54 of the Revised Laws of Hawaii 1955 is hereby amended by repealing the first paragraph thereof.

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SECTION 3. This Act shall take effect upon its approval.
(Approved May 30, 1967.)

ACT 171

S. B. 580.

A Bill for an Act Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended, Relating to Intoxicating Liquor.

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

SECTION 1. Section 159-14 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 159-14. Reports, accounts, audit.** On or before September 30 of each year the chairman of the commission shall submit to the elected executive head of the county a full report upon the business and operations of the commission during the preceding year, which year shall be coterminous with the fiscal year of the county, with such other matters of information and comment as said elected executive head may deem appropriate. The elected executive head shall furnish copies thereof to the legislative body of the county and to the fiscal officer of the county.

The accounts of the commissions for the several counties shall be regularly examined by the fiscal officer who shall report thereon in writing to the legislative body of the several counties.”

SECTION 2. This Act shall take effect upon its approval.
(Approved May 30, 1967.)

ACT 172

S. B. 581.

A Bill for an Act Amending Chapter 159, Revised Laws of Hawaii 1955, as Amended, Relating to Intoxicating Liquor.

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

SECTION 1. The paragraph entitled “Class 9. Special.” of section 159-30 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“Class 9. Special. A special license may be granted for the sale of liquor for a period not to exceed one day on any occasion and under such conditions as may be approved by the commission. Of this class there shall be the following kinds: (a) general (includes all liquors except alcohol); (b) beer and wine; (c) beer. Under such license the liquors therein specified shall be consumed on the premises.”

SECTION 2. This Act shall take effect on July 1, 1967.
(Approved May 30, 1967.)

ACT 173

S. B. 838.

A Bill for an Act Relating to Appeals of Medical Board Decisions of the Employees' Retirement System of the State of Hawaii.

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

SECTION 1. Section 6-68.5, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto the following sentence:

"The provisions of sections 6C-9 to 6C-13, inclusive, shall not apply to reviews or proceedings of the medical review board."

SECTION 2. If S. B. No. 863 is passed during this General Session of 1967, whether before or after the effective date of this Act, the corresponding provision of S. B. No. 863 shall be amended to conform with this Act.

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

(Approved May 30, 1967.)

ACT 174

H. B. 232.

A Bill for an Act Relating to Demotion of Teachers or Termination of Their Contracts.

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

SECTION 1. Section 38-5.3, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"Section 38-5.3. Demotion or termination of contract by department. In case of demotion or termination of any contract, the department shall furnish the teacher a written notice signed by the superintendent of its intention to consider the demotion or termination of his contract with full specification of the grounds for such consideration. Unless the teacher so notified, within ten days subsequent to the receipt of the notice, demands in writing an opportunity to appear before the department and offer reasons against such demotion or termination, the department may proceed with formal action for demotion or termination of the contract. If the teacher, within ten days after receipt of notice from the superintendent, demands in writing a hearing before the department, the department shall set a time for the hearing within thirty days from the date of the written demand and the superintendent shall give the teacher at least fifteen days' notice in writing of the time and place of such hearing. Chapter 6C shall apply to the notice and to all other aspects of the hearing. No hearing shall be held during the summer vacation without the teacher's consent. The hearing shall be private unless the teacher requests a public hearing. The hearing shall be conducted by a majority of the board of education and be confined to the grounds given for the termination. In lieu of a hearing by the board, the board may appoint a hearing officer to conduct hearings in any case regarding teacher demotion or termination of contract. The hearing officer

shall hear the case in the same manner as if it were before the board and upon conclusion of the hearing, shall report his findings of fact and his conclusions and recommendations based thereon to the board and to the teacher. The board shall render the final decision in accordance with section 6C-11. The department may suspend a teacher pending final action to terminate his contract if, in its judgment, the character of the charges warrant such action.

Both parties may be present at the hearing, be represented by counsel, require witnesses to be under oath, cross-examine witnesses, take a record of the proceedings, and require the presence of witnesses in their behalf upon subpoena to be issued by the superintendent. In case of the failure of any person to comply with a subpoena, a circuit court judge of the judicial circuit in which the person resides, upon application of any interested party, shall compel attendance of the person by attachment proceedings as for contempt. The hearing officer or any member of the board of education may administer oaths to witnesses. The board by the vote of a majority of its membership may enter upon its minutes an order of demotion or termination as the case may be. If the decision of the board is against demotion or termination of the contract, the charges and the record of the hearing shall be physically expunged and, if the teacher has been suspended, he shall be paid his full salary for the period of such suspension.

The findings and decisions of the board shall be subject to review as provided in chapter 6C.

In any hearing or court action the board shall be advised and represented by the attorney general, or may employ other legal counsel if so authorized by the attorney general."

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

(Approved May 30, 1967.)

ACT 175

H. B. 291.

A Bill for an Act Relating to Act 38, Session Laws of Hawaii 1966, and Amending Item II-C-8 of Section 1.

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

SECTION 1. Purpose. The purpose of this Act is to amend Act 38, Session Laws of Hawaii 1966, to authorize the department of transportation to expend the funds previously authorized for the reconstruction of its base yard facilities for other purposes, namely, acquiring property for and the planning and construction of a Harbors Division base yard at a site on Oahu to be determined. This is necessitated by the fact that the present site is to be leased to the United States for the Army and Air Force Exchange Service and no base yard replacement site has yet been found.

SECTION 2. Item II-C-8 of section 1, Act 38, Session Laws of Hawaii 1966, is hereby amended to read as follows:

"8. Harbors Division Base Yard and Facilities, Oahu—For acquisition, planning and construction of a new base yard and facilities. \$600,000 s"

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

(Approved May 30, 1967.)

ACT 176

H. B. 300.

A Bill for an Act Relating to Legislative Employees.

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

SECTION 1. Section 6-20, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding between the words "officers," and "probationary" in line 9 of the definition of "Employee" the following words:

"legislative employees who are employed on a full-time basis during and between sessions,".

SECTION 2. Section 6-37, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"**Service while legislative employee.** Any member who takes a leave of absence to be employed by the legislature during any legislative session shall be entitled to all benefits and required to make all employee contributions under the employees' retirement system for the period during which the employee worked for the legislature.

Any employee who, prior to his becoming a member, was employed as an employee of the legislature shall be entitled to membership service for the period of employment by applying and paying therefor as required by section 6-34 for the acquisition of membership service."

SECTION 3. If S. B. No. 863 is passed during this General Session of 1967 whether before or after the effective date of this Act, the corresponding provision of S. B. No. 863 shall be amended to conform to this Act.

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

(Approved May 30, 1967.)

ACT 177

H. B. 341.

A Bill for an Act to Amend the Hawaii Insurance Law, Chapter 181, Revised Laws of Hawaii 1955, as Amended, Relating to Premium Taxes and Statements.

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

SECTION 1. Section 181-313(e), Revised Laws of Hawaii 1955, as amended, is hereby amended by substituting "March 15." for "June 30 succeeding the filing of the statement provided for in section 181-312." in the first sentence thereof.

SECTION 2. Section 181-332(a), Revised Laws of Hawaii 1955, is hereby amended by substituting "March 15" for "April 15" therein.

SECTION 3. Section 181-333(a), Revised Laws of Hawaii 1955, as amended, is hereby amended by substituting "March 15" for "April 15" therein.

SECTION 4. Section 181-334, Revised Laws of Hawaii 1955, is hereby amended by amending the first sentence to read:

"If any surplus line broker fails to file his annual statement or fails to pay the tax provided by section 181-333 on or before April 15 after the tax is due, he shall be liable for a fine of \$25 for each day of delinquency commencing with March 16."

SECTION 5. This Act shall take effect on July 1, 1967.

(Approved May 30, 1967.)

ACT 178

H. B. 412.

A Bill for an Act Relating to the Disposition of Motor Vehicle Certificates of Ownership, Certificates of Registration and License Plates for Motor Vehicles Which are Sold or Otherwise Disposed of as Salvage and Amending Chapter 160 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The purpose of this Act is to eliminate illegal traffic in certificates of ownership, certificates of registration and license plates for motor vehicles which are no longer operable on the highways of this State.

SECTION 2. A new section, designated as section 160-7.1, shall provide as follows:

Section 160-7.1. Certificates of ownership of salvaged motor vehicles. (a) Whenever a motor vehicle subject to registration under this part is sold as salvage, in the ordinary course of business or as the result of a total loss insurance settlement, the purchaser or, if an insurance company, its authorized agent, shall within ten days from the purchase, or the settlement of the insurance loss, forward the said motor vehicle's endorsed certificate of ownership or other evidence of title, certificate of registration and license plates to the treasurer or director of finance.

(b) Upon resale of the salvage vehicle the seller or, if the seller is an insurance company, its authorized agent, shall issue a bill of sale to the purchaser which shall be on a form prescribed by the treasurer or director of finance.

(c) In the event the salvage vehicle is rebuilt so as to be capable of again operating on the highways of this State, the said motor vehicle shall not be licensed for such operation, nor shall the ownership thereof be transferred until there is submitted to the treasurer or director of finance with the prescribed bill of sale, an appropriate application for registration of said

rebuilt or restored motor vehicle along with a certificate of inspection signed by a person authorized by the treasurer or director of finance attesting to the said motor vehicle's mechanical fitness and safety, plus any other document and fee required by the treasurer or director of finance.

(d) In the event a total loss insurance settlement between an insurance company and its insured results in the retention of the salvage vehicle by the insured, then in such event, the insurance company or its authorized agent shall, within ten days from the date of settlement, notify the treasurer or director of finance of such retention by its insured. The said notification shall be on a form prescribed by the treasurer or director of finance.

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

(Approved May 30, 1967.)

ACT 179

H. B. 621.

A Bill for an Act Relating to the Assignment of Counsel and Amending Chapter 235,* Revised Laws of Hawaii 1955.

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

SECTION 1. Section 253-5 of the Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 253-5. Assignment of counsel for indigent defendants or appellants; fees, expense of transcript, etc. Whenever any person charged or convicted of any felony is without sufficient means or resources to obtain counsel, the circuit court, or a magistrate of the district court, may assign counsel for his defense or appeal from among the attorneys licensed to practice in the courts of record of this State. Such person shall make an affidavit in such form and containing such information relating to his financial and income status as may be prescribed by the court or magistrate. A person subjected to the following shall be deemed included within the meaning of "person charged or convicted of a felony" as used in this section: (1) extradition proceedings; (2) proceedings for adverse amendment or revocation of probation where probation was granted upon conviction for a felony; (3) preliminary hearings before a magistrate under section 257-7; (4) proceedings under chapter 333 by which it is sought to waive jurisdiction and order a minor held for criminal proceedings, or to vest legal custody of a minor in the Hawaii Youth Correctional Facility or to commit a minor to a jail under the provisions of section 80-31; and (5) interrogation by law enforcement officers while in their custody.

Upon review of the affidavit and any further examination of such person, the court or magistrate may assign counsel for such person. Upon assigning counsel or any time subsequent thereto but not later than two years after the completion of services by such court-assigned counsel, the court may

* So in original, should apparently read 253.

require such person to contribute towards or reimburse, at such times and upon such terms as the court or magistrate may deem appropriate, all or part of the counsel fee and expenses on appeal to be paid or paid under this section, such contribution or reimbursement to be made payable to the circuit court.

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is frivolous or not taken in good faith.

The court may, upon filing of a like affidavit, direct that the expense of furnishing the necessary transcript of evidence and records for the consideration of the supreme court on appeal shall be paid.

The fee for such court-assigned counsel shall be a minimum of \$250, but shall not exceed \$1,000 in cases where the penalty prescribed for the offense charged may be imprisonment for life not subject to parole, imprisonment for life or any term exceeding twenty years, and in other felony cases shall be a minimum of \$50, but shall not exceed \$500 as in its discretion the court may allow. Additional similar fees may be allowed in the discretion of the court where as the result of a mistrial, a trial de novo is necessitated, but the foregoing fees shall be in full remuneration for all services, including appeals, performed for the accused person in regard to the offense being investigated or charged. No attorney shall be so paid who shall have received any other compensation for services in the case nor shall any attorney so paid demand or receive any other compensation for his services.

Counsel fees and expenses payable under this section shall be paid out of the appropriation made for the general expense of the circuit court having jurisdiction of the offense being investigated or charged."

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

(Approved May 30, 1967.)

ACT 180

H. B. 760.

A Bill for an Act Relating to Workmen's Compensation and Amending Chapter 97, Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection (b) of section 97-102, Revised Laws of Hawaii 1955, as amended, is amended by substituting a semicolon for the period at the end thereof and adding the following:

"provided that if an employer or an insurance carrier, other than the employer who appealed, is held liable for compensation, the costs of the proceedings of the appellate board, circuit court, or the supreme court of the State together with reasonable attorney's fees shall be assessed against the party held liable for the compensation."

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

(Approved May 30, 1967.)

ACT 181

H. B. 893.

A Bill for an Act Relating to Procedure When the Title of Vehicle is Transferred and Amending Section 160-10, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 160-10 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to add new paragraphs thereto to be designated and to read as follows:

“(j) Every person, other than a dealer, upon transferring a motor vehicle, whether by sale, lease or otherwise, shall within 10 days give notice of such transfer to the treasurer upon the official form provided by the treasurer. Every such 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 such official form. Any person who violates the provisions of this part shall be fined not more than one hundred dollars.

“(l) Whenever the registered owner of any motor vehicle has given notice to the treasurer of a transfer of his title or interest in such motor vehicle, as provided in sub-paragraph (j) of this section, and has delivered the certificate of ownership bearing his signature to the transferee as required by sub-paragraph (a) of this section, he shall be relieved from any liability, civil or criminal, which he might subsequently incur by reason only of his being the registered owner of such vehicle.

“(m) Any person who falsely or fraudulently gives notice to the treasurer of a transfer of his title or interest in a motor vehicle shall be subject to the penalty provided in section 160-19.”

SECTION 2. Section 160-10 (b), Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(b) Within ten days thereafter, the transferee shall forward both the certificate of ownership so indorsed and the certificate of registration to the treasurer, who shall file the same. Whenever a transferee fails to comply with these provisions, the treasurer shall charge a fee of \$2.00 in addition to the fee provided in section 160-9, for a new certificate of ownership.”

SECTION 3. This Act shall take effect on May 1, 1968.

(Approved May 30, 1967.)

ACT 182

H. B. 973.

A Bill for an Act Relating to Taxation, Charitable Contributions and Gifts, and Amending Chapter 121 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. The purpose of this Act is to incorporate by reference, section 209 of Public Law 88-272 into chapter 121 of the Re-

vised Laws of Hawaii 1955, relating to the income tax law. Several changes are made in the charitable contribution deduction: (1) the 30 per cent maximum deduction is made available generally for contributions to organizations other than private foundations, and also for charitable contributions to a federal, state or local governmental unit if the gift is made for exclusively public purposes:

(2) the two-year carry-over of charitable contributions for corporations is extended to five years;

(3) a five-year carry-over for certain charitable contributions made by individuals is provided; and

(4) charitable contribution deductions for future interests in tangible personal property are denied until the gifts are completed except where the property is retained for the life or lives of the donor or donors.

SECTION 2. Section 121-1.01 of the Revised Laws of Hawaii 1955 is amended by adding under column 1 and column 2 the following:

Column 1	Column 2
"Taxable years ending after December 31, 1966, but only with respect to contributions made after such date.	Public Law 88-272, section 209, with the exceptions of section 209(c)(2) and section 209(f)."

SECTION 3. This Act shall apply to the taxable years stated in section 2 and shall take effect upon its approval.

(Approved May 30, 1967.)

ACT 183

S. B. 1092.

A Bill for an Act Relating to University and College Curriculum Involving Wine Tasting.

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

SECTION 1. The provisions of chapter 159, Revised Laws of Hawaii 1955, or of any other law, to the contrary notwithstanding, the University of Hawaii may offer and conduct courses of instruction in food and beverage control, club management, and classical food and beverage management, which include wine tasting, through any campus of the university including the community colleges; and shall admit qualified students to such courses even if the students are below the age of twenty.

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

(Approved June 2, 1967.)

ACT 184

H. B. 34.

A Bill for an Act Amending Section 159-77, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 159-77 (a) (5), Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(5) Be sold or served by any minor upon any licensed premises except in such individually specified licensed establishments found to be otherwise suitable by the liquor commission in which an approved program of job training and employment for dining room waiters and waitresses is being conducted in cooperation with the University of Hawaii, or the state community college system, or a federally sponsored manpower development and training program, under arrangements which ensure proper control and supervision of employees.”

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

(Approved June 2, 1967.)

ACT 185

H. B. 695.

A Bill for an Act Amending Section 38-33 of the Revised Laws of Hawaii 1955, as Amended, Relating to Reclassification of Teachers.

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

SECTION 1. Amend section 38-33 of the Revised Laws of Hawaii 1955, as amended, by deleting the words, “school year”, and substituting therefor the word, “semester”, so that the paragraph shall read as follows:

“**Section 38-33. Change in classification.** Any teacher who qualifies for a higher class shall be transferred to such higher class as of the beginning of the next semester and shall receive the salary at the appropriate step and range of such higher class.”

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

(Approved June 2, 1967.)

ACT 186

H. B. 751.

A Bill for an Act Relating to Retirement for Public Officers and Employees and Amending Chapter 6 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Section 6-31(b)(5) of the Revised Laws of Hawaii 1955 is amended to read as follows:

“(5) service rendered by an employee in the office of the delegate to Congress from Hawaii, or service rendered by an employee in the office of a representative or a senator to Congress from the State of Hawaii; provided that (a) the employee was a member of the State Retirement System immediately preceding the time he renders such service; (b) the employee re-enters the service of the State or county within one year after termination of such service; and (c) the employee has, to the satisfaction of the Board of Trustees, waived his right to any credit under the Civil Service Retirement

Act (5 USCA 2251) based upon such service; provided further, that credit for such service shall not exceed eight years."

SECTION 2. If S. B. No. 863 is passed during this General Session of 1967, whether before or after the effective date of this Act, the corresponding provision of S. B. No. 863 shall be amended to conform with this Act.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 2, 1967.)

ACT 187

H. B. 777.

A Bill for an Act Relating to Real Estate Brokers and Salesmen and Amending Chapter 170.

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

SECTION 1. Chapter 170 of the Revised Laws of Hawaii 1955 is amended by adding new sections to be appropriately numbered and to read as follows:

"Section 170-15. Real estate recovery fund; use of fund; fees. The real estate commission is authorized and directed to establish and maintain a real estate recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate salesmen, which is in violation of the provisions of this chapter or the regulations promulgated pursuant thereto, may recover by order of the circuit court or district court of the county where the violation occurred, an amount of not more than ten thousand dollars for damages sustained by the act, representation, transaction or conduct.

Every real estate broker, when renewing his license in 1968 and 1969, shall pay in addition to his license renewal fee, a fee of twenty-five dollars for deposit in the real estate recovery fund. Every real estate salesman, when renewing his license in 1968 and 1969, shall pay, in addition to his license renewal fee, a fee of fifteen dollars for deposit in the real estate recovery fund. On or after January 1, 1968, when any person makes application for an original license to practice as a real estate broker or salesman he shall pay, in addition to his original license fee, a fee of twenty-five dollars for deposit in the real estate recovery fund. In the event that the real estate commission does not issue the license, this fee shall be returned to the applicant.

"Section 170-16. Additional payments to fund. If, on December 31 of any year, the balance remaining in the real estate recovery fund is less than one hundred and fifty thousand dollars, every real estate broker, when renewing his license during the following calendar year, shall pay, in addition to his license renewal fee, a fee of twenty-five dollars for deposit in the real estate recovery fund, and every real estate salesman, when renewing his license during such year, shall pay, in addition to his license renewal fee, a fee of fifteen dollars for deposit in the real estate recovery fund.

“Section 170-17. Statute of limitation; recovery from fund.

(a) No action for a judgment which subsequently results in an order for collection from the real estate recovery fund shall be started later than two 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 real estate recovery fund, the aggrieved person shall notify the real estate board* in writing to this effect at the time of the commencement of such action. The real estate board* shall have the right to intervene in and defend any such action.

(b) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any real estate broker, real estate salesman, upon the grounds of fraud, misrepresentation or deceit, which occurred on or after January 1, 1968, 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 real estate commission, may apply to the court for an order directing payment out of the real estate 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 is not a spouse of debtor, or the personal representative of such spouse.

(2) He has complied with all the requirements of this section.

(3) He 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 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 has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he 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 real estate commission requiring payment from the real estate 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 ag-

* Should properly read “commission.”

grieved person has fully pursued and exhausted all remedies available to him for recovering the amount awarded by the judgment of the court.

(e) Should the real estate commission pay from the real estate recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed real estate broker or real estate salesman, the license of the broker or salesman shall be automatically terminated upon the issuance of a court order authorizing payment from the real estate recovery fund. No such broker or salesman shall be eligible to receive a new license until he has repaid in full, plus interest at the rate of six per cent a year, the amount paid from the real estate recovery fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this paragraph.

(f) If, at any time, the money deposited in the real estate recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the real estate commission, shall, when sufficient money has been deposited in the real estate recovery fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of six per cent a year.

“Section 170-18. Management of fund. The sums received by the real estate commission for deposit in the real estate recovery fund shall be held by the real estate commission in trust for carrying out the purposes of the real estate recovery fund. These funds may be invested and reinvested in the same manner as funds of the state employees’ retirement system, and the interest from these investments shall be deposited to the credit of the real estate education fund, and which shall be available to the real estate commission for educational purposes, which is hereby created.

“Section 170-19. False statement. It shall be unlawful for any person or his agent to file with the real estate commission any notice, statement, or other document required under the provisions of this chapter, which is false or untrue or contains any material misstatement of fact and shall constitute a misdemeanor.

“Section 170-20. The real estate commission shall have standing in court. When the real estate commission receives notice, as provided in section 170-17, subsection (a), the real estate commission may enter an appearance, file an answer, appear at the court hearing, defend the action or take whatever other action it may deem appropriate on the behalf and in the name of the defendant, and take recourse through any appropriate method of review on behalf of, and in the name of, the defendant.

“Section 170-21. Subrogation of rights. When, upon the order of the court, the real estate commission has paid from the real estate recovery fund any sum to the judgment creditor, the real estate commission shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all his right, title and interest in the judgment to the real estate commission and any amount and interest so recovered by the real estate commission on the judgment shall be deposited to the fund.

“Section 170-22. Waiver of rights. The failure of an aggrieved per-

son to comply with all of the provisions of this chapter relating to the real estate recovery fund shall constitute a waiver of any rights hereunder.

“Section 170-23. Maximum liability. Notwithstanding any other provision, the liability of that portion of the real estate recovery fund allocated for the purposes of the real estate recovery fund shall not exceed twenty thousand dollars (\$20,000) for any one licensee.

“Section 170-24. Disciplinary action against licensee. Nothing contained herein shall limit the authority of the commission to take disciplinary action against any licensee for a violation of any of the provisions of chapter 170, or of the rules and regulations of the commission; nor shall the repayment in full of all obligations to the real estate recovery fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 170.”

SECTION 2. Section 170-7.5 shall be void after December 31, 1967.

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

(Approved June 2, 1967.)

ACT 188

H. B. 868.

A Bill for an Act Relating to Human Tissue for Research Purposes and Amending Chapters 64 and 260, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 64-14, Revised Laws of Hawaii 1955, is amended by adding at the end a sentence to read as follows:

“The consent shall include the consent to the retention by the pathologist or licensed physician or surgeon who conducts the post-mortem examination of tissues, including fetal material, of the body removed at the time of the post-mortem examination to be used for necessary or advisable scientific investigation, including research, teaching, and therapeutic purposes.”

SECTION 2. Section 260-14, Revised Laws of Hawaii 1955, is amended by adding at the end a sentence to read as follows:

“The coroner’s physician or medical examiner of any county (including the city and county of Honolulu) shall have the right to retain tissues, including fetal material, of the body removed at the time of autopsy to be used for necessary or advisable scientific investigation, including research, teaching, and therapeutic purposes.”

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

(Approved June 2, 1967.)

ACT 189

H. B. 872.

A Bill for an Act Relating to Dispositions Involving Public Property and Amending Chapters 7B and 103A, Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection 7B-1(a), Revised Laws of Hawaii 1955, is amended to read as follows:

“(a) Except as otherwise specifically provided by law, no concession or concession space shall be leased, let, licensed, rented out or otherwise disposed of either by contract, lease, license, permit or any other arrangement, except under contract let after public advertisement for sealed tenders in the manner provided by law; provided, that the duration of the grant of the concession or concession space shall be related to the investment required but in no event to exceed fifteen years.”

SECTION 2. Section 7B-1, Revised Laws of Hawaii 1955, as amended, is further amended by adding the following:

“(c) The bidding requirements of subsection (a) shall not apply to any nonrenewable dispositions granting rights for a period not in excess of fourteen days.”

SECTION 3. Section 7B-1.5, Revised Laws of Hawaii 1955, is amended to read as follows:

“**Sec. 7B-1.5. Definition.** The word ‘concession’ as used in this chapter means the grant to a person of the privilege to conduct operations which are essentially retail in nature, involving the sale of goods, wares, merchandise or services to the general public, such as restaurants, cocktail lounges, soda fountains and retail stores in or on buildings under the jurisdiction of any government agency.”

SECTION 4. The second sentence of the second paragraph of section 103A-11, Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Such department, agency of the State, the city and county, county or other political subdivision of the State in managing such lands shall be authorized to exercise all of the powers vested in the board in regard to the issuance of leases, easements, licenses, revocable permits, concessions or rights of entry covering such lands for such use as may be consistent with the purposes for which the lands were set aside on the same terms, conditions and restrictions applicable to the disposition of public lands, all such dispositions being subject to the approval of the board; provided that any nonrenewable dispositions granting rights for a period not in excess of fourteen days shall not require (1) the approval of the board or (2) public auction or public advertisement for sealed tenders.”

SECTION 5. Section 103A-53, Revised Laws of Hawaii 1955, as amended, is further amended by replacing the word “ten” appearing in the last line thereof with the word “fifteen.”

SECTION 6. Section 103A-56, Revised Laws of Hawaii 1955, is amended to read as follows:

“**Sec. 103A-56. Disposition by negotiation.** (a) A lease of public

land may be disposed of through negotiation upon a finding by the board that the public interest demands it. Where the public land is being sought under this section by a sugar or pineapple company, and such 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 103A-33(c).

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 103A-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;

(3) Determine the applicants who meet the criteria for selection set by the board, 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 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) Dispositions of public lands for airline and aircraft operations may be negotiated without regard to the limitations set forth in subsection (a) above, and section 103A-16(c); provided that such disposition shall not exceed a maximum term of thirty-five years."

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

(Approved June 2, 1967.)

ACT 190

S. B. 6.

A Bill for an Act Relating to In-Service Training and Scholarships for Public Officers and Employees.

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

SECTION 1. Add a new section to Chapter 5, Revised Laws of Hawaii 1955, as amended, which shall be appropriately numbered and to read as follows:

“There shall be established a center for governmental development located at the University of Hawaii, to provide in-service training scholarships, internships and other means to aid in the development of all government officers and employees. The center will present and coordinate courses, workshops, seminars and programs in public administration and serve as a clearing house for information and training in government-management practices, techniques and new technologies.

“The center for governmental development shall be under the direction of the director of personnel services, who together with the president of the University of Hawaii will insure that the training needs of the State, county and other governmental units are adequately fulfilled. The director of the department of personnel services and the president of the University of Hawaii shall establish an advisory committee to assist in the assessment and evaluation of state-wide and community needs.”

SECTION 2. All departments of the State shall develop programs in conjunction with the center which shall augment development and training of employees including:

- a. Provisions for apprenticeship training;
- b. Training to upgrade the abilities of employees;
- c. Training to prepare employees for changes caused by new technologies and methods; and
- d. Programs designed to meet the needs of the Manpower Development Training Act.

SECTION 3. Departments may provide scholarships to public officers and employees desiring further training in areas related to their work. Scholarships shall be awarded after consideration of the potential benefit to the government of the proposed training. The department of personnel services shall assist departments in the development of complete training programs and shall develop criteria for the awarding of scholarships to public officers and employees.

SECTION 4. The direction and operation of the center shall be limited to an administrative staff utilizing insofar as possible, existing personnel within the state government and the University of Hawaii, and shall receive full cooperation of all state departments in the use of staff members, facilities, and other resources necessary to accomplish the purposes of this Act.

SECTION 5. Revenues necessary for the operation of the center will be provided through the charging of tuition or such other fees as may be necessary to operate center programs for services rendered to participating agencies and shall be made part of a revolving fund. The center is authorized to receive donations, gifts, and allotments from other agencies, public and private, domestic and foreign, which are to be used at the discretion of the

director of the department of personnel services to further the purposes of the center.

SECTION 6. The director of the department of personnel services shall make a written report to the members of the legislature of the State of Hawaii at least thirty days before the legislature convenes, for the 1968 budget session, setting forth its progress in implementing this Act.

SECTION 7. This Act shall be liberally construed in order to accomplish the purpose set forth in section 1. If any part of this Act is declared invalid, the remaining portions shall be valid.

SECTION 8. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 191

S. B. 35.

A Bill for an Act Relating to International and Foreign Banking Corporations.

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

SECTION 1. Chapter 178 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new part to be appropriately numbered and to read as follows:

“PART—

INTERNATIONAL AND FOREIGN BANKING CORPORATIONS

“§ 178-..... **Definitions.** As used in this part, unless the context otherwise requires, ‘corporation’ means a corporation organized pursuant to this part, ‘director’ means the director of regulatory agencies, and ‘bank’ has the meaning used in section 178-2.

“§ 178-..... **Application for authority to organize; purposes; contents; fee.** Any number of natural persons, not less than five, at least three of whom shall be residents of the State, may file an application with the director for authority to organize a corporation for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a dependency or insular possessions of the United States, either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions as provided by this part, and to act when required by the Secretary of the Treasury of the United States as fiscal agents of the United States. The applicants shall pay to the director at the time of application a fee of \$150, which fee shall in no case be refunded. No person shall organize such a corporation until authority for that purpose has been obtained from the director. The application shall be made in the manner and shall contain the information set forth in section 178-14.

“§ 178-..... Hearing and investigation; ruling of the director. Within ten days after filing of the application the director shall set the time and place for the hearing of the application.

“The provisions of section 178-16 are hereby made applicable to the hearing, investigation, and ruling of the director on the application, for which purpose any reference therein to ‘bank’ or ‘banking business’ shall be deemed to refer to the corporation and its business covered by this part; provided, however, that the words therein: ‘to command the confidence of the community in which the proposed bank is to be located’ shall not be applicable.

“§ 178-..... Articles of incorporation; filing; time limit. Within sixty days after authority to organize has been finally granted, the incorporators shall file articles of incorporation and pay to the director the organization and filing fees required by law.

“§ 178-..... Refusal of approval after authorization; grounds. If, after the approval of the application for authority to organize, it appears to the director that the articles of incorporation or that the organization or proposed manner of conducting business does not comply with the terms and requirements of law, he may refuse to approve the articles of incorporation.

“§ 178-..... Incorporators; number; articles; execution; contents. When authorized in writing by the director as provided in this part any number of natural persons, not less than five, of whom at least three shall be residents of this State, may associate themselves by articles of incorporation and establish a corporation for the purpose set forth in this part upon the terms and conditions and subject to the liabilities prescribed herein, and not otherwise.

“All of the provisions of section 178-19 shall apply to the execution, acknowledgment, filing, and contents of the articles of incorporation, for which purpose any reference therein to ‘bank’ shall be deemed to refer to the corporation covered by this part; except that in lieu of item (b) in the second paragraph of said section 178-19, the articles shall specify the place or places where its operations are to be carried on, and the place in this State where its main office or branch office is to be located, which place shall be specifically designated so as to be readily found, or street and number in the city or town.

“§ 178-..... Approval of articles; transaction of business during organization; application for charter; commencement of business. All of the provisions of section 178-20 to section 178-23 shall apply to any corporation covered by this part, and any reference therein to ‘bank’ or ‘banking business’ shall be deemed to refer to the corporation or its business covered by this part.

“§ 178-..... Corporate powers. Each corporation shall have power, under such rules and regulations as the director may prescribe:

“(a) To purchase, sell, discount, and negotiate, with or without its endorsement or guaranty, notes, drafts, checks, bills of exchange, accept-

ances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its endorsement or guaranty, securities, including the obligation of the United States or of any state thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions the director may impose; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the director may prescribe, but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus; to receive deposits outside of the United States and to receive only such deposits in this State or in any other state of the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States.

“(b) Generally, to exercise such powers as are incidental to the powers conferred by this part or as may be usual, in the determination of the director, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the power specifically granted herein. Nothing contained in this part shall be construed to prohibit the director, under his power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation receives deposits in the United States authorized by this part it shall carry reserves in such amounts as the director may prescribe, but in no event less than ten per centum of its deposits.

“(c) To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in any state of the United States, and in the dependencies or insular possessions of the United States, at such place as may be approved by the director and under such rules and regulations as he may prescribe, including any state of the United States, or countries or dependencies not specified in the articles of incorporation.

“(d) With the consent of the director to purchase and hold stock or other certificates of ownership in any other corporation organized under the provisions of this part, or under the laws of the United States, or under the laws of any foreign country or a colony or dependency thereof, or under the laws of any state, dependency or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and the transacting any business in the United States except such as in the judgment of the director may be incidental to its international or foreign business.

“§ 178-..... **Maximum investment in one corporation.** Except with the approval of the director, no corporation shall invest in any one corporation an amount in excess of ten per centum of its own capital and surplus,

except in a corporation engaged in the business of banking, when 15 per centum of its capital and surplus may be so invested.

“§ 178-..... Acquisition of stock in competing corporation. No corporation shall purchase, own, or hold stock or certificates of ownership in any other corporation organized under this part or under the laws of any state which is in substantial competition therewith, or which holds stock or certificates of ownership in corporations which are in substantial competition with the purchasing corporation.

“§ 178-..... Purchase of stock in liquidation of debt; disposal. Nothing contained in this part shall prevent corporations from purchasing and holding stock in any corporation where such purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired in corporations shall within nine months from such purchase be sold or disposed of at public or private sale.

“§ 178-..... Conduct of business in the United States; authorization to commence business. No corporation shall carry on any part of its business in the United States except such as, in the judgment of the director, shall be incidental to its international or foreign business. Except such as is incidental and preliminary to its organization no corporation shall exercise any of the powers conferred by this part until it has been duly authorized by the director to commence business as a corporation organized under the provisions of this part.

“§178-..... Commerce or trade in commodities; forfeiture of license. No corporation shall engage in commerce or trade in commodities except as specifically provided in this part, nor shall it either directly or indirectly control or fix or attempt to control or fix the price of any such commodities. The license of any corporation violating this section shall be subject to forfeiture as provided in this part.

“§ 178-..... Control of commodity prices; penalty for violation. It shall be unlawful for any director, officer, agent, or employee of any corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any commodities, and any such person violating this section shall be liable to a fine of not less than one thousand dollars (\$1,000) and not exceeding five thousand dollars (\$5,000) or imprisonment not less than one year and not exceeding five years, or both, in the discretion of the court.

“§178-..... Minimum capital stock; amount paid in. No corporation shall be organized with a capital stock of less than \$750,000, twenty-five per cent of which must be paid in before the corporation may be authorized to begin business, and the remainder of the capital stock of the corporation shall be paid in installments of at least ten per centum of the whole amount to which the corporation shall be limited as frequently as one installment at the end of each succeeding two months from the time of the commencement of its business operations until the whole of the capital stock shall be paid in.

“§ 178-..... General corporation laws; when applicable. All corporations organized pursuant to this part shall be subject to the general corporation laws of the State in every case in which the provisions of this part do not apply.

“§ 178-..... Investments by banks. Any bank may invest in the stock of any corporation organized under the provisions of this part, but the aggregate amount of stock held in all corporations engaged in business of the kind described in this part shall not exceed ten per centum of the subscribing bank’s capital and surplus.

“§ 178-..... Stock ownership. A majority of the shares of the capital stock of any corporation shall at all times be held and owned by one or more state or national banks authorized to do business in Hawaii.

“§ 178-..... Power of director to take possession; grounds. Whenever it shall appear to the director that any corporation has violated the provisions of its articles of incorporation or any law of this State, or is conducting its business in an unsafe or unauthorized manner, or if the capital of any such corporation is impaired, or if the corporation shall refuse to submit its books, papers and concerns to the inspection of any bank examiner of the department of regulatory agencies or if any officers thereof shall refuse to be examined upon oath touching the concerns of the corporation or if the corporation shall suspend payment of its obligations, or if from any examination or report provided for by this part the director shall have reason to conclude that the corporation is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any corporation shall neglect or refuse to observe any order of the director, the director may forthwith take possession of the property and business of such corporation and retain such possession until such corporation shall resume business, or its affairs be finally liquidated as provided by this chapter for the liquidation of banks.

“§ 178-..... Deposit of funds; designation of depository. No corporation shall deposit any of its funds with any bank except in a federal reserve bank, unless such bank has been designated a depository for the corporation’s funds by a vote of a majority of the directors of the corporation, and unless such bank has been approved by the director as a depository for the purposes of this section. The maximum amount of the corporation’s funds that may be deposited in such bank shall be determined by the director.

“§ 178-..... Holding own shares. No corporation shall be the holder of any shares of its own capital stock unless such stock shall have been taken to prevent loss upon a debt previously contracted in good faith, and stock so acquired shall, within 12 months from the time of its acquisition, be sold or disposed of at public or private sale.

“§ 178-..... Discount to enable person to pay for or hold shares; forfeiture for violation. No corporation shall, either directly or indirectly, make any discount to any person for the purpose of enabling him to pay for

or hold shares of its stock either subscribed for or purchased by him. Any corporation making any such discount shall forfeit to the director twice the amount of such discount.

“§ 178-..... Entry of assets on books. No corporation shall by any system of accounting or any device of bookkeeping, directly or indirectly enter any of its assets upon its books in the name of any other person, or under any title or designation that is not truly descriptive thereof.

“§ 178-..... Books and records; violation of director’s order; penalty. Every corporation shall conform its methods of keeping its books and records to such orders in respect thereto as have been made and promulgated by the director. Any corporation that refuses or neglects to obey such order shall be subject to a penalty of one hundred dollars (\$100) for each day it so refuses or neglects.

“§ 178-..... Annual stockholders’ meeting. Every corporation shall hold a meeting of its stockholders annually upon a date fixed in its by-laws at its main office, or if its main office is to be located outside of this State, at its branch or other office in this State.

“§ 178-..... Record of stockholders, directors, and reports. Every corporation shall keep at its main office, or if its main office is to be located outside this State, at its branch or other office in this State, books containing the names and addresses of all stockholders thereof, and the names and addresses of the members of its board of directors together with copies of all reports made by it to the director.

“§ 178-..... Reports. Every corporation shall make such reports to the director as he may from time to time require, which shall be in such form and filed at such date as may be prescribed by the director and shall, if required by him, be verified in such manner as he may prescribe.

“§ 178-..... Failure to report; forfeiture. If any corporation shall fail to make any report required by this part on or before the day designated for the making thereof, or shall fail to include therein any matter required by the director, it shall forfeit to the director the sum of one hundred dollars (\$100) for every day that such report shall be delayed or withheld, and for every day that it shall fail to report any such omitted matter, unless the time therefor shall have been extended by the director.

“§ 178-..... Dividends; portion of net profits carried to surplus. The directors of any corporation may, semiannually, declare a dividend of so much of the net profits of the corporation as they shall judge expedient, but each corporation shall, before the declaration of a dividend, carry one-tenth of its net profits of the preceding half year to its surplus fund until the surplus shall amount to 20 per centum of its capital stock.

“§ 178-..... Discounting by officer or employee of loan refused by corporation; forfeiture. No officer, director, clerk or other employee of any corporation, and no person in any way interested or concerned in the management of its affairs, shall as individuals discount, or directly or indirectly, make any loan upon any note or other evidence of debt, which he

shall know to have been offered for discount to such corporation, and to have been refused. Every person violating the provisions of this section, shall, for each offense, forfeit to the director twice the amount of the loan which he shall have made.

“§ 178-..... Loans to officers or employees; forfeiture. No officer, director, clerk or other employee of any corporation shall borrow, directly or indirectly, from such corporation any sum of money without the written approval of a majority of the board of directors thereof filed in the office of such corporation or embodied in a resolution adopted by a majority vote of such board exclusive of the director to whom the loan is made. If an officer, director, clerk or other employee of any such corporation shall own or control a majority of the stock of any other corporation a loan to that corporation shall be considered as a loan to such officer, director, clerk or other employee. Every person violating this section shall, for each offense, forfeit to the director twice the amount which he shall have borrowed.

“§ 178-..... Offenses; penalty. Every officer, director, clerk, employee or agent of any corporation who embezzles, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, evidence of indebtedness or assets of any character of such corporation, or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, debenture, draft, bill of exchange, mortgage, judgment, or decree, or who makes any false entry in any book, report, or statement of such corporation with intent, in either case, to injure or defraud such corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of such corporation, the director, or any agent or examiner appointed to examine the affairs of any such corporation; and every receiver of any corporation and every clerk or employee of such receiver who shall embezzle, abstract, or willfully misapply or wrongfully convert to his own use any moneys, funds, credits, or assets of any character which may come into his possession or under his control in the execution of his trust or the performance of the duties of his employment; and every such receiver or clerk or employee of such receiver who shall, with intent to injure or defraud any person, body politic or corporate, or to deceive or mislead the director or any agent or examiner appointed to examine the affairs of such receiver, make any false entry in any books, report, or record of any matter connected with the duties of such receiver; and every person who with like intent aids or abets any officer, director, clerk, employee, or agent of any corporation, or receiver or clerk or employee of such receiver as aforesaid in any violation of this part shall upon conviction thereof be imprisoned for not less than two years nor more than 10 years, and may also be fined not more than five thousand dollars (\$5,000), in the discretion of the court.

“§ 178-..... Misrepresentation of state liability for bonds or obligations of corporation; penalty. Whoever being connected in any capacity with any corporation represents in any way that the State is liable for the payment of any bond or other obligation, or the interest thereon, issued or

incurred by any corporation, or that the State incurs any liability in respect of any act or omission of the corporation shall be punished by a fine of not more than ten thousand dollars (\$10,000) and by imprisonment for not more than five years.

“§ 178-..... **Application of parts I and II.** Insofar as not inconsistent with the provisions of this part, all of the provisions of parts I and II of this chapter shall apply in the same manner, as nearly as may be, to the corporations, persons, matters and things covered by this part.

“§ 178-..... **Corporation deemed foreign corporation for purposes of chapter 127.** A corporation organized and doing business pursuant to the provisions of this part shall be deemed a ‘financial corporation’ for the purposes of chapter 127.”

SECTION 2. This Act shall take effect January 2, 1968.

(Approved June 4, 1967.)

ACT 192

S. B. 218.

A Bill for an Act Relating to Membership Service in the Employees’ Retirement System.

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

SECTION 1. Section 6-31, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) Delete the period at the end of (7) thereunder and insert a comma and the word, “and”, therefor; and

(b) Add a new subparagraph numbered (8) to read as follows:

“(8) service between the years 1941 and 1945 with federal defense agencies, where the employee was employed by the government before the wartime service, went into defense work at the direction of his employer, and returned to his regular job at the end of such wartime service; provided that such circumstances shall be verified by evidence satisfactory to the board.”

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

(Approved June 4, 1967.)

ACT 193

S. B. 786.

A Bill for an Act Relating to the Prevention of Discrimination in Real Property Transactions.

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

SECTION 1. **Purpose; construction.** (a) The purpose of this Act is to secure for all individuals within the State freedom from discrimination because of race, color, religion, or national origin in connection with real

property transactions, and thereby to protect their interest in personal dignity, to make available to the State their full productive capacities, to secure the State against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights and privileges of individuals within the State.

(b) This Act shall be construed according to the fair import of its terms and shall be liberally construed to further the purpose stated in this section.

SECTION 2. Definitions. In this Act, unless the context otherwise requires:

- (1) "Department" means the department of regulatory agencies.
- (2) "Director" means the director of regulatory agencies.
- (3) "Discriminatory practice" means a practice designated as discriminatory under the terms of this Act.
- (4) "Housing accommodation" includes any improved or unimproved real property, or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home or residence of one or more individuals.
- (5) "National origin" includes the national origin of an ancestor.
- (6) "Person" refers to the definition of section 1-24, Revised Laws of Hawaii 1955, and includes a legal representative, partnership, receiver, trust, trustee, trustee in bankruptcy, the State, or any governmental entity or agency.
- (7) "Real estate broker or salesman" means a person, whether licensed or not, who, for or with the expectation of receiving a consideration, lists, sells, purchases, exchanges, rents, or leases real property, or who negotiates or attempts to negotiate any of these activities, or who holds himself out as engaged in these activities, or who negotiates or attempts to negotiate a loan secured or to be secured by mortgage or other encumbrance upon real property, or who is engaged in the business of listing real property in a publication; or a person employed by or acting on behalf of any of these.
- (8) "Real estate transaction" includes the sale, exchange, rental, or lease of real property.
- (9) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein.

SECTION 3. Discriminatory practices. It is a discriminatory practice for an owner or any other person engaging in a real estate transaction, or for a real estate broker or salesman, because of race, color, religion, or national origin:

- (1) To refuse to engage in a real estate transaction with a person;
- (2) To discriminate against a person in the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith;
- (3) To refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person;

(4) To refuse to negotiate for a real estate transaction with a person;
(5) To represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his attention, or to refuse to permit him to inspect real property;

(6) To print, circulate, post, or mail or cause to be so published a statement, advertisement, or sign, or to use a form of application for a real estate transaction, or to make a record or inquiry in connection with a prospective real estate transaction, which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination with respect thereto; or

(7) To offer, solicit, accept, use, or retain a listing of real property with the understanding that a person may be discriminated against in a real estate transaction or in the furnishing of facilities or services in connection therewith.

SECTION 4. Exemptions. The provisions of section 3 do not apply:

(1) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other if the lessor or a member of his family resides in one of the housing accommodations; or

(2) To the rental of a room or rooms in a housing accommodation by an individual if he or a member of his family resides therein.

SECTION 5. Discriminatory financial practices. It is a discriminatory practice for a person to whom application is made for financial assistance in connection with a real estate transaction or for the construction, rehabilitation, repair, maintenance, or improvement of real property, or a representative of such a person:

(1) To discriminate against the applicant because of race, color, religion, or national origin;

(2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicates, directly or indirectly, an intent to make a limitation, specification, or discrimination as to race, color, religion, or national origin.

SECTION 6. Restrictive covenants and conditions. (a) Every provision in an oral agreement or a written instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, color, religion, or national origin is void.

(b) Every condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, color, religion, or national origin, is void, except a limitation of use on the basis of religion of real property held by a religious institution or organization or by a religious or charitable organization operated, supervised, or controlled by a religious institution or organization, and used for religious or charitable purposes.

(c) It is a discriminatory practice to insert in a written instrument relating to real property a provision that is void under this section or to honor or attempt to honor such a provision in the chain of title.

SECTION 7. Blockbusting. It is a discriminatory practice for a person, for the purpose of inducing a real estate transaction from which he may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion, or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located, or

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located.

SECTION 8. Religious institutions. It is not a discriminatory practice for a religious institution or organization or a charitable or educational organization operated, supervised, or controlled by a religious institution or organization to give preference to members of the same religion in a real property transaction.

SECTION 9. Enforcement; powers of department to prevent unlawful discrimination. The department shall have jurisdiction over the subject of real property transaction practices and discrimination made unlawful by this Act. The department has the following powers:

(1) To receive, initiate, investigate, seek to conciliate, hold hearings on, and pass upon complaints alleging violations of this Act;

(2) At any time after a complaint is filed, to require answers to interrogatories, compel the attendance of witnesses, examine witnesses under oath or affirmation, and require the production of documents relevant to the complaint. The department may make rules authorizing any individual designated to exercise these powers in the performance of official duties;

(3) To furnish technical assistance requested by persons subject to this Act to further compliance with the Act or an order issued thereunder;

(4) To make studies appropriate to effectuate the purposes and policies of this Act and to make the results thereof available to the public;

(5) To render at least annually a comprehensive written report to the governor and to the legislature. The report may contain recommendations of the department for legislative or other action to effectuate the purposes and policies of this Act;

(6) In accordance with chapter 6C, Revised Laws of Hawaii 1955, to adopt, promulgate, amend, and rescind rules and regulations to effectuate the purposes and policies of this Act, including regulations requiring the inclusion in advertising material of notices prepared or approved by the director.

SECTION 10. Complaint and subsequent proceedings. (a) A per-

son claiming to be aggrieved by a discriminatory practice, his agent, or the attorney general, may file with the department a written complaint stating that a discriminatory practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the department to identify the person charged (hereinafter the respondent). The department shall promptly investigate the allegations of discriminatory practice set forth in the complaint and shall immediately furnish the respondent with a copy of the complaint. The complaint must be filed within ninety days after the alleged discriminatory practice occurs.

(b) If within sixty days after the complaint is filed it is determined by the department that there is no reasonable cause to believe that the respondent has engaged in a discriminatory practice, the department shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the attorney general and such other public officers and persons as the department deems proper. The respondent is entitled to recover from the complainant attorney's fee, not to exceed \$100, if such cost is incurred.

(c) Unless the department has issued an order dismissing the complaint pursuant to this section, it shall endeavor to eliminate the alleged discriminatory practice by conference, conciliation, and persuasion. The terms of a conciliation agreement reached with the respondent may require him to refrain in the future from committing discriminatory practices of the type stated in the agreement and to take such affirmative action as in the judgment of the department will carry out the purposes of this Act and may include consent by the respondent to the entry in court of a consent decree embodying terms of the conciliation agreement. If a conciliation agreement is entered into, the department shall issue an order stating its terms and furnish a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the department deems proper. Except for the terms of the conciliation agreement, neither the department nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate a discriminatory practice by conference, conciliation, or persuasion, whether or not there is a determination of reasonable cause or a conciliation agreement.

(d) At any time in its discretion but not later than one year from the date of a conciliation agreement, the department shall investigate whether the terms of the agreement are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the department shall take affirmative action as authorized in section 13.

(e)(1) At any time after a complaint is filed, the department may file a petition in the circuit court in a circuit in which the subject of the complaint occurs, or in a circuit in which a respondent resides or transacts business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this Act, including an order or decree

restraining him from doing or procuring any act tending to render ineffectual any order the department may enter with respect to the complaint. The court shall have power to grant such temporary relief or restraining order as it deems just and proper, but no such relief or order extending beyond five days shall be granted except by consent of the respondent after hearing upon notice to the respondent and a finding by the court that there is reasonable cause to believe that the respondent has engaged in a discriminatory practice;

(2) If a complaint is dismissed by final order of the department or a court after a court has granted temporary relief or a restraining order under subsection (e)(1), the respondent shall be entitled to recover from the State damages and costs, not to exceed a total of \$500, sustained by reason of the temporary relief or restraining order in an action in the court which granted the temporary relief or restraining order.

SECTION 11. Hearing. (a) Within sixty days after a complaint is filed, unless the department has issued an order dismissing the complaint or stating the terms of a conciliation agreement, the department shall serve on the respondent by registered or certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer in writing the allegations of the complaint at a hearing before the director or a hearing examiner at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the attorney general, and such other public officers and persons as the department deems proper. The notice shall conform to and the hearing shall be conducted in accordance with chapter 6C, Revised Laws of Hawaii 1955.

(b) The respondent may file an answer with the department in person or by registered or certified mail in accordance with the rules of the department. The department shall furnish a copy of the answer to the complainant and any other party to the proceeding. The complainant may amend a complaint and the respondent may amend an answer at any time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the order is based.

(c) The case in support of the complaint shall be presented at the hearing by the department. Efforts in a particular case to eliminate a discriminatory practice by conference, conciliation, and persuasion shall not be received in evidence.

(d) A respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing with or without representation, may examine and cross-examine witnesses and the complainant, and may offer evidence. The complainant and the attorney general may intervene, examine and cross-examine witnesses, and may present evidence.

(e) If the respondent fails to answer the complaint, the department or the hearing examiner may enter his default and the hearing shall proceed on the evidence in support of the complaint. The default may be set aside for good cause shown upon equitable terms and conditions.

(f) Testimony taken at the hearing shall be under oath and transcribed. If the testimony is not taken before the department, the record shall be transmitted to the department. After the hearing, the department upon notice to all parties with an opportunity to be heard may take further evidence or hear argument.

SECTION 12. Dismissal after hearing. If the department determines that the respondent has not engaged in a discriminatory practice, the department shall state its findings of fact and conclusions of law and shall issue an order dismissing the complaint and furnish a copy of the order to the complainant, the respondent, the attorney general, and such other public officers and persons as the department deems proper.

SECTION 13. Determination of discriminatory practice; relief.
(a) If the department determines that the respondent has engaged in a discriminatory practice, the department shall state its findings of fact and conclusions of law and shall issue an order requiring the respondent to cease and desist from the discriminatory practice and to take such affirmative actions as in the judgment of the department will carry out the purposes of this Act. A copy of the order shall be delivered to the respondent, the complainant, the attorney general, and to such other public officers and persons as the department deems proper.

(b) Affirmative action ordered under this section may include but is not limited to:

(1) Sale, exchange, lease, rental, assignment, or sublease of real property to an individual;

(2) Extension to all individuals of the full and equal enjoyment of the advantages, facilities, privileges, and services of the respondent;

(3) Reporting as to the manner of compliance;

(4) Posting notices in conspicuous places in the respondent's place of business in form prescribed by the department and inclusion of such notices in advertising material;

(5) Cancellation, rescission or revocation of a contract, deed, lease, or other instrument transferring real property, which is the subject of a complaint of a discriminatory practice, to a person who had actual knowledge or record notice, prior to the transfer or the execution of the legally binding obligation to make the transfer, that a determination of reasonable cause had been made with respect to the discriminatory practice;

(6) Payment to an injured party of profits obtained by the respondent through a violation of section 7, subject to the principles of equity;

(7) Payment to the complainant of damages for an injury caused by the discriminatory practice and costs, including a reasonable attorney's fee. Unless greater damages are proven, damages may be assessed at \$500 for each violation.

(c) In the case of a respondent who is found by the department to have engaged in a discriminatory practice in the course of performing under a contract or subcontract with the State or a county, or agency thereof, if the

discriminatory practice was authorized, requested, commanded, performed, or knowingly or recklessly tolerated by the board of directors of the respondent or by an officer or executive agent acting within the scope of his employment, the department shall so certify to the contracting agency. Unless the department's finding of a discriminatory practice is reversed in the course of judicial review under section 14, the finding of discrimination is binding on the contracting agency.

(d) Thirty days after an order is issued under this section, unless a petition by the respondent for judicial review is pending, the department may publish or cause to be published the name of a person who has been determined to be engaged in a discriminatory practice.

SECTION 14. Judicial review; enforcement. (a) A complainant or respondent aggrieved by an order of the department, including an order dismissing a complaint, or stating the terms of a conciliation agreement, may obtain judicial review.

(b) The proceeding for review or enforcement is initiated by filing a petition in the circuit court. Copies of the petition shall be served upon all parties of record. Within thirty days after the service of the petition upon the department or within such further time as the court may allow, the department shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. The court may reverse or modify the order if substantial rights of the petitioner have been prejudiced because the findings of fact of the department are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the department, or remanding the case to the department for further proceedings. All such proceedings shall be heard and determined by the court as expeditiously as possible and with precedence over all other matters before it, except matters of like nature.

(c) If the department has failed to schedule a hearing in accordance with subsection 11(a) or has failed to issue an order within one hundred and eighty days after the complaint is filed, the complainant, respondent, or the attorney general may petition the circuit court in a circuit in which the alleged discriminatory practice set forth in the complaint occurs or in which the petitioner resides or transacts business for an order directing the department to take such action. The court shall follow the procedure set forth in subsection (b) so far as applicable.

(d) An objection not urged at a hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remit the case to the department in the interest of justice for the purpose of adducing additional specified and material

evidence and seeking findings thereon; provided he shows good cause for the failure to adduce such evidence before the department.

(e) The jurisdiction of the circuit court shall be exclusive and its final judgment or decree shall be subject to an appeal to the supreme court. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(f) A proceeding under this section must be initiated within thirty days after a copy of the order of the department is received, unless the petition is filed under subsection (c). If no proceeding is so initiated, the department may obtain a decree of the court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and that the respondent is subject to the jurisdiction of the court.

SECTION 15. Subpoenas; witnesses. (a) Upon written application to the department a party to a proceeding is entitled as of right to the issue of subpoenas for deposition or hearing in the name of the department by an individual designated pursuant to its rules requiring attendance and the giving of testimony by witnesses and the production of documents. A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena was issued. On petition of the individual to whom the subpoena is directed and notice to the requesting party, the department or an individual designated pursuant to its rules may vacate or modify the subpoena.

(b) Witnesses whose depositions are taken or who are summoned before the department or its agents shall be entitled to the same witness and mileage fees as are paid to witnesses subpoenaed in the circuit court of the State.

(c) If a person fails to comply with a subpoena issued by the department, the circuit court for the circuit in which the person is found, resides, or transacts business, upon application of the department or the party requesting the subpoena, may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

SECTION 16. Other discriminatory practices. It is a discriminatory practice for a person, or for two or more persons to conspire,

(1) To retaliate or discriminate against a person because he has opposed a discriminatory practice, or because he has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under this Act;

(2) To aid, abet, incite, or coerce a person to engage in a discriminatory practice;

(3) Wilfully to interfere with the performance of a duty or the exercise of a power by the department; or

(4) Wilfully to obstruct or prevent a person from complying with this Act or an order issued thereunder.

SECTION 17. Attempts. An attempt to commit, directly or indirectly, a discriminatory practice is a discriminatory practice.

SECTION 18. Conciliation agreements. It is a discriminatory practice for a party to a conciliation agreement made under this Act to violate the terms of the agreement.

SECTION 19. Public contractors. Upon receiving a certification made under subsection 13(c), a contracting agency may take appropriate action to

(1) Terminate a contract or portion thereof previously entered into with the respondent, either absolutely or on condition that the respondent carry out a program of compliance with this Act, and

(2) Assist the State and all counties, and agencies thereof, to refrain from entering into further contracts, or extensions or other modifications of existing contracts, with the respondent until the department is satisfied that the respondent will carry out policies in compliance with this Act.

SECTION 20. Prima facie evidence. In a proceeding under this Act, a written, printed, or visual communication, advertisement, or other form of publication, or written inquiry, or record, or other document purporting to have been made by a person is prima facie evidence that it was authorized by him.

SECTION 21. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary, to the department of regulatory agencies for the purpose of this Act.

SECTION 22. This Act shall take effect upon its approval.

(Approved June 4, 1967.)

ACT 194

S. B. 855.

A Bill for an Act Relating to Limitations of Actions and Amending Chapter 241 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 241 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to be numbered and to read as follows:

“Sec. 241-7.1. Limitation of action for damages based on professional services or licensed 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 any registered and/or duly licensed person performing or furnishing professional or licensed services in the design, planning, supervision, or observation of construction or construction of such improvement to real property more than two years after cause of action has accrued, but in any event not more than ten years after the performance or furnishing of such services except

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that this provision shall not apply to surveyors for their own errors in boundary surveys.”

SECTION 2. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 195

S. B. 923.

A Bill for an Act Relating to the Police Departments.

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

SECTION 1. Insofar as the second paragraph of section 145-8 of the Revised Laws of Hawaii 1955, as amended, affects police officers of any county in the State of Hawaii, it shall be deleted in its entirety.

SECTION 2. Chapter 138, Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new section to read as follows:

“Section 138-..... Car allowance; insurance. Any law to the contrary notwithstanding, each member of the police department of the respective counties who furnishes his own funds and regularly uses his automobile to perform his official duties, shall, in addition to the salaries provided, be granted an allowance therefor at rates established by the police commissioner of the county with the approval of the chief executive officer of the county, shall be allowed gasoline and oil based on official mileage, and shall have his public liability and property damage insurance paid by the county.”

SECTION 3. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 196

S. B. 925.

A Bill for an Act Relating to the National Guard; Amending Chapter 353 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 353 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“CHAPTER 353
MILITIA; NATIONAL GUARD

Sec. 353-1. **The Militia.** The militia of the State shall consist of every resident able bodied male citizen of the United States who is 17 years old or older and under 46 years of age and all other able bodied male residents of such age who have declared their intention to become citizens of the United States. The militia of the State shall be composed of four classes: (a) the federally organized and recognized national guard, (b) the remainder of the organized militia to be known as the Hawaii state guard, (c) the naval

militia, (d) the unorganized militia. The unorganized militia shall consist of those members of the militia who are not members of the national guard, the naval militia, or the state guard. The unorganized militia shall be subject to active military duty only when called or ordered into the service of the State for such period as is required. They may be assigned to existing organizations of the Hawaii national guard, the naval militia, or the state guard, or otherwise as the exigencies require.

Sec. 353-2. Exemptions. The following are exempt from military duty: all persons exempted from military duty under the laws of the United States, all judges and magistrates of the several courts of the State, and the members of the legislature.

Sec. 353-3. 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 male 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 him.

Sec. 353-4. Composition. The Hawaii national guard shall consist of the army national guard, the air national guard, the inactive national guard, and other such organizations and units now or hereafter authorized by the laws of the United States or the regulations issued thereunder for the national guard which are recognized by the federal government, and in which federally recognized officers, warrant officers and enlisted men are appointed or enlisted.

Sec. 353-5. Command. The governor shall be the commander in chief of the forces comprising the militia. He is authorized to promulgate such rules, regulations and forms therefor as are not inconsistent with law, and to carry into full effect the provisions of law relative thereto. The provisions of chapter 6C, Revised Laws of Hawaii 1955, as amended, shall not apply. Such rules, regulations and forms shall have the force of law.

Sec. 353-6. Organization and reorganization of units. The governor may organize, alter, divide, annex, consolidate and reorganize the army and air national guard into divisions, brigades, regimental combat teams, regiments, battle groups, battalions, squadrons, batteries, companies and similar organizations in accordance with their strength as authorized from time to time and in conformity with the tables or organization prescribed by the secretaries of the army and of the air force. He may change the location of units, and subject to the approval of the appropriate secretary, redesignate units or organizations.

Sec. 353-7. Adjutant general shall be the executive head of the department of defense and commanding general of the national guard and shall be appointed and be subject to removal as set forth in section 14A-2, Revised Laws of Hawaii 1955, as amended. He shall serve for the term as set forth in section 6, Article IV, of the constitution. No person shall be eligible

for appointment as adjutant general unless he holds or has held a commission of at least a field grade officer, federally recognized as such, or its equivalent in the national guard, state guard or other branch of the armed forces of this or any other state or territory of the United States, or in the armed forces of the United States or a reserve component thereof and shall have served as a commissioned officer in one or more of such armed services for at least ten years.

Sec. 353-8. Adjutant general; rank, compensation. The adjutant general shall have the grade of a general officer. There shall be paid monthly by the State to the adjutant general, the pay and allowances as fixed by federal law for a member of the armed forces of the United States of like grade and length of service.

Sec. 353-9. Adjutant general; duties. The adjutant general shall perform such duties as are prescribed by law and such other military duties consistent with the regulations and customs of the armed forces of the United States as required by the governor.

He shall supervise all of the forces comprising the military components of the department of defense of the State. Such supervisory power shall include the command, discipline, training and recruiting of the armed forces of the State, military operations, distribution of troops, inspections, armament, military education and instruction, fiscal operations, administration, and supply.

Sec. 353-10. Administration. The adjutant general shall from time to time make and publish such orders and regulations, not inconsistent with law, as are necessary to bring the organization, armament, equipment and discipline of the organized militia to a state of efficiency as nearly as possible approaching that of the army and air force of the United States. He shall attest all commissions issued to military officers, appointments issued to warrant officers, maintain personnel records, superintend preparation of all letters and reports required by the United States from the State. He shall have charge of the State military reservations, armories and all other property of the State kept or used for military purposes. The adjutant general shall take an inventory at least once each year of all military stores, property and funds under this jurisdiction. The adjutant general shall be the official custodian of the military records of all persons from the State who served in the armed forces of the United States during times of war or grave national emergency, including those records which are turned over to the State by the federal agency of selective service. Such records shall be preserved perpetually in accordance with rules and regulations established by the adjutant general.

The adjutant general shall make an annual report of the operations of his department.

Sec. 353-11. Deputy adjutant general. The adjutant general may appoint and remove at his pleasure a deputy adjutant general, who shall have a grade no higher than brigadier general. He shall perform duties assigned

to him by the adjutant general and shall act for and in the place of the adjutant general during his absence or disability.

Sec. 353-12. Staff for military components, organization. (a) The headquarters staff of the national guard shall be composed of the army national guard component, which shall include a selective service section, and the air national guard component. The headquarters shall be staffed by such officers, warrant officers and enlisted men, in the grades and branches of service as may be authorized by the secretaries of the army and the air force. The army division and the air division shall each be headed by an assistant adjutant general, who shall, while holding such office, have a grade no higher than brigadier general. Such assistant adjutants general, when in the full time employment of the department of defense, may receive the pay and allowance of his grade as fixed by the tables of the regular army or air force of the United States.

(b) The army national guard shall be organized and equipped as prescribed from time to time by the secretary of the army. Subject to the foregoing, it shall consist of not less than one brigade, or the equivalent thereof, to be organized by the order of the governor and be located throughout the State in accordance with military needs.

(c) The air national guard shall be organized and equipped as prescribed from time to time by the secretary of the air force.

(d) The inactive national guard consists of officers, warrant officers, and enlisted men transferred to it from the national guard in accordance with regulations promulgated by the secretaries of the army and the air force as appropriate. Members shall be assigned appropriately within the state headquarters for administration only, and attached to an active unit or organization for potential assignment and service with such unit or organization.

Sec. 353-13. Commissioned by commander in chief. All commissioned officers of the army or air national guard shall be commissioned by the commander in chief but the commander in chief may refuse to issue a commission to any person, if in his opinion, the person is in any way unqualified or unworthy to be an officer. All commissions in the military service of this State shall be in the name and by authority of the State, sealed with the State seal, signed by the governor, attested by the adjutant general and recorded in rosters periodically prepared and printed by the department of defense.

Sec. 353-14. Officers and warrant officers; qualifications, appointment, tenure. Commissioned officers and warrant officers shall be citizens of the United States and shall be at least twenty-one years of age or such lower age as may be authorized for appointment as reserve officers of the army or the air force by federal laws and regulations. They shall be appointed upon the order of the governor, subject to federal recognition as commissioned officers and warrant officers in the army or air national guard, except as to those officers appointed as aides-de-camp to the governor and staff positions not requiring federal recognition. Officers and warrant officers whose appointments are subject to federal recognition shall meet the qualifi-

cations prescribed by the secretary of the army or the air force, as the case may be. The commissions of all officers and appointments of warrant officers shall continue in force indefinitely and until they are separated from the service of the national guard in accordance with this chapter.

Sec. 353-15. Commissioned and warrant officers; transfer to inactive list, retirement, separation. Officers may be transferred to the inactive or retired lists, or separated from the service as follows:

(a) An officer may be honorably discharged by reason of resignation, removal of residence from the State, failure to meet or maintain the requirements for federal recognition, or acceptance of an incompatible office.

(b) An officer who is eligible to be placed on the retired list under federal law, or who has completed the years of service required for retirement under chapter 67 of Title 10, United States Code, may at his request be discharged, or with the approval of the governor be placed on the retired list.

(c) Any commissioned officer who shall have served in the same grade in the military service of the State for a continuous period of not less than ten years, upon his request, may be honorably discharged or placed on the retired list.

(d) Any officer who is rendered surplus by the disbandment of his unit, or who changes his residence within the State and is unable to serve with the unit to which he was assigned, shall be absorbed in another unit of the army or air national guard, or if there be no such other available unit such officer shall be transferred to an inactive status as authorized by the secretary of the army or the air force, and may be ordered to perform appropriate duties.

(e) At any time the moral character, capacity and general fitness for the service of any officer may be investigated and determined by an efficiency board of three commissioned or warrant officers, senior in rank to him if possible, to be appointed by the governor. The investigation, shall be thorough and impartial, and may include misconduct in civil life for which the officer is not amenable to trial by court-martial. If the findings are unfavorable to the officer and are approved by the governor, the officer shall be discharged.

(f) At any time the physical fitness for the service of any officer may, upon order of the governor, be investigated and determined by a board of not less than three commissioned officers, not less than two of whom shall be medical officers. If the board reports the officer to be physically unable to perform the duties of his office, and the report is approved by the governor, the officer may be discharged or placed on the retired list.

(g) Any officer who is under sentence of imprisonment by a civil court for any offense involving moral turpitude, whether suspended or not, or who has been absent without leave for three months, or who refuses or neglects to report before the board as provided in paragraphs (e) or (f) above within a period of three months from the time he is ordered to report before such board may be discharged with the approval of the governor.

(h) Upon the approval by the governor of a sentence of dismissal rendered by a court-martial, the officer shall be dismissed.

Sec. 353-16. Examination of officers and warrant officers. Every officer and warrant officer of the army or air national guard, except those for whom federal recognition is not required shall, upon his appointment to an office and assignment to a unit, upon official orders, appear before an examining board and successfully pass such test as to his physical, moral and professional fitness as may be prescribed by the secretary of the army or the air force.

Sec. 353-17. Resignations. Resignations of officers and warrant officers shall be in writing addressed to the adjutant general and shall state the reasons for the resignation. Resignations shall be transmitted through immediate commanding officers, who shall make indorsements thereon, and shall take effect when accepted by the adjutant general and announced in orders.

Sec. 353-18. Retired list. Officers shall be placed on the retired list in the grade held at the time of retirement and may if promoted by the commander in chief be placed on such list in the next higher grade. Retired officers shall only be placed on active duty by order of the commander in chief and while on such active duty shall rank next to officers of like grade upon the active list.

Sec. 353-19. Regulations governing armories, etc. The adjutant general may make regulations to establish procedures governing the care and custody of armories, rifle ranges, reservations, and installations on license from the federal government. He may permit the use of or may temporarily rent such portions of armories, rifle ranges, reservations, and installations on license from the federal government as will not interfere with the military use thereof. He shall establish the rentals to be charged for such use, and all monies received from such rentals shall be deposited into the general fund of the State. The provisions of chapter 6C, Revised Laws of Hawaii 1955, as amended, shall not apply.

Sec. 353-20. Enlistment. Enlistment in the army or air national guard shall be in a manner, form, and for a period of time as may be provided by the laws of the United States, and regulations issued from time to time. No person shall be re-enlisted in the army or air national guard whose services during his preceding term of enlistment have not been honest and faithful.

Sec. 353-21. Discharge. Discharges shall be granted for the convenience of the State and for the same reasons and in like manner as are from time to time prescribed by federal laws and regulations for the army or air national guard.

Sec. 353-22. Warrants of noncommissioned officers. The warrants of noncommissioned officers and appointments of private first-class and rated specialists shall be continued in force after discharge by reason of expiration of term of service if they re-enlist on the day following their discharge and the vacancy caused by their discharge has not been filled.

Sec. 353-23. Oath required. Every person appointed or commissioned as an officer or who enlists or re-enlists shall sign and take an oath of allegiance to the State and the United States, in a form as may be prescribed by the regulations issued by the commander in chief. A person making a false oath as to any statement contained in any enlistment paper or oath shall be guilty of perjury and upon conviction thereof shall be sentenced as provided by law.

Sec. 353-24. False swearing; perjury. All commissioned officers of the army or air national guard shall have the power to administer oaths and affirmations in all matters pertaining to or concerning military service or property, but in no case shall they charge any fee therefor. Any person who falsely swears or affirms to any oath or affirmation so administered may be tried before any circuit court, and upon conviction, shall be deemed guilty of perjury and sentenced for such offense as prescribed by law.

Sec. 353-25. Exemption from arrest and service. No member of the army or air national guard or of the militia of the State shall be arrested or subjected to service under any civil process while going to, remaining at or returning from any place of military duty in pursuance of an order of the President of the United States or the governor.

Sec. 353-26. Relief from civil or criminal liability. Members of the army or air national guard or the militia ordered into active service of the State by any proper authority shall not be liable, civilly or criminally, for any act or acts done by them in pursuance of duty in such service. No action or proceedings shall be prosecuted or maintained against a member of a military court or an officer or person acting under its authority or reviewing its proceedings, on account of the approval or imposition or collection of a fine or penalty, or the execution of any writ, warrant, execution, process or mandate of a military court.

Sec. 353-27. Dishonorable discharge, effect. Any officer or enlisted man of the militia who is dishonorably dismissed or discharged from the national guard, shall thereby be disqualified from holding any office or employment in the service of the State, or any county, unless pardoned by the governor.

Sec. 353-28. Report for service, drills, and exercises. Every member of the army or air national guard not excused therefrom shall report for active service whenever so ordered or called by the President of the United States or the governor. Every member not excused therefrom shall participate in assemblies for drill and instruction at any designated armory or rendezvous, encampments, maneuvers or other exercise, to the extent prescribed by regulations of the department of the army and department of the air force of the United States. Failure to comply with any of the provisions of this section shall be punishable as a court-martial may direct.

Sec. 353-29. Active service. Active service is any duty or service done under or in pursuance of an order or call of the President of the United States or an order of the governor. Any officer or body of troops while on

active service may be relieved from such duty by order of the proper authority.

Sec. 353-30. Order to active service. In case of war, insurrection, invasion, riot or imminent danger thereof, or any forcible obstruction to the execution of the laws, or reasonable apprehension thereof, or for assistance to civil authorities in disaster relief or civil defense, the governor may order the national guard or other component of the militia or any part thereof into active service.

Sec. 353-31. Regulations for United States Army and Air Force to apply. Whenever any portion of the militia, including the army or air national guard, is on active service pursuant to the order of the governor, or is on duty or ordered to assemble for duty in time of war, insurrection, invasion, public danger, or to aid the civil authorities on account of any breach of the peace, tumult, riot, resistance to the process of the State, or imminent danger thereof, or while engaged in disaster relief or for any other cause, the Uniform Code of Military Justice and regulations governing the army and air force of the United States as far as such code and regulations are consistent with the laws of this State, shall be enforced and regarded as a part of this chapter until the forces are relieved from duty. As to offenses committed when the Uniform Code of Military Justice is in force, courts-martial shall possess, in addition to the jurisdiction and power of sentence and punishment here vested in them, all additional jurisdiction and power of sentence and punishment exercisable by like courts under the Uniform Code of Military Justice or the regulations or laws governing the United States army or air force, or the customs and usages thereof, subject to the limitations prescribed by this chapter and chapter 352. Any violation of the Uniform Code of Military Justice which constitutes a felony under the laws of the State shall be prosecuted in the courts of the State.

Sec. 353-32. Appeals. From every judgment made by court-martial under the provisions of this chapter, an appeal may be to the supreme court in a like manner as an appeal from a decision of a circuit judge. The appeal shall not of itself stay the operation of the decision appealed from, but the supreme court may stay the same upon motion upon such conditions as it may deem proper.

Sec. 353-33. Right of way on street, violation and penalty. Any portion of the army or air national guard while parading, drilling, moving in convoy or performing any military duty pursuant to orders and according to law, shall have the right of way in any street or highway through which they may pass; provided, that the carriage of the United States mail or the legitimate functions of the police and the progress and operations of fire engines and fire departments shall not be interfered with thereby. Any person who wilfully interferes or obstructs such right of way shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one hundred dollars.

Sec. 353-34. Interference by civilian, penalty. Every commanding

officer when on duty may ascertain and fix the necessary bounds and limits to his parade or encampment. Whoever intrudes within the limits of the parade or encampment after being forbidden, or whoever interrupts, molests or obstructs any officer or soldier while on duty shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding \$25. Any such person may be put and kept under guard until the parade, encampment or duty be concluded. The commanding officer, as soon as practicable, shall turn over such person to any police officer.

Sec. 353-35. Property of State. All property purchased by the State for the army or air national guard shall be and remain the property of the State. All property of the United States issued to the army or air national guard or to the militia shall, for the purpose of this chapter, and any other similar and applicable law, be deemed to be the property of the State.

Sec. 353-36. Responsibility for property. Every officer commanding a unit shall be charged with and be responsible for the arms, accouterments, ammunition, clothing or other military property or stores issued to or belonging to his command, and shall be accountable to the State for the same in case of their being lost or damaged otherwise than by unavoidable accident, or in actual service. All officers and members of the militia having arms or other property of the State in their possession shall be accountable to the State in a like manner.

Sec. 353-37. Failure to return arms, etc. Every member of the militia who shall wilfully neglect to return to the armory or headquarters of the unit to which he belongs, any arms, uniform or equipment issued to him by the State or its officers, within six days after being notified by his commanding officer to do so, shall be guilty of a misdemeanor, and shall be punishable by a fine not exceeding \$50 or imprisonment for not more than 30 days.

Sec. 353-38. Wearing of uniform for private purposes. Any member of the national guard or other component of the militia wearing a uniform or any portion thereof issued by the United States or the State, except for military purposes, without permission being first obtained from an officer authorized to grant such permission by the governor, is guilty of a misdemeanor, and shall be punishable by a fine not exceeding \$25, or imprisonment for not more than 30 days.

Sec. 353-39. Pay of officers and warrant officers while on active duty. Officers and warrant officers of the army or air national guard while on active duty of the State shall receive the pay and allowances of officers and warrant officers of similar grades of the United States army and air force, respectively; provided that no pay or allowances shall be made to officers or warrant officers for any service for which they receive military pay and allowances from the United States.

Sec. 353-40. Pay of enlisted men while on active duty. Enlisted men of the army and air national guard while on active duty in the service of the State, except during periods of annual field training or year round

field training, shall receive the same pay and allowances as enlisted men of similar rank in the United States army and air force, respectively; provided, that the aggregate of such pay and allowances, computed on a daily basis, shall in no event be less than the amount equal to eight times the hourly wage specified in section 94-3, Revised Laws of Hawaii 1955, as amended.

Sec. 353-41. Uniform maintenance allowance for enlisted men. Enlisted men of the army or air national guard while participating in annual field training or year round field training, when federal pay is authorized, shall, except when actually called or ordered into the service of the United States by or under the authority of the President, receive a uniform maintenance allowance of seventy cents per day from the State.

Sec. 353-42. No pay without orders. No officer or enlisted man of the army or air national guard shall be entitled to receive the pay herein provided unless the orders detailing him for duty or subsequent orders, specify that pay is to be received for the service rendered."

SECTION 2. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 197

S. B. 997.

A Bill for an Act Relating to the Disposition of Unclaimed Money or Property Found.

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

SECTION 1. Purpose. The purpose of this Act is to clarify the procedures relating to the disposition of unclaimed money or property found and reported or delivered to the chief of police, to reduce the period of time that such unclaimed money or property must be held before being turned over to the finder, and to provide for disposition of such unclaimed money or property if the finder cannot be located or does not exercise his right to claim it within a reasonable time.

SECTION 2. Sec. 138-38, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Sec. 138-38. Duty and right of finders. 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 such chief of police for a period of 45 days or until claimed by some person who establishes title or right of custody thereto to the satisfaction of such chief of police. In the event of such establishment of title or right of custody, such money or property shall be delivered to the claimant by such chief of police. If no claim is made or no such right is established within the period of 45 days, the money or property shall be returned to the person who delivered it to such chief of police; provided that if the person who delivered it to such chief of police fails to claim such money or property within 30 days after being notified by the chief of police that he is entitled to possession, the chief of police

shall dispose of such money or property in accordance with the procedures established in section 138-34. For the purposes of this part, notice by registered or certified mail to the last known address of the person who delivered such money or property to the chief of police, shall be deemed sufficient."

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

(Approved June 4, 1967.)

ACT 198

S. B. 1124.

A Bill for an Act Making an Appropriation for the Expansion of Programs.

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

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the following sums, or so much thereof as shall be sufficient to accomplish the expanded purpose or programs of the agencies designated herein, to be supplementary to any other appropriations made by this Legislature, for the fiscal period beginning July 1, 1967 and ending June 30, 1968:

UNIVERSITY OF HAWAII

\$25,000

Provided that this appropriation shall be expended by the legislative reference bureau to contract with an individual or individuals or organizations for studies and reports on the following:

(a) **Disability Compensation Insurance and Compulsory Health Insurance Programs**—the study shall include, but not be limited to the following areas: the need and advisability of enacting a compulsory disability compensation law and/or a compulsory health insurance law in the State of Hawaii; the extent of income loss due to nonoccupational illness or injury; the incidence and duration of such illness or injury; the extent and experience of such programs in other states; the effects of alternative provisions on eligibility, coverage, financing, underwriting, and administration for such programs; and the cost of such alternative provisions.

(b) **Minimum Wages in Hawaii**—the study shall include, but not be limited to, the following areas: the number of workers excluded from the minimum wage act, the number of workers who are included within the minimum wage act but who are not receiving minimum wages; the pay rate at which these excluded and included workers are being paid; the number of workers being paid minimum rates of pay; the effect upon the economy of paying higher minimum wages to workers in terms of the monetary outlay by employers, upon the standard of living and in terms of the economic development of the community; and such other pertinent data as the Bureau may deem pertinent to the report.

(c) For any other study or studies as may be requested by the Legislature.

Provided further that the legislative reference bureau report its progress on the studies authorized during the 1969 Session of the Legislature.

DEPARTMENT OF HEALTH \$20,000

Provided that this appropriation shall be used to expand the existing program of assistance to the various mental retardation associations of Hawaii.

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT \$100,000

Provided that this appropriation shall be used to update the tourist destination study by contracting with an individual, individuals, or organization to carry out the purposes of this appropriation; provided further, that only so much as shall be matched on a two to one basis (two State to one private) shall be allotted.

EXECUTIVE \$40,000

Provided that this appropriation shall be expended by the governor in implementing a shark research and control program.

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES \$40,000

Provided that this appropriation shall be used to supplement the appropriations made in House Bill 2* for the repairs and alteration of buildings program of the department.

DEPARTMENT OF TAXATION \$30,000

Provided that this appropriation shall be expended by the department to initiate a three year study by contracting with an individual, individuals, or organization to study the general excise tax laws of the State of Hawaii, chapter 117 of the Revised Laws of Hawaii 1955, as amended.

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT \$5

Provided that this appropriation shall be expended by the department of planning and economic development in implementing the department's expansion of its programs of encouraging and promoting basic commercial and industrial activities in the State to include a small business extension service program hereby created within the department of planning and economic development, the purpose of which program is to provide small business firms in the State of Hawaii with management assistance by advise and counsel, where such advice and counsel is not otherwise economically and readily available to such small business firms. Provided, further, that in order to administer the program, the director shall have power to:

- (a) Compile, evaluate, interpret and disseminate information for use by small business concerns, being such business concerns that are defined in the Small Business Act, as amended, (P. L. 87-367) and classified by the Small Business Administration of the United States.
- (b) Provide consultative services in all facets of small business operations with emphasis on production, marketing-sales, and accounting-finance.
- (c) Work in a coordinated manner with the SBA in such management and research assistance as may be provided by them.
- (d) Work in a coordinated manner with other county, state and federal agencies involved in such services as provided for in the Economic Oppor-

* Act 54, page 52, supra.

tunity Act, Public Works and Economic Development Act, State Technical Services Act and any other county, state and federal services which are applicable to the purpose of this Act.

(e) Hire the necessary personnel to assist the director in the execution of the purposes of this Act.

**DEPARTMENT OF PLANNING AND
ECONOMIC DEVELOPMENT**

\$75,000

Provided that this appropriation shall be expended by the department of planning and economic development in implementing the department's expansion of its programs of developing the economic potential of the State to include a state development assistance program, hereby created, within the department of planning and economic development the purpose of which program is to enhance the economic growth and potentials of the State of Hawaii by establishing a new action program designed to use and augment the State's skills and economic resources in order to utilize federal and other financial resources and to implement international development programs. Provided, further, that (1) the objectives of the state development assistance program are:

(a) To actively promote the use of the State's talents, skills, resources, and institutions by the federal government and agencies in providing development assistance to other areas.

(b) To develop contractual or other arrangements to establish Hawaii as a clearing house and headquarters for development assistance programs.

(c) To collect and disseminate information and develop new methods or approaches whereby Hawaii's resources may be combined with those of other areas to carry on development assistance programs that will be economically beneficial to Hawaii.

(d) To provide information, assistance and guidance, and to stimulate interest among Hawaii's business firms, financial institutions, and other elements of its private community so that they may be encouraged to participate in new federal programs or contracts providing for development assistance or expansion of their international activities.

and that (2) to effectuate the purposes and objectives of this program:

(a) The governor shall establish such organizational arrangements within the State government as are necessary.

(b) The director of planning and economic development shall contract for the services of necessary personnel without regard to chapters 3 and 4.

SECTION 2. If any subsection, paragraph, sentence, clause or appropriation contained in this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act.

SECTION 3. This Act, upon its approval, shall take effect on July 1, 1967.

(Approved June 4, 1967.)

ACT 199

H. B. 36.

A Bill for an Act Relating to Cemeteries and Cemetery Salesmen, Providing for the Dedication of Property for Cemetery Purposes, the Regulation of Perpetual Care Cemeteries, and the Licensing of Cemetery Salesmen, Adding Chapter 171B to the Revised Laws of Hawaii 1955.

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

SECTION 1. A new chapter 171B is hereby added to the Revised Laws of Hawaii 1955, to read as follows:

**“CHAPTER 171B
CEMETERIES**

Sec. 171B-1. Definitions. As used in this chapter:

‘Cemetery’ means a place dedicated to and used or intended to be used for the permanent interment of human remains. It may be either a burial park, for earth interment; a mausoleum for vault for crypt interments; a structure or place used or intended to be used for the interment of cremated remains; or any combination of one or more thereof.

‘Cemetery authority’ means any person who undertakes to establish, maintain, manage, operate, improve or conduct a cemetery, the interring of human remains, or the care, preservation and embellishment of cemetery property, whether or not such person undertakes such activity for profit.

‘Mausoleum crypt’ means a chamber or space in a structure or building of sufficient size, used or intended to be used, to entomb human remains.

‘Niche’ means recess of space in a structure or plot of earth used or intended to be used for the permanent inurnment therein of the cremated remains of one or more deceased persons.

‘Perpetual care’ by whatever term denominated by a cemetery authority, including, but not limited to endowment care, endowment fund care, and free maintenance, means keeping the sod in repair, keeping all places wherein interments have been made in proper order, caring for the trees and shrubs, and the general maintenance, care and embellishment of a cemetery, regularly and continually without limitation as to time.

‘Perpetual care cemetery’ means any cemetery or section of a cemetery, the plots, crypts or niches of which are sold or disposed of, or are offered for sale or disposition, upon the representation that such plots, crypts or niches will receive perpetual care.

‘Perpetual care fund’ means a fund separately maintained to provide for the perpetual care of a cemetery in conformity with the provisions of this chapter.

‘Plot’ or ‘interment space’ means a grave or space in a cemetery sold or otherwise disposed of to one or more persons, used or intended to be used, for the permanent interment therein of the remains of one or more deceased persons.

‘Board’ means the Cemetery Board of the State of Hawaii as hereinafter constituted.

'Cemetery salesman' means any natural person who sells or offers to sell, buys or offers to buy, leases or offers to lease, lists, or solicits prospective purchasers or negotiates the purchase, sale, lease or exchange of cemetery property or interment services, or any interest therein.

'Cemetery property' means any property, or part or interest therein, dedicated to, used or intended to be used for, the permanent interment of human remains. It may be a plot or plots in a burial park for earth interment; a place or places in a mausoleum for vault or crypt interment; one or more niches, recesses, or other receptacles for the interment of cremated remains; or any combination of one or more thereof.

'Person' means an individual, partnership, corporation, county, association, or any other group however organized.

Sec. 171B-2. Certificate of dedication. Every cemetery authority from time to time as its property may hereafter be made available for cemetery purposes, shall file in the office of the bureau of conveyances or, in the case of registered land, in the office of the assistant registrar of the land court, a written certificate of dedication containing a description of the land or other property which is to be made available for cemetery purposes, and dedicating the property exclusively to cemetery purposes.

Sec. 171B-3. Map or plat required. Such cemetery authority from time to time as any of the property described in the certificate of dedication, or any part or section thereof, is offered for sale, transfer or disposition in the form of plots, crypts or niches, shall also;

(a) In the case of land, survey and subdivide it into sections, blocks, plots, avenues, walks or other subdivisions; make a good and substantial map or plat showing the sections, blocks, plots, avenues, walks or other subdivisions, with descriptive names, initials or numbers.

(b) In the case of a mausoleum or columbarium, make a good and substantial map or plat on which shall be delineated the sections, halls, rooms, corridors, elevation, and other divisions, with descriptive names, initials or numbers.

Such map or plat shall likewise be filed in the office of the bureau of conveyances or the office of the assistant registrar of the land court, as the case may be.

Sec. 171B-4. Subdivision law not applicable; approval of location and boundaries by board of supervisors or city council. No provision of law, ordinance or government regulation relating generally to subdivisions, or the sale or transfer of land within subdivisions, shall be applicable to cemeteries. Each county may enact ordinances dealing separately with the development of cemeteries. No cemetery shall hereafter be established, nor shall the boundaries of any existing cemetery be extended, without the location and boundaries of such cemetery or extension thereof having first been approved by the board of supervisors or city council of the county in which such cemetery is located. The approval may be endorsed in writing by authority of the board of supervisors or city council, upon the certificate of dedication referred to in section 171B-2, and the registrar of

conveyances or the assistant registrar of the land court, as the case may be, shall not accept for filing any certificate of dedication without such endorsement or, in lieu thereof, a certified copy of a resolution of the board of supervisors or city council approving the location and boundaries of the cemetery or extension thereof which resolution shall be recorded.

Sec. 171B-5. Securities law not applicable to sales of cemetery property. No provision of law, ordinance or government regulation relating to the registration and sale of securities shall apply to the sale by a cemetery authority of plots, crypts or niches dedicated, described and shown on a proper map or plat pursuant to this chapter.

Sec. 171B-6. When dedication complete; effect of dedication. Upon the recordation or filing of a map or plat and certificate of dedication pursuant to section 171B-2 and 171B-3, the dedication is complete with respect to all property or parts thereof which shall have been described or depicted in or on both such certificate of dedication and map or plat for all purposes and thereafter the property shall be occupied and used exclusively for cemetery purposes.

Sec. 171B-7. Constructive notice of dedication. The filed map or plat and the recorded certificate of dedication shall constitute constructive notice to all persons of the dedication of the property to cemetery purposes.

Sec. 171B-8. Resurvey; amended map or plat. Any part of the property mapped or platted in accordance with this chapter may be resurveyed and replatted, and an amended map or plat filed, so long as such change does not disturb the interred remains of any deceased person.

Sec. 171B-9. Dedicated property exempt from improvement assessment. All property dedicated to cemetery purposes pursuant to this chapter, including roads, alleys and walks, shall be exempt from public improvement assessments.

Sec. 171B-10. Proration and consolidation of existing improvement district encumbrances in order to clear such encumbrances prior to dedication. Notwithstanding section 171B-4 exempting dedicated cemetery property from subdivision laws, the map or plat required by section 171B-3 may be treated for purposes of proration or consolidation of any improvement district lien as a subdivision or consolidation thereof.

Sec. 171B-11. Use as cemetery may not be disturbed after dedication. After property is dedicated to cemetery purposes pursuant to this chapter, neither the dedication nor the title of any plot, crypt or niche owner shall be affected by the dissolution of the cemetery authority, by non-user on its part, by alienation of the property, by any liens or incumbrances, by sale under execution, power of sale or foreclosure, or otherwise except as expressly provided by law. Nothing herein contained, however, shall affect the rights of incumbrances which attached to property prior to the dedication thereof for cemetery purposes.

Sec. 171B-12. Mortgages and liens subject to dedication. Cemetery authorities shall have the right to secure pecuniary obligations by mort-

gage or lien upon their property, whether or not such property shall have been set aside for interment purposes, and may sell plots, crypts, or niches subject to such mortgage or lien within the limitations and conditions imposed by this part. All mortgages and other liens of any nature hereafter contracted, placed or incurred upon property which has been and was, at the time of the perfection of the lien, with the recorded written consent of the owner of any mortgage or lien, dedicated to cemetery purposes pursuant to this chapter, shall not affect or defeat the dedication, or the title of any plot, crypt or niche owner, but such mortgage or other lien shall be subject and subordinate to such dedication and title of any plot, crypt or niche owner, and any and all sales made upon foreclosure shall be subject and subordinate to such dedication and title of any plot, crypt or niche owner.

Sec. 171B-13. Sale of plots after dedication; sale of incumbered plots prohibited unless incumbrance subordinate to dedication. After property has been dedicated pursuant to this chapter, a cemetery authority may sell, transfer and convey plots, crypts or niches thereof, which plots, crypts or niches may be described by reference to the map or plat, or amended map or plat, filed in accordance with section 171B-3 or 171B-8. No plot, crypt or niche shall be sold, transferred, conveyed, or otherwise disposed of, or offered for sale, transfer, conveyance or other disposition, unless the property on or in which such plot, crypt, or niche is included shall have been dedicated pursuant to this chapter, nor shall any plot, crypt, or niche be sold, transferred, conveyed, or otherwise disposed of, or offered for sale, transfer, conveyance or other disposition, unless the property on or in which such plot, crypt or niche is included shall either be free and clear of all incumbrances or there shall have been recorded the written consent of every incumbrancer thereof that his incumbrance shall be subject and subordinate to the dedication of such property to cemetery purposes and the title of any plot, crypt or niche owner.

Sec. 171B-14. Dedication to cemetery purposes does not violate laws against perpetuities. Dedication to cemetery purposes pursuant to this chapter is not invalid as violating any laws against perpetuities or the suspension of the power of alienation of title to or use of property, but is expressly permitted and shall be deemed to be in respect for the dead, a provision for the interment of human remains, and a duty to and for the benefit of the general public.

Sec. 171B-15. Removal of dedication. Property dedicated to cemetery purposes shall be held and used exclusively for cemetery purposes unless and until the dedication is removed from all or any part of it by an order and decree of the circuit court of the judicial circuit in which the property is located and such decree is filed in the bureau of conveyances or land court in a proceeding brought by the cemetery authority for that purpose and upon notice of hearing and proof satisfactory to the court:

(a) That no interments were made in or that all interments have been removed from that portion of the property from which dedication is sought to be removed.

(b) That the portion of the property from which dedication is sought to be removed is not being used for interment of human remains.

Sec. 171B-16. Hearing. The notice of hearing provided in section 171B-15 shall be given by publication once a week for at least three consecutive weeks in a daily newspaper of general circulation in the county where said cemetery is located, and the posting of copies of the notice in three conspicuous places on that portion of the property from which the dedication is to be removed. The notice shall:

(a) Describe the portion of the cemetery property sought to be removed from dedication.

(b) State that all remains have been removed or that no interments have been made in the portion of the cemetery property sought to be removed from dedication.

(c) Specify the time and place of the hearing.

Sec. 171B-17. Existing cemeteries deemed dedicated; extension of existing cemeteries. All existing cemeteries or parts thereof which shall have been lawfully established, and for which a map or plat substantially similar to that required by section 171B-3 has been filed or recorded in the bureau of conveyances or in the office of the assistant registrar of the land court, as the case may be, shall be deemed to have been dedicated as of the effective date of this act to the same extent and with like effect as provided in this chapter.

Sec. 171B-18. Cemetery board. (a) There shall be a cemetery board of seven members appointed by the governor in the manner prescribed in section 14A-3. Provided, however, that no two members of the board shall be employed by or associated with the same cemetery authority or organization dealing in any manner with cemetery property.

(b) (1) Four members of the board shall be persons who have been actively engaged in the administration of perpetual care cemeteries for a period of not less than three years immediately preceding the date of their appointment.

(2) Three members of the board shall be non-cemetery members and shall be public members of the board.

(3) Four members shall be residents of the city and county of Honolulu and the other three shall be residents of the counties of Hawaii, Maui, and Kauai, respectively.

(4) No member shall receive any compensation for his services but shall be reimbursed for his necessary travel expenses incurred in the performance of his duties in attending meetings on an island other than that of the board member's residence.

(c) Organization, records, reports. Immediately upon the appointment and qualification of the original members, and annually thereafter, the board shall organize by the election of one member as chairman and one member as vice chairman. The board shall keep a complete record of all its proceedings and shall present annually to the governor a detailed statement of the receipts and disbursements of the board during the preceding year,

with a statement of its acts and proceedings and such recommendations as the board may deem proper. The board is placed within the department of regulatory agencies for administrative purposes.

Sec. 171B-19. Powers and duties of board. In addition to any other duties and powers granted by this chapter the board shall, pursuant to chapter 6C:

- (a) Grant licenses to cemetery authorities pursuant to this chapter;
- (b) Grant licenses to cemetery salesmen pursuant to this chapter;
- (c) Examine applicants for such licenses;
- (d) Make, amend or repeal such rules and regulations as it deems proper to fully effectuate the provisions of this chapter and carry out the purpose thereof, which purpose is the protection of the general public in its acquisitions of cemetery property. The rules and regulations may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter, and such rules and regulations may require cemetery authorities and cemetery salesmen to make reports to the board containing such information as will better enable the board to enforce this chapter and the rules and regulations, or as will better enable the board from time to time to amend the rules and regulations to more fully effect the purpose of this chapter, and further, the rules and regulations may require cemetery authorities and cemetery salesmen to furnish reports to their clients containing such matters of information as the board deems necessary to promote the purpose of this chapter; provided, that this enumeration of specific matters which may properly be made the subject of rules and regulations shall not be construed to limit the board's broad general power to make all rules and regulations necessary to fully effectuate the purpose of this chapter;
- (e) Enforce the provisions of this chapter and rules and regulations adopted pursuant thereto;
- (f) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules and regulations, and refuse to grant any license for any cause which would be ground for revocation or suspension of a license;
- (g) Report to the governor annually and at such other times and in such other manner as he may require concerning its activities;
- (h) Publish and distribute pamphlets and circulars containing such information as it deems proper to further the accomplishments of the purpose of this chapter.

Sec. 171B-20. License required to act as cemetery authority. No person shall act as a cemetery authority without a license previously issued by the board in compliance with the provisions of this chapter and the rules and regulations of the board; provided, however, that the board shall exempt any cemetery authority upon its proof satisfactory to the board that it will not make any additional interments.

Sec. 171B-21. No cemetery authority license issued when. No cemetery authority license shall be issued:

- (a) To any person unless he has filed an application therefor;

(b) To any person who does not possess a good reputation for honesty, truthfulness, financial integrity and fair dealing;

(c) To any person unless it is a religious institution, corporation, county or any association which has a perpetual existence; provided, however, that the board may issue a cemetery authority license to any person who is in bona fide operation as a cemetery authority on the effective date of this Act.

(d) To any person unless he shall file with the board a bond as required by section 171B-22.

Sec. 171B-22. Bond. Each cemetery authority licensed hereunder shall file and maintain with the board a bond in the penal sum of \$50,000, issued by a surety company authorized to do business in the State, and running to the State. The bond shall be conditioned that the cemetery authority will faithfully, promptly, and truly account and pay over to all persons to or for whom it may sell, lease, or otherwise deal in cemetery property all sums of money that may properly be due them. In addition to any other remedy, every person sustaining any damage resulting from a breach of the conditions of the bond may sue the surety for the recovery of any damages sustained by such person. The liability of the surety shall not exceed \$50,000 for each licensee. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, unless terminated or cancelled by the surety. Such termination or cancellation shall not be effective, however, unless notice thereof is delivered by the surety to the board at least sixty days prior to the date of termination or cancellation. The board shall forthwith give notice thereof to the cemetery authority affected by such termination or cancellation, which notice shall be by registered or certified mail, with request for return receipt, and shall be addressed, to the licensees at the addresses shown on the records of the board. The license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the board. The form of the bond shall be approved by the board.

Sec. 171B-23. Revocation, suspension, and renewal of cemetery authority licenses. The board may revoke any cemetery authority license, or suspend the right of the licensee to use such license, or refuse to renew any such license for any of the following causes:

(a) Conviction of any felony, or any misdemeanor involving moral turpitude;

(b) Any dishonest or fraudulent act as a cemetery authority which causes substantial damage to another;

(c) Making repeated misrepresentations or false promises through advertising or otherwise;

(d) Willful violation of this chapter or the rules and regulations promulgated pursuant thereto;

(e) Commingling the money or other property of others with his own;

(f) Adjudicated insane or incompetent;

(g) Selling or offering to sell any cemetery property based on speculation or promises of profit from resale.

No license shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years.

Sec. 171B-24. Inspection of cemetery authority books; annual exhibits. The books, records and papers of every cemetery authority whether or not a corporation, which operates or claims to operate a perpetual care cemetery, shall be subject to examination by the board to the same extent and in the same manner as may be from time to time provided for corporations in section 172-115, and every cemetery authority operating a perpetual care cemetery shall submit such annual exhibits as may be required by the board in order to furnish information as to whether or not such cemetery authority has complied with the provisions of this chapter.

Sec. 171B-25. License required to act as cemetery salesman. No person shall sell, offer to sell, exchange, lease, advertise or otherwise dispose of any interest in cemetery property without a license previously issued by the board in compliance with the provisions of this chapter and the rules and regulations of the board, provided that this requirement shall not apply to:

(a) A person acting with reference to an occasional sale of his own property or the property of another when acting under a duly executed power of attorney.

(b) The regular officers of a cemetery authority acting with reference to the authority's property.

(c) Any person acting as a receiver, trustee in bankruptcy, administrator or executor, trustee acting under a trust agreement, deed of trust or will, or otherwise acting under any order of authorization of any court.

The provisions of chapter 170, relating to real estate brokers and salesmen, shall not be applicable to cemetery salesmen.

Sec. 171B-26. No cemetery salesman license issued when. No cemetery salesman license shall be issued:

(a) To any person unless he has filed an application therefor.

(b) To any person who does not possess a good character and reputation for honesty, truthfulness and fair dealing; or any person who has been convicted of a felony or misdemeanor involving moral turpitude, unless such person has received a full and free pardon or presents satisfactory proof to the board that for the five years next preceding the date of his application he has lived an upright and moral life.

(c) To any person unless such person is of the age of twenty years or more.

(d) To any person unless he shall file with the board a bond as required by section 171B-27.

Sec. 171B-27. Bond. Each salesman licensed hereunder shall file and maintain with the board a bond in the penal sum of \$5,000 issued by a surety company authorized to do business in the State, and running to the

State. The bond shall be conditioned that the salesman will faithfully, promptly, and truly account and pay over to all persons to or for whom he may sell, lease, or otherwise deal in cemetery property all sums of money that may properly be due them. In addition to any other remedy, every person sustaining any damage resulting from a breach of the conditions of the bond may sue the surety for the recovery of any damages sustained by such person. The liability of the surety shall not exceed \$5,000 for each licensee. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, unless terminated or cancelled by the surety. Such termination or cancellation shall not be effective, however, unless notice thereof is delivered by the surety to the board at least sixty days prior to the date of termination or cancellation. The board shall forthwith give notice thereof to the salesman affected by such termination or cancellation, which notice shall be by registered or certified mail, with request for return receipt, and shall be addressed to the licensees at the addresses shown on the records of the board. The license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the board. The form of the bond shall be approved by the board..

Sec. 171B-28. Revocation, suspension and renewal of cemetery salesman licenses. The board may revoke any cemetery salesman license, or suspend the right of the licensee to use such license, or refuse to renew any such license, for any of the following causes:

(a) Conviction of any felony, or any misdemeanor involving moral turpitude.

(b) Making any misrepresentation concerning any cemetery property transaction.

(c) Making any false promises concerning any cemetery property transaction of a character likely to mislead another.

(d) Making repeated misrepresentations or false promises through advertising or otherwise.

(e) When a cemetery salesman acts or attempts to act or represents, or attempts to represent a cemetery authority other than his employer.

(f) Failing, within reasonable time, to account for any moneys belonging to others which may be in the possession or under the control of the licensee.

(g) Any other conduct constituting fraudulent or dishonest dealings.

(h) When a cemetery salesman fails to file with the board a written statement setting forth the name of the cemetery authority by whom he is employed.

(i) Violation of this chapter or the rules and regulations promulgated pursuant thereto.

(j) Commingling the money or other property of others with his own.

(k) Adjudicated insane or incompetent.

(l) When a cemetery salesman sells or offers to sell any cemetery property based on speculation or promises of profit from resale.

No license shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years.

Sec. 171B-29. Application fees. Every applicant for any license under this chapter shall file an application with the board in such form and setting forth such information as may be prescribed or required by the board and shall furnish such additional information bearing upon the issuance of such license as it shall require. Every application shall be sworn to before an officer authorized to administer oaths.

Every application shall be accompanied by an application fee of \$10.

Sec. 171B-30. Form of licenses. The form of every license shall be prescribed by the board, and shall be issued in the name of the board, and signed by the chairman thereof.

Sec. 171B-31. Fees, annual renewals, refunds. (a) The fee for a cemetery authority license, annual renewal thereof and reinstatement of a suspended license, shall be \$200.

The annual renewal fee shall be paid to the board on or before January 1 of each year. Failure, neglect or refusal of any duly licensed cemetery authority to pay the annual renewal fee shall constitute a forfeiture of his license. Any such license may be restored upon written application therefor within one year from such date and the payment of the required fee plus an amount equal to ten per cent thereof.

(b) The fee for a cemetery salesman license shall be \$25. The annual renewal fee shall be \$15, and the fee for reinstatement of a suspended license shall be \$15.

The annual renewal fee shall be paid to the board on or before January 1 of each year. Failure, neglect, or refusal of any duly licensed cemetery salesman to pay the annual renewal fee shall constitute a forfeiture of his license. The license of such salesman may be restored upon written application therefor and the payment to the board of \$25.

(c) A fee of \$5 shall be charged for the reissuance of any lost license or for the reissuance of license when there has been a change in the licensee's name or when a cemetery salesman is employed by a different cemetery authority.

(d) All fees and other moneys collected or received under the provisions of this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

(e) The board may request the director of regulatory agencies to have any fee erroneously paid to it under the provisions of this chapter refunded when the board deems it just and equitable.

Sec. 171B-32. Delivery of agreement. When a cemetery salesman secures the signature of any party or parties to any contract pertaining to cemetery property, he shall deliver a copy of such agreement or contract to the party or parties signing it, at the time the signature is obtained; provided that only one copy need be delivered to parties signing as co-tenants.

Sec. 171B-33. Cemetery authority prohibited from employing unlicensed salesman. No cemetery authority shall employ as a cemetery salesman, either directly or indirectly, whether as employee, agent, representative, independent contractor or otherwise, any person who does not hold a license to act as a cemetery salesman.

Sec. 171B-34. Hearings. In every case where it is proposed to refuse to grant a license or to revoke, suspend, or refuse to renew any license for any of the causes hereinabove enumerated, the applicant or licensee shall be entitled to notice and hearing in conformity with chapter 6C.

Sec. 171B-35. Perpetual care fund expressly permitted. A perpetual care fund and all payments or contributions to it are expressly permitted as and for charitable and eleemosynary purposes. No payment, gift, grant, bequest, or other contribution for perpetual care is invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating the fund, nor is the fund or any contribution to it invalid as violating any law against perpetuities, or the suspension of the power of alienation of title to property.

Sec. 171B-36. Perpetual care required. Any cemetery hereafter established shall be a perpetual care cemetery. No existing cemetery shall be operated as, or advertised or represented to be, a perpetual care cemetery except in compliance with this chapter.

Sec. 171B-37. Fund required; who may act as administrator. Every cemetery authority operating a perpetual care cemetery shall establish a perpetual care fund which shall be administered by a nonprofit corporation or by a perpetual care trust.

(a) If the administrator shall be a nonprofit corporation, the majority of the members of its board of directors shall not be affiliated with the cemetery authority which created the perpetual care fund.

(b) If the administrator shall be a perpetual care trust, the trustee thereof shall be either (1) a trust company authorized to do business in the State, or (2) a board of trustees appointed by the governing body of the cemetery authority consisting of three or more members, who shall be residents of the State, and the majority of which shall not be affiliated with the cemetery authority which created the perpetual care fund.

An executed copy of the declaration of trust, any amendments thereto, and notice of the appointment of any successor trustee thereunder shall be filed with the board.

Sec. 171B-38. Contributions and payments to administrator. A cemetery authority may take, receive and transfer to the administrator as a part of or incident to the perpetual care fund any property, real, personal or mixed, bequeathed, devised, granted, given or otherwise contributed to it for perpetual care purposes and shall transfer to the administrator the amount stipulated in the contract or deed as being for perpetual care purposes for each plot, niche, or mausoleum crypt sold or disposed of, but not less than:

- (a) \$1 per square foot of interment space;
- (b) \$50 for each mausoleum crypt;

(c) \$15 for each niche.

Such transfer shall be made not later than thirty days after the receipt of the final payment of the purchase price of each plot, niche or crypt sold as property entitled to perpetual care.

Sec. 171B-39. Principal of fund; use of income, reserves. The principal of the perpetual care fund shall be invested and in no event reduced. Only so much of the income of the fund shall be paid to the cemetery authority as it, by submission of vouchers, can reasonably show to be necessary to cover the cost of perpetual care of the cemetery, including reasonable administrative expenses incurred in connection therewith; provided that a reserve may be created from which principal losses may be replaced by setting aside a reasonable percentage of surplus income, if any, or net capital gains from investments, and a reserve may also be set aside out of surplus income or net capital gains for future maintenance, repair or restoration of property or embellishments in the cemetery which may be necessary or desirable as a result of wear, deterioration, accident, damage or destruction. "Net capital gains" means the amount by which the cumulative capital gains since the establishment of the perpetual care fund exceed the sum of cumulative capital losses since the establishment of the fund. Any surplus income or net capital gains not so set aside in reserve shall become a part of the principal of the fund.

Sec. 171B-40. Application of income; administrator not responsible for. The administrator shall not be required to inquire into the propriety of the expenditures made by the cemetery authority in connection with perpetual care of the cemetery, and it shall not be held responsible in any manner whatsoever for and on account of payments of the income from the perpetual care fund made to the cemetery authority upon vouchers as aforesaid.

Sec. 171B-41. Investment of perpetual care funds. The investment of perpetual care funds shall be governed by the standards prescribed in section 179-14 for trust companies acting as fiduciaries. The instrument creating the fund may reserve to the cemetery authority the right to approve investments. The administrator may, from time to time, reserve from investment and keep in the form of cash balances (which cash may be held on deposit with any institutional depository, without interest) such portion of the fund, whether principal or income, as the administrator may deem advisable.

Sec. 171B-42. Administrator's compensation. The administrator shall be entitled to the same compensation as provided by law for trust companies in the management of fiduciary accounts, but in no event shall any sum in excess of five per cent of the income derived from the fund in any year be paid as compensation to the administrator for its services in the administration of the fund.

Sec. 171B-43. Inspection, regulation and supervision of administrator. Any administrator of a perpetual care fund, other than a trust company, shall be subject to inspection, supervision and regulation by the board

to the same extent and in the same manner as may be from time to time provided by law for the inspection, supervision and regulation of trust companies doing business in the State.

Sec. 171B-44. Administrator's account; enforcement by attorney general. The administrator shall annually file with the board, an account which shall be made in such form as shall be prescribed by the board. The board shall notify the attorney general of any failure on the part of the administrator to comply with the provisions of sections 171B-39 to 171B-44, or of the instrument creating the fund, and the attorney general may take such action as he shall deem appropriate.

Sec. 171B-45. Penalty. Any person who violates, or omits to comply with, any of the provisions of this chapter shall be fined not more than \$1,000.

Sec. 171B-46. Severability. If any provisions of this chapter, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 2. Any law or provision of law inconsistent with this Act is hereby repealed to the extent of any such inconsistency.

SECTION 3. This Act shall become effective on July 1, 1967, except that the members of the cemetery board of the State of Hawaii shall be appointed, take office, organize and shall be empowered to examine applicants and issue licenses prior to July 1, 1967, which licenses shall become effective July 1, 1967.

(Approved June 4, 1967.)

ACT 200

H. B. 102.

A Bill for an Act to Amend Chapter 334A, Revised Laws of Hawaii 1955, Relating to the Interstate Compact on Juveniles.

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

SECTION 1. Section 334A-1, Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new Article XVI at the end thereof to read as follows:

"Article XVI—Out-of-State Confinement Amendment

(1) The Out-of-State Confinement Amendment to the Interstate Compact on Juveniles is hereby enacted into law and entered into by this State with all other states legally joining therein in the form substantially as follows:

(a) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or re-confinement of a parolee is necessary or desirable, said officials may direct

that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(b) Escapees and absconders who would otherwise be returned pursuant to Article V of the Compact may be confined or reconfinement in the receiving state pursuant to this amendment. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such Article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be employed pursuant to this paragraph preliminary to disposition of the escapee or absconder.

(c) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this amendment shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

(d) As used in this amendment: (1) 'sending state' means sending state as that term is used in Article VII of the Compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the Compact; (2) 'receiving state' means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this amendment.

(e) Every state which adopts this amendment shall designate at least one of its institutions for delinquent juveniles as a 'Compact Institution' and shall confine persons therein as provided in paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangements to the contrary. All states party to this amendment shall have access to 'Compact Institutions' at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

(f) Persons confined in 'Compact Institutions' pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said 'Compact Institution' for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.

(g) All persons who may be confined in a 'Compact Institution' pursuant to the provisions of this amendment shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfinement of any rights which said person would have had if confined or reconfinement in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this amendment be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfinement in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee,

probationer, escapee, or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(h) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this amendment may enter into supplementary agreements determining a different allocation of costs as among themselves.

(i) This amendment shall take initial effect when entered into by any two or more states party to the Compact and shall be effective as to those states which have specifically enacted this amendment. Rules and regulations necessary to effectuate the terms of this amendment may be promulgated by the appropriate officers of those states which have enacted this amendment.

(2) In addition to any institution in which the authorities of this State may otherwise confine or order the confinement of a delinquent juvenile, such authorities may, pursuant to the Out-of-State Confinement Amendment to the Interstate Compact on Juveniles, confine or order the confinement of a delinquent juvenile in a Compact Institution within another party state."

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

(Approved June 4, 1967.)

ACT 201

H. B. 237.

A Bill for an Act Relating to the Uniform Gifts to Minors Act and Amending Chapter 338A, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Statutory material to be deleted 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, and may renumber the sections of this Act.*

SECTION 2. Section 338A-1, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

a. By amending subsection (e) thereof to read as follows:

“(e) The ‘custodial property’ includes:

“(1) all securities, life insurance policies, annuity contracts and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;

“(2) the income from the custodial property; and

* Edited accordingly.

“(3) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment, surrender or other disposition of such securities, money, life insurance policies, annuity contracts and income.”

b. By amending subsection (f) thereof to read as follows:

“(f) A ‘custodian’ is a person so designated in a manner prescribed in this chapter; the term includes a successor custodian.”

c. By adding a new subsection immediately following subsection (f) thereof, to be designated subsection (g) and to read as follows:

“(g) A ‘financial institution’ is a bank, a federal savings and loan association, a savings institution chartered and supervised as a savings and loan or similar institution under federal law or the laws of a state or a federal credit union or a credit union chartered and supervised under the laws of a state; ‘insured financial institution’ is one, deposits (including a savings, share, certificate or deposit account) in which are, in whole or in part, insured by the federal deposit insurance corporation or by the federal savings and loan insurance corporation.”

d. By redesignating subsection (g) thereof as subsection (h) and amending the same to read as follows:

“(h) A ‘guardian’ of a minor means the general guardian, guardian, tutor or curator of his property or estate appointed or qualified by a court of this state or another state.”

e. By redesignating subsections (h) and (i) thereof as subsections (i) and (j), respectively.

f. By adding a new subsection immediately following the redesignated subsection (j), to be designated subsection (k) and to read as follows:

“(k) A ‘life insurance policy or annuity contract’ means a life insurance policy or annuity contract issued by an insurance company authorized to do business in this State on the life of a minor to whom a gift of the policy or contract is made in the manner prescribed in this act or on the life of a member of the minor’s family.”

g. By redesignating subsections (j) to (n), inclusive, thereof, as subsections (l) to (p), respectively.

SECTION 3. Section 338A-2 is hereby amended in the following respects:

a. By amending that portion of the first sentence to the colon to read as follows:

“(a) An adult person may, during his lifetime, make a gift of a security, a life insurance policy or annuity contract or money to a person who is a minor on the date of the gift.”

b. By amending paragraph (3) in subsection (a) to read as follows:

“(3) if the subject of the gift is money, by paying or delivering it to a broker or a financial institution for credit to an account in the name of the donor, another adult person or a trust company, followed, in substance, by the words: ‘as custodian for

(name of minor)

under the Hawaii Uniform Gifts to Minors Act.’ ”

c. By adding to subsection (a) a new paragraph, to be numbered (4) and to read as follows:

“(4) if the subject of the gift is a life insurance policy or annuity contract, by causing the ownership of the policy or contract to be registered with the issuing insurance company in the name of the donor, another adult person or a trust company, followed, in substance, by the words: ‘as custodian for.....under the Hawaii Uniform Gifts to Minors Act.’”

(name of minor)

SECTION 4. Section 338A-3 is hereby amended to read as follows:

“§ 338A-3. Effect of gift. (a) A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security, life insurance policy, annuity contract or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this chapter.

“(b) By making a gift in a manner prescribed in this chapter, the donor incorporates in his gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank, financial institution, life insurance company, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this chapter.”

SECTION 5. Section 338A-4 is hereby amended in the following respects:

a. By amending subsection (e) thereof to read as follows:

“(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this chapter or hold money so given in an account in the financial institution to which it was paid or delivered by the donor.”

b. By amending the first sentence in subsection (f) thereof to read as follows:

“(f) The custodian may sell, exchange, convert, surrender or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable.”

c. By amending the second sentence in subsection (g) thereof to read as follows:

“The custodian shall hold all money which is custodial property in an account with a broker or in an insured financial institution in the name of the custodian, followed in substance by the words:

‘as custodian for
(name of minor)

under the Hawaii Uniform Gifts to Minors Act.’”

d. By adding a new subsection immediately following subsection (i) thereof, to be designated subsection (j) and to read as follows:

“(j) If the subject of the gift is a life insurance policy or annuity contract, the custodian:

“(1) in his capacity as custodian, has all the incidents of ownership in the policy or contract to the same extent as if he were the owner, except that the designated beneficiary of any policy or contract on the life of the minor shall be the minor’s estate and the designated beneficiary of any policy or contract on the life of a person other than the minor shall be the custodian as custodian for the minor for whom he is acting; and

“(2) may pay premiums on the policy or contract out of the custodial property.”

SECTION 6. Section 338A-6 is hereby amended to read as follows:

“§ 338A-6. **Exemption of third persons from liability.** No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated as custodian by the purported donor or by the custodian or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this chapter or is obliged to inquire into the validity or propriety under this chapter of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. No issuer, transfer agent, bank, life insurance company, broker or other person or financial institution acting on any instrument of designation of a successor custodian, executed as provided in subsection (a) of section 338A-7 by a minor to whom a gift has been made in a manner prescribed in this chapter and who has attained the age of fourteen years, is responsible for determining whether the person designated by the minor as successor custodian has been duly designated, or is obliged to inquire into the validity or propriety under this chapter of the instrument of designation.”

SECTION 7. Section 338A-7 is hereby amended to read as follows:

“§ 338A-7. **Resignation, death or removal of custodian; bond; designation of successor custodian.** (a) Only an adult member of the minor’s family, a guardian of the minor or a trust company is eligible to become successor custodian. A custodian may designate his successor by executing and dating an instrument of designation before a subscribing witness other than the successor; the instrument of designation may but need not contain the resignation of the custodian. If the custodian does not so designate his successor before he dies or becomes legally incapacitated, and the minor has attained the age of fourteen years, the minor may designate a successor cus-

todian by executing an instrument of designation before a subscribing witness other than the successor. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this chapter.

“(b) The designation of a successor custodian as provided in subsection (a) takes effect as to each item of the custodial property when the custodian resigns, dies or becomes legally incapacitated and the custodian or his legal representative:

“(1) causes the item, if it is a security in registered form or a life insurance policy or annuity contract, to be registered, with the issuing insurance company in the case of a life insurance policy or annuity contract, in the name of the successor custodian followed in substance by the words: ‘as custodian for under the Hawaii Uniform
(name of minor)

Gifts to Minors Act’; and

“(2) delivers or causes to be delivered to the successor custodian any other item of the custodial property, together with the instrument of designation of the successor custodian or a true copy thereof and any additional instruments required for the transfer thereof to the successor custodian.

“(c) A custodian who executes an instrument of designation of his successor containing the custodian’s resignation as provided in subsection (a) shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in the instrument. The legal representative of a custodian who dies or becomes legally incapacitated shall promptly do all things within his power to put each item of the custodial property in the possession and control of the successor custodian named in an instrument of designation executed as provided in subsection (a) by the custodian or, if none, by the minor if he has no guardian and has attained the age of fourteen years, or in the possession and control of the guardian of the minor if he has a guardian. If the custodian has executed as provided in subsection (a) more than one instrument of designation, his legal representative shall treat the instrument dated on an earlier date as having been revoked by the instrument dated on a later date.

“(d) If a person designated as custodian or as successor custodian by the custodian as provided in subsection (a) is not eligible, dies or becomes legally incapacitated before the minor attains the age of twenty years and if the minor has a guardian, the guardian of the minor shall be successor custodian. If the minor has no guardian and if no successor custodian who is eligible and has not died or become legally incapacitated has been designated as provided in subsection (a), a donor, his legal representative, the legal representative of the custodian or an adult member of the minor’s family may petition the court for the designation of a successor custodian. If the minor has attained the age of twenty years, the minor may designate the successor custodian.

“(e) A donor, the legal representative of a donor, a successor custodian,

an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

“(f) Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.”

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

(Approved June 4, 1967.)

ACT 202

H. B. 654.

A Bill for an Act Relating to Public Employment.

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

SECTION 1. Amend paragraph (e) of section 5-72 of the Revised Laws of Hawaii 1955, to read:

“(e) Employees whose basic pay rate does not exceed the minimum for salary range 20 in the compensation plan under section 4-10 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half hours for each hour of overtime worked.

“Employees whose basic pay rate exceeds the minimum for salary range 20 in the compensation plan under section 4-10 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half times the minimum rate for salary range 20.”

SECTION 2. This Act shall take effect July 1, 1967.

(Approved June 4, 1967.)

ACT 203

H. B. 705.

A Bill for an Act Relating to State-County Relations and Making an Appropriation for the Assignment of Certain Governmental Functions and Responsibilities.

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

SECTION 1. Purpose. Act 97, Session Laws of Hawaii 1965, declared certain governmental functions to be of state-wide concern and fixed responsibility therefor in the State government. The purpose of this Act is to provide means by which the State government shall meet its fiscal and administrative responsibilities with respect to these functions.

PART I

SECTION 2. Planning, construction and improvements of public school facilities and grounds; custodial and janitorial services for public schools; transportation of school children. The following functions and services, heretofore performed by the several counties under contractual arrangements with the State, shall hereafter be directly administered and performed by the department or departments, or divisions of government designated by the governor:

- (1) planning, construction and improvements of public school facilities and grounds;
- (2) repair, maintenance, custodial and janitorial services for public school facilities; and
- (3) transportation of school children.

SECTION 3. Transfer of personnel. Within sixty days of the effective date of this Act, the department shall effect the transfer to the State of all employees of the several counties, the major portion of whose duties are in the functional areas covered under section 2 of this Part; provided that the governor may postpone such transfer, or any portion thereof, if he determines that such postponement is advisable to avoid interruption of services. All questions as to whether a major portion of an employee's duties are related to the functions transferred to the State shall be determined by the department to which the function has been assigned.

No employee transferred under this Act shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges as a consequence of this Act.

The counties shall not be required to transfer funds to cover the vacation credits earned or accumulated by employees transferred under this Act.

SECTION 4. Transfer of personal property. Within sixty days of the effective date of this Act all records, equipment, machinery, motor vehicles, files, supplies, contracts, books, papers, documents, maps, and other personal property of every kind and description of the several counties in the functional areas covered by this Part shall be transferred to the appropriate department without cost to the State or reimbursement to such county, and without compliance with disposal procedures or requirements, any law to the contrary notwithstanding. The county shall prepare inventory lists and receipts to account properly for such transfer.

During said sixty-day period, none of said personal property shall be removed, substituted or transferred from the premises without the prior written approval of the appropriate department.

Any dispute as to whether particular personal property should be transferred to the State under this Act shall be determined by the director of the appropriate department.

If the department determines that any of the personal property so transferred or to be transferred is not needed by it, such property shall be returned to, or retained by, the county.

SECTION 5. Transfer of real property. No real property or improvements thereon belonging to the several counties and used in the performance of the functions and services covered in this Part shall be required to be conveyed to the State; provided that any real property and improvements related and necessary to the performance of the duties covered in section 2 of this Part shall be reported to the next succeeding legislature by the appropriate department who shall include in the report thereof recommendations for the disposition of such real property and improvements.

SECTION 6. Temporary use of county facilities. If any room, building, structure or other place which is owned or under the control of a county, is temporarily occupied or used by personnel or property which are related to the performance of duties in any of the functional areas covered by this Act, and it is impractical or disruptive to the efficient and orderly transition under this Act to relocate or move such personnel or property, then such room, building, structure or place shall continue to be so occupied and used without the payment of any rental or other charges; provided, that such occupancy shall not continue beyond one year after the effective date of this Act. The State department to which the function has been transferred shall effect the physical transfer and relocation of all personnel and property at the earliest possible date.

PART II

SECTION 7. Operation and maintenance of county hospitals and related public health and medical facilities. All matters pertaining to the operation and maintenance of county hospitals and related public health and medical facilities are state responsibilities, provided that each county shall, on behalf of the State, operate and maintain public hospitals and other public health and medical facilities therein, provided that the cost of operating and maintaining such hospitals and facilities shall be borne by the State and paid to the several counties by quarterly allotments, and provided further, that each county shall prepare and submit budget estimates as provided by chapter 35.

SECTION 8. County hospital advisory councils. There shall be for each county an advisory council to be known as the County Hospital Advisory Council of said county. Each advisory council shall be under the general supervision of and organized by the director of health, and shall consist of ten members, as follows: four members one of whom shall be the district health officer, to be appointed by the governor in accordance with section 14A-3, Revised Laws of Hawaii 1955, as amended, but who need not be confirmed by the Senate; three members to be appointed by the chairman of the board of supervisors or city council; the president of the county medical society or his authorized representative; the president of the county dental society or his authorized representative; and one member of the board of supervisors or the city council designated by the chairman thereof. Each advisory council shall select its own chairman and vice chairman. Each advisory council shall meet at least once every three months.

Each County Hospital Advisory Council shall sit in an advisory capacity to the director of health on matters concerning the planning, construction, improvement, maintenance and operation of public hospitals and other public health and medical facilities within their respective jurisdictions; but nothing herein shall be construed as precluding or preventing the councils from coordinating their efforts and activities with the hospital administrators within their counties.

The members of the County Hospital Advisory Councils shall serve without compensation, but shall be reimbursed for travelling expenses incurred in the performance of their duties. The Department of Health shall provide for the necessary expenses of the councils; provided that no expenses may be incurred without prior authorization by the director of health.

PART III

SECTION 9. Junior police officer training programs. The State may appropriate funds to facilitate the training programs of the several junior police organizations, and may make adequate provision, either by procuring insurance therefor or by assuming liability on the part of the State therefor, for children who may be injured and for the defrayment of funeral expenses of children dying from injuries received, while performing duty as junior police officers and in all other activities certified as proper junior police functions by the police departments of the several counties, so that the cost of medical care and hospitalization of any such child so injured will be met in a sum not to exceed \$20,000 and the funeral expenses of any such child dying from injuries received while performing such duty will be met in a sum not to exceed \$1,500. The right of any such child or of any other person lawfully claiming damages by reason of injuries to, or death to such child, shall in nowise be affected by the provision of this section.

PART IV

SECTION 10. Maintenance of state highways. Notwithstanding any law to the contrary, the governor may enter into contracts with the several counties for their services in the repair and maintenance of State highways, which may include roadway maintenance, structures maintenance, street lights, street sweeping, landscaping and cantoneering. In addition thereto, the governor may transfer functions covered herein, or any portion thereof, to the several counties; provided that any transfer of functions made under this authorization shall be temporary and shall be subject to the express approval of the next succeeding legislature.

SECTION 11. Maintenance of state parks. Notwithstanding any law to the contrary, the governor may enter into contracts with the several counties for their services in the repair, maintenance, and operation of the buildings and grounds of State parks and historical sites. In addition thereto, the governor may transfer functions covered herein, or any portion thereof, to the several counties; provided, that any transfer of functions made under this authorization shall be temporary and shall be subject to the express approval of the next succeeding legislature.

SECTION 12. Contractual arrangements, generally. The contracts entered into by the State with the several counties for the performance of services covered in this Part shall specify, but shall not be limited to, the nature and extent of the services to be provided by the counties for the fiscal year beginning July 1, 1967 and ending June 30, 1968; the powers, duties and responsibilities of the contracting parties; the total amount of the payments to be made by the State for such services; and other matters necessary to perform the said functions efficiently and effectively.

PART V

SECTION 13. Amendment and repeal of conflicting laws. (a) 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 the general session of 1967, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

(b) In addition to the foregoing, the following laws and parts of laws are hereby expressly repealed:

(1) Section 39-2, Revised Laws of Hawaii 1955, as amended, relating to preparation of school budgets by counties.

(2) Sections 138-23 and 138-24, Revised Laws of Hawaii 1955, relating to junior police officer training programs.

(3) Section 146-5, Revised Laws of Hawaii 1955, relating to transportation of school children (Hawaii County).

(4) Section 147-6, Revised Laws of Hawaii 1955, as amended, relating to transportation of school children (Kauai County).

(5) Section 149-86(42), Revised Laws of Hawaii 1955, as amended, relating to transportation of school children (City and County of Honolulu).

SECTION 14. Construction; 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 15. Appropriation. Funds appropriated out of the general revenues of the State for the functional areas covered by this Act and included in the operating budget of the State government for the fiscal year beginning July 1, 1967 and ending June 30, 1968 shall be used for the purposes of this Act; provided that all funds appropriated to the various departments for the operation and maintenance of county hospitals and other health facilities are hereby transferred to the several counties; provided further that the state director of finance shall determine the actual amounts to be apportioned to each county and shall transfer these funds to the respective counties upon their request and as provided by Part II of this Act.

SECTION 16. Review and report by legislative auditor. All programs, functions and agencies affected by this Act shall be subject to the

review of the legislative auditor. Twenty days before the convening of each regular session, the legislative auditor shall submit a written report or reports to the Legislature as to the status of progress achieved and problems encountered in the implementation of this Act.

SECTION 17. Effective date. This Act shall take effect on July 1, 1967.

(Approved June 4, 1967.)

ACT 204

H. B. 712.

A Bill for an Act Relating to State Highway Fund and Amending Section 129-12, Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection (c) of section 129-12, Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

(a) By adding after the word "for," in the seventh line and before the word "highways" in the eighth line the number "(1)".

(b) By changing the semicolon to a comma after the word "thereto" in the twelfth line and inserting the following between the words "thereto" and "provided":

"and (2) such other public highways as may be designated by the director of transportation for inclusion in the state highway system under section 111-52;"

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

(Approved June 4, 1967.)

ACT 205

H. B. 713.

A Bill for an Act Authorizing an Expenditure from the State Highway Fund for the Maintenance and Improvement of Non-federal Aid Highways.

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

SECTION 1. The provisions of subsection (c) of section 129-12, Revised Laws of Hawaii 1955, to the contrary notwithstanding, the sum of \$294,800, or so much thereof as may be necessary, is hereby authorized to be expended from the state highway fund for the maintenance and improvement of 65.3 miles of county roads designated for inclusion as part of the first phase of the state highway system.

SECTION 2. The above sum shall be expended for the purpose herein specified by the department of transportation.

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

(Approved June 4, 1967.)

ACT 206

H. B. 732.

A Bill for an Act Relating to Advertising and Labeling of Frozen Food Products.

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

SECTION 1. Chapter 51, Revised Laws of Hawaii 1955, is amended by adding a new part thereto to read as follows:

“PART IIA. FROZEN FOOD PRODUCTS

Section 51-61. Notifying consumer. No person shall sell or offer to sell any food product that had been previously frozen and then thawed out without a label, as hereinafter described, notifying the purchaser that the food product had been frozen and then thawed out, provided, however, that this shall not apply to food products which are canned, pickled, or preserved before being offered for sale nor to food products shipped outside of Hawaii for sale.

Section 51-62. 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 ‘PRODUCT PREVIOUSLY FROZEN’.

Section 51-63. Injunction. Any violations of this part may be enjoined or abated in a suit filed and prosecuted in the circuit court of the State by the department of health.

Section 51-64. Offense, penalty. Each day that this part is violated shall be a separate offense. Any person, firm, partnership or corporation who violates this part shall be fined not more than \$500.

Section 51-65. Administration and enforcement. The department of health shall administer and enforce this part.”

SECTION 2. This Act shall take effect on January 1, 1968.

(Approved June 4, 1967.)

ACT 207

H. B. 829.

A Bill for an Act to Amend Chapter 178, Revised Laws of Hawaii 1955, as Amended, Relating to Banks.

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

SECTION 1. Chapter 178, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By adding thereto a new section numbered section 178-... to read as follows:

“Section 178-..... Nondepartmental banking. Any bank authorized by its articles of association or incorporation to transact the business of

a commercial bank, the business of a savings bank, or the business of a trust company, or a combination thereof, may engage in such businesses without maintaining a separate department for each such business.”

(b) By amending section 178-3, to read as follows:

“Section 178-3. ‘Commercial bank’; definition; construction of term. The term ‘commercial bank,’ when used in this part, means any bank which is authorized by law to receive deposits of money, deal in commercial paper, make loans thereon, or to lend money on real or personal property as security, or to purchase or discount bills, notes or other commercial paper, or to buy, sell or advertise for purchase or sale such securities as are permissible for investment by commercial banks, gold and silver bullion, or foreign money or bills of exchange. A commercial bank may also act as broker or agent for others in making or procuring loans on real estate located within the State, and receive for such services a reasonable fee or commission; but shall not in any case guarantee either the principal or interest of any such loans, nor guarantee the truth of any statement made by any applicant filing his application for any of such loans. A commercial bank may transact the business of a savings bank.”

(c) By amending section 178-4, to read as follows:

“Section 178-4. ‘Savings bank’; definition; construction of term. The term ‘savings bank,’ when used in this part, means a bank organized for the purpose of accumulating and loaning its funds and the funds of its depositors, and which may loan, invest and collect the same, with interest; and may repay depositors with or without interest, and having power to invest such funds in such property, securities and obligations as may be authorized by this part; and to pay a stipulated rate of interest on deposits made for a stated period or upon special terms. Where the term ‘savings bank’ is used in this part it shall also apply to any commercial bank if it also transacts the business of a savings bank by accepting savings deposits, but the term only applies with regard to such savings bank business transacted by the commercial bank.”

(d) By amending section 178-22.5, to read as follows:

“Section 178-22.5. Authority to engage in trust business. Any bank may act as executor, administrator, registrar of and transfer agent for stocks and bonds, guardian, assignee or receiver, or in any other fiduciary capacity in which trust companies are permitted to act under the laws of this State, otherwise than as a stock broker or insurance agent or in a business requiring a license as a real estate broker, upon compliance with the following:

(1) The articles of association or incorporation of such bank shall include as an object thereof the doing of a trust business.

(2) Such bank shall have, in addition to the capital and surplus required for its banking business, capital and surplus in an amount not less than that which would be required under section 179-2 of a trust company having its principal place of business at the location of the head office of such bank.

The director of regulatory agencies shall, upon compliance by any bank

with the requirements of this section, grant to it a certificate that it is authorized to engage in a trust business. The provisions of section 179-3 shall apply to the issuance of such certificates, as though such bank were a proposed trust company thereunder. Any bank so authorized shall, in the conduct of its trust business, have all of the powers of a trust company under, and shall comply with and be governed by all of the provisions of, section 179-13, paragraph (a) and (b) of section 179-14, and sections 179-15 to 179-36, inclusive, as though such bank were a trust company thereunder. Upon approval by the director of regulatory agencies, any bank so authorized may be a depository of money held by it as a trustee or other fiduciary. Nothing herein shall impair the applicability to any bank so authorized of any provision of chapter 178; provided, that sections 178-39 and 178-40 shall not apply with respect to offices or other places of business at which such bank shall engage solely in a trust business."

(e) By amending section 178-24.1, to read as follows:

"Section 178-24.1. Par value of stock. Shares of stock may be issued at par value of \$5 or more per share. Any bank may at any time increase the par value of its stock, or reduce it, but not below \$5 per share, after having first received the written approval of the director of regulatory agencies and by the vote of the shareholders owning at least two-thirds of the stock in such bank, at any regular or special shareholders' meeting which may be called for that purpose. When the increase or decrease of the par value of the capital stock has been authorized at a shareholders' meeting as herein provided, the president, cashier or secretary of the bank shall prepare a certificate in form prescribed by the director containing a copy of the resolution, as passed by the shareholders at such meeting, authorizing the increase or decrease in the par value of such capital stock. Such certificate shall be signed by, and verified by oath of, the president, cashier or secretary of the bank and forthwith transmitted to the director."

(f) By amending section 178-28 to read as follows:

"Section 178-28. Increase or decrease of capital stock. Any bank may at any time increase its capital stock, or reduce it, but not below the minimum provided by section 178-12, after having first received the written approval of the director and by the vote of the shareholders owning at least two-thirds of the stock in such bank, at any regular or special shareholders' meeting, which may be called for that purpose. When the increase or decrease of the capital stock has been authorized at a shareholders' meeting as herein provided, the president, cashier or secretary of the bank shall prepare a certificate in form prescribed by the director containing a copy of the resolution, as passed by the shareholders at such meeting, authorizing the increase or decrease of such capital stock. Such certificate shall be signed by, and verified by oath of, the president, cashier or secretary of the bank and forthwith transmitted to the director. Upon receipt of such certificate, the director may authorize the increase or decrease of the capital stock of the bank, and after such increase or decrease has been authorized and approved, shall thereupon issue his certificate showing the amount to which the capital

stock has been increased or decreased by authority of the resolution, as herein provided. No bank shall issue any certificate of stock under any increase of capital unless the shares represented by such certificate have been fully paid, but if such shares have been fully paid, a certificate of stock may be issued therefor regardless of whether the whole amount of the authorized increase of capital has been fully paid.”

(g) By amending the first paragraph of section 178-31, to read as follows:

“Section 178-31. Preferred stock. Notwithstanding any other provision of law, any bank may, with the approval of the director and by vote of shareholders owning at least two-thirds of the stock in such bank then outstanding, upon not less than five days’ notice, given by registered mail pursuant to action taken by its board of directors, issue preferred stock in such amount and with such par value as shall be approved by the director, and make such amendments to its articles of incorporation as may be necessary for this purpose. In the case of any newly organized bank which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No bank shall issue any certificate of preferred stock unless the shares represented by such certificate have been fully paid, but if such shares have been fully paid, a certificate of preferred stock may be issued therefor regardless of whether the par value of all preferred stock approved as hereinbefore provided has been fully paid.”

(h) By deleting section 178-33.

(i) By amending section 178-46, to read as follows:

“Section 178-46. Directors’ meetings; examination of reports. The board of directors of every bank shall hold a regular meeting at least once every month. At every such meeting the president or cashier shall submit a detailed report showing every loan and investment which exceeds in amount one-half of one per cent of the capital and surplus of the bank or \$50,000, whichever is the lesser, made during the preceding month or since the last report, also a separate report of all loans made to any officer, director or employee (except such loans as are excluded from the requirements of approval by section 178-62), whether made direct or indirect or contingent, and the amount of security held therefor, if any, unless an advisory, discount or executive committee, the majority of whom are not active officers of the bank, shall make and file a written report stating that the committee has examined such reports and approved thereof, or stating its disapproval of any item appearing therein. The board of directors shall examine and pass upon such written report or the report of such advisory, discount or executive committee and make the same a part of the record of their meeting by recording the same in the minutes, and such record shall show their approval or disapproval.”

(j) By amending section 178-50, to read as follows:

“Section 178-50. Amount of reserve; regulations and restrictions. Every bank shall have on hand at all times in actual money of the United States an amount equal to at least twelve per cent of the total demand deposits, five per cent of the total time deposits of the bank and five per cent of

the total savings deposits of the bank; provided, that fifty per cent of the reserve required by law to be maintained may be deposited, payable on demand, in banks or trust companies (in the State or elsewhere) approved by the director of regulatory agencies of the State; the balance of such reserve shall be cash in the vaults of the bank; provided, further, that banks in the State may have on deposit in banks in the City of Honolulu or with the written approval of the director of regulatory agencies in banks in the other states of the United States fifty per cent of the cash required to be kept for commercial and savings deposits. No bank shall be required to maintain any reserve on deposits of public funds. If any bank becomes a member of the federal reserve system, it shall comply with the reserve requirements of the federal reserve act and its amendments, and its compliance therewith shall be deemed a compliance with the provisions of this section relative to reserves."

(k) By amending section 178-56, to read as follows:

"Section 178-56. Assets, pledge of, prohibited; exceptions; limitations on borrowed money. No bank shall give preference to any depositor or creditor by pledging the assets of the bank, except as otherwise authorized by this part; provided, that any bank may for any temporary purpose borrow money and pledge or hypothecate as collateral security therefor its assets not exceeding fifty per cent in excess of the amount borrowed; provided, further, that the limitation for borrowing purposes may be waived by the State director of regulatory agencies to any extent to which he deems advisable.

Any bank may rediscount with and sell to a federal reserve bank any and all notes, drafts, bills of exchange, acceptances and other securities, with no restrictions, as fully and to the same extent as this privilege is given to national bank members under the terms of the federal reserve act, or by regulations of the federal reserve board made pursuant thereto."

(l) By amending section 178-57, to read as follows:

"Section 178-57. Public funds; definition; pledge of assets to secure. Any bank may pledge its assets to secure public funds as authorized by this part. The term 'public funds,' when used in this part, means funds belonging to the State which may be deposited to the credit of the State or to the official credit of the director of finance; funds belonging to any county within the State deposited to the credit of any county or to the official credit of any county treasurer; funds belonging to the government having jurisdiction of any place outside the State in which a branch of a bank is located, or any political subdivision, instrumentality or municipality thereof, deposited to the official credit of the treasurer or similar fiscal officer thereof; postal savings fund or funds belonging to the United States deposited in such manner and under such rules and regulations as may be prescribed by the United States government."

(m) By amending section 178-59, to read as follows:

"Section 178-59. Loans and investments, where commercial bank also transacts business of savings bank. Except as otherwise herein provided, no commercial bank, whose loans and investments are defined and limited by section 178-60, which also transacts the business of a savings

bank, whose loans and investments are defined and limited by section 178-86, shall directly or indirectly loan or invest its assets in excess of the limitations imposed by either of those sections.”

(n) By amending section 178-63, to read as follows:

“Section 178-63. Investment, valuation, entry on books. All investments made by any bank shall be charged or entered on the books of the bank in a sum not to exceed their cost to the bank adjusted for amortization of premium and, at the option of the bank, for accretion of discount; provided, that any bank with the written approval of the director of regulatory agencies may enter any investments on the books of the bank at the market value thereof.”

(o) By amending section 178-66, to read as follows:

“Section 178-66. Real estate loans; restrictions. 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 such real estate, nor from accepting a second lien on real estate to 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.”

(p) By deleting sections 178-77, 178-77.5 and 178-78.

(q) By amending sections 178-79 through 178-84, to read as follows:

“Section 178-79. By-laws; adoption; deposits; withdrawal; restrictions. Each savings bank shall prescribe by its by-laws or by contract with its savings depositors the time and conditions on which repayment is to be made to savings depositors.

“Section 178-80. Interest on savings deposits. The directors of any savings bank may provide that such rate of interest shall be paid on savings deposits as they may see fit, payable at such periods and upon such terms and conditions as may be reasonable.

“Section 178-81. Passbook; contents. A passbook shall be issued to every savings depositor in a savings bank, containing the rules and regulations adopted by the board of directors governing such savings deposits, in

which book shall be entered each deposit (except on certificates of deposit) made by and every payment made to the savings depositor, and no payment or any check against any such savings account shall be made unless accompanied by and entered in the passbook issued therefor, except for good cause and on assurance satisfactory to the officers of the bank.

“Section 178-82. Passbooks; periodical verification thereof with bank records. Every savings bank shall at least once every two years, publish or cause to be published in one or more newspapers of general circulation in the State a notice requesting savings depositors to present their passbooks, issued pursuant to section 178-81, to the issuing bank within thirty days from the date of publication of such notice for verification thereof with the records of such issuing bank.

“Section 178-83. Certificate of deposit; issuance; regulations. No savings bank other than a commercial bank which also transacts the business of a savings bank shall issue demand certificates of deposit, but it may issue time certificates of deposit. Commercial banks may issue certificates of deposit, both time and demand.

“Section 178-84. Overdrafts prohibited. No savings bank shall permit a depositor to overdraw his savings account.”

(r) By amending the first paragraph of section 178-86, to read as follows:

“Section 178-86. Investments authorized for savings banks, including commercial banks, which also transact the business of a savings bank, and for banks which do a trust business. Subject to the provisions of sections 178-50, 178-51 and 178-63, there shall be invested in the following classes of securities, and not otherwise, assets of any bank doing a trust business equal in amount to the capital and surplus which would be required under section 179-2 of a trust company having its principal place of business at the location of the head office of such bank, and seventy-five per cent of the savings deposits of any bank. Any part of the remaining twenty-five per cent of the savings deposits of any bank may be similarly invested or may be maintained as reserves on hand or on demand with a reserve bank or banks.”

(s) By amending subsection (e) of section 178-86, to read as follows:

“(e) Notes or bonds secured by first lien upon improved real estate and improvements thereon in the State, provided, that in each case the amount of such obligation shall not exceed eighty per cent of the appraised market value of the security over and above all taxes due and bonded indebtedness due. The aggregate of such investments shall not exceed seventy-five per cent of the total savings deposits of such bank. A leasehold interest in real property and the improvements thereon shall be considered real estate for the purposes of this paragraph, if at the time of the making of such investment, the expiration date of the lease is at least two years beyond the maturity date of the notes or bonds secured by lien thereon;”

(t) By amending section 178-131, to read as follows:

“Section 178-131. ‘Depositor’ defined; preference prohibited. The

word 'depositor', as used in section 178-133, shall be construed to include also purchasers or holders in due course of certificates of deposit, cashiers' checks, certified checks, outstanding unpaid drafts drawn or issued by the bank, unsecured letters of credit and unsecured drafts accepted by the bank; provided, the instruments above enumerated are issued pursuant to cash or credit actually received or realized by the bank; provided, further, that no depositor or deposit, expressly including deposits of public funds shall have a preference or prior lien on any assets of an insolvent bank under the provisions of this chapter over the claims of other depositors or deposits, except that this provision shall not be construed to apply to any claims of demands involving funds held by any such bank where a valid lien or preference to such funds shall lawfully be established."

(u) By amending section 178-133, to read as follows:

"Section 178-133. Depositors; priority of lien; depositors. In the event of the insolvency of voluntary or involuntary liquidation of any bank under the provisions of this part, the depositors of the bank shall have a first, prior and exclusive lien upon all the unpledged assets of the bank and, in the distribution of the assets or the proceeds thereof, the same shall be applied to satisfy the amount due the depositors after the payment of expenses of liquidation of the bank. After the depositors of the bank have been paid in full, any remaining assets of the bank may then be used or applied to the payment of other unsecured creditors."

(v) By deleting sections 178-134 and 178-134.5.

SECTION 2. All acts and parts of acts inconsistent with this Act are hereby repealed.

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

(Approved June 4, 1967.)

ACT 208

H. B. 851.

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 respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of reimbursing the following named persons, firms and corporations for overpayment of taxes or on account of other claims against the State in the amount set opposite their respective names:

Act 173, Session Laws, 1961.

	TAX KEY	YEAR	AMOUNT
ARAKI, FRANK K.	2-4-12-77	1961-1962	\$ 23.38
BELL, ANNIE	2 parcels	1965	257.50
BISHOP, B. P., ESTATE TRUSTEES	15 parcels	1960-1964	44,939.49
BRADLEY, K. R. N., TRUST	11 parcels	1960-1963	1,848.66
BROWN, ELIZABETH DESHA	3 parcels	1960-1963	906.91

	TAX KEY	YEAR	AMOUNT
CARTER, OLIVE H.	4-4-03-031	1966	29.02
CHANG, JEAN W.	2 parcels	1960-1961	44.52
CONSOLIDATED AMUSEMENT CO., LTD.	5 parcels	1960-1964	10,266.74
COOK, MAY BRADLEY	3 parcels	1960-1963	685.92
EBISUZAKI, K., LTD.	2-1-01-73	1960-1962	166.35
FERREIRA, FRANK	5 parcels	1960-1962	473.25
FUJIKAWA, THOMAS S.	2 parcels	1960-1963	156.72
FURUTANI, BROWNIE N.	2-3-26-22	1961-1962	30.00
HAMAMOTO, TAKEO & SUEKO	2-4-14-65	1963	89.68
HASHIMOTO, SHIGEICHI	2-2-45-29	1960	44.95
HASHIMOTO, YASUO & MIYAKO	2-4-15-57	1960-1962	143.54
HEBERT, STERLING E.	2-5-12-158	1960-1962	77.76
HOOPAI, CHARLES	1-4-34-02	1961	5.64
IDE, EARL N.	3 parcels	1960-1961	96.67
ISHI, MITSUO	2-8-12-07	1960-1964	128.29
IWASHITA, SADAKI	1-5-09-35	1962	7.37
KAAIHILI, ALBERT K. & RACHEL H.	2 parcels	1960-1963	273.22
KAKU, TATSUO	2 parcels	1960 & 1962	31.70
KURAMOTO, MASAKO	2 parcels	1960-1962	64.00
LALAKEA, SOLOMON, ESTATE OF, MOLLIE P. LALAKEA, EX.	57 parcels	1960-1964	14,419.37
LALAKEA, THOMAS K.	10 parcels	1964	1,756.52
LANG, MARTHA B.	2 parcels	1960-1963	296.76
LAU, D. Y., DECEASED, ROBERT LAU, EX.	6 parcels	1960-1961	601.95
MASUDA, TAKEO	1-4-34-16	1963	23.84
MATSUBARA, TETSUO & TSURUYO	2-2-45-34	1964	169.94
MIYAMOTO, KUNIO	1-5-12-10	1962	39.96
MIYAMOTO, SUSUMU	2 parcels	1963	352.35
MIYAO, TATSUO	2 parcels	1960-1964	1,479.20
MIZUKAMI, SADA O	2-4-15-65	1962	181.37
NAKAO, JITSUICHI	2-1-01-55	1960-1961	14.05
NAKAO, JITSUICHI	2-4-41-21	1961-1962	54.82
OKAMOTO, HISAKICHI	2-3-09-22	1960	185.89
PICKEL, GEORGE	3 parcels	1960-1964	42.56
ROUMANIS, CONSTANTINE	18 parcels	1960-1962	2,382.86
SAKAMOTO, TAKEO	2-4-14-75	1961-1962	36.58
SANTO, NOBUCHIKA	2 parcels	1963	42.78
SHIGEMASA, SUSUMU	2-4-14-83	1961-1962	36.58
SHINDO, EDWARD K.	2-4-14-102	1963-1964	246.62
SILVA, MANUEL	2-2-12-02	1960-1961	155.55
SMITH, CAROL	2-5-03-07	1963	8.32
SOGA, HIROSHI	2-5-19-02	1963	23.15
SOUZA, WILLIAM	2-1-04-09	1960-1962	47.22
SUZUKI, HENRY	5 parcels	1960-1961	755.58
SUZUKI, SAMUEL M.	2-4-41-17	1961	8.57
TAMASHIRO, NIWA	2-2-43-36	1960-1964	302.29
TANAKA, CHIYOKI	9 parcels	1960 & 1962	133.36
WARREN, SAM K.	2 parcels	1960-1964	221.80
WUNG, ALICIA	37 parcels	1960-1961	3,446.17
WUNG, CLAYTON H.	2 parcels	1960-1961	246.05
WUNG, EDWIN H.	5 parcels	1960-1961	409.02
YAMAMOTO, HARUWO & FUSAE	2-4-14-17	1960-1962	212.88
YOKOYAMA, KINTARO	2-4-12-76	1963	27.51
YOSHIOKA, KAZUMI	2-3-46-05	1964	84.29

Chapter 131E, RLH 1955, as amended, Tax Relief for Drought Damages

	TAX KEY	YEAR	AMOUNT
KAHUA RANCH, LTD.	30 parcels	1962-1964	24,188.38
KUKAIAU RANCH CO., LTD.	8 parcels	1962-1964	22,247.09
PAAUHAU SUGAR COMPANY	48 parcels	1962-1964	44,049.06

	TAX KEY	YEAR	AMOUNT
RICHARD SMART dba PARKER RANCH	4 parcels	1962-1964	35,721.80

Section 35-6, RLH 1955, Refund of Real Property Taxes

	TAX KEY	YEAR	AMOUNT
CHAR, NICHOLAS W. Y.	7-7-06-13	1962	6.26
LOW, E. W.	9-9-16-029	1960-1962	128.31
PUNIHAAOLE, LOWELL K.	7-3-09-06	1960-1962	546.63
SCHADT, OLGA M.	3 parcels	1936-1960	1,562.97
SOUZA, JOSEPH P.	2-7-22-12	1962	6.31
VAN DUSEN, JOHN W.	2-9-15-27	1961	45.14
WONG, VINCENT T., LTD.	2-4-23-60	1963-1964	571.84

Section 35-6, RLH 1955, Outlawed Warrants and Escheated Accounts

	Date	Warrant No.	Amount
ALBRIGHT, JANET E. Warrant misplaced by claimant.	8/15/63	S007602	37.52
ALO, JOHN G. Warrant not received by claimant.	6/30/64	S179608	16.57
AMAI, CAROLYN H. I. Warrant misplaced by claimant.	4/15/63	S252569	4.24
BASANES, VICTORINO Warrant not received by claimant.	6/30/64	S175163	9.76
BAYLE, PEDRO Warrant misplaced by claimant.	2/06/64	S033556	5.55
BLOUIN, EMILE A. Warrant misplaced by claimant.	6/30/65	S187930	7.85
BOWMAN, THOMAS M. Warrant misplaced by claimant.	6/25/62	S158762	5.00
CASAPANGAN, GENARO Warrant misplaced by claimant.	4/14/65	S107557	16.29
CHANG, AMELIA S. Warrant misplaced by claimant.	6/14/63	P346146	114.14
CHAPMAN, NANCY K. Warrant misplaced by claimant.	6/30/64	G103836	3.83
CHI, YUN CHONG & BEATRICE H. Warrant misplaced by claimant.	2/08/63	S114220	28.81
CHUNG, CHAI BOK Warrant misplaced by claimant.	6/30/64	S177992	45.06
COOPER, LEIHULU Warrant misplaced by claimant.	4/22/64	W077759	35.21
CREATIVE PLAYTHINGS, INC. Warrant misplaced by claimant.	10/03/63	G016564	268.85
DOHANIAN, DIRAN KAVORK Warrant misplaced by claimant.	5/10/61	S115657	27.96
EMERSON, FRANCES I. Warrant misplaced by claimant.	6/03/65	S166901	87.98
GOSLINE, WILLIAM A. Warrant misplaced by claimant.	12/31/64	P138042	62.48
HAWLEY, JOYCE POWELL Warrant not received by claimant.	5/03/65	S132106	28.90
HESTON, FRANCIS E. & KAZUKO G. Warrant outlawed in process of transferral.	6/21/64	S160986	15.24
IAKOPO, UNIATE Warrant misplaced by claimant.	6/01/65	S153902	1.10
JAY, WINIFRED Warrant misplaced by claimant.	1/31/62	P131222	194.52
KAUHI, KANE Warrant misplaced by claimant.	12/05/63	T003661	15.92
KOBAYASHI, ROGER H. Warrant misplaced by claimant.	5/20/65		19.06

	Date	Warrant No.	Amount
LABUGUEN, BETTY Warrant not received by claimant.		159603	35.54
LANCASTER, GEORGE Warrant misplaced by claimant.	10/31/62	G102265	100.00
FONG, LUCY MA Warrant misplaced by claimant.	7/03/48	1333	103.71
LICOS, CECILIO Warrant not received by claimant.	5/10/66	S191985	44.93
NAKAHARA, RICHARD Y. Warrant misplaced by claimant.	6/25/65	S179981	35.21
MASUDA, KIYONO N. K. Warrant misplaced by claimant.	6/01/64	S138742	16.94
MERCADO, DIONICIO, JR. Warrant not forwarded to claimant in time.	4/07/65	S098048	20.92
NABO, PASCUAL Warrant not cashed because of illness.	3/17/61	S067755	1.18
NICHOLSON, JAMES R. Warrant not received by claimant.	6/26/63	S333715	68.24
OLIVEROS, ANASTACIO B., JR. Warrant misplaced by claimant.	4/09/65	S103362	1.10
OSHIRO, EDWARD A. Warrant not forwarded to claimant in time.	6/20/62	S157334	26.34
OYAMA, SHARON K. Warrant not cashed because of illness.	6/02/65	S157151	15.54
PADEKEN, VICTORIA Warrant misplaced by claimant.	6/06/64	S165659	45.75
POBRE, PABLO & AGNES Warrants misplaced by claimant.	4/24/61 5/18/60 6/02/65	S095404 S141889 S157885	41.76 48.36 25.98
POBRE, NITA Warrant misplaced by claimant.	10/31/60	P042305	18.80
SAKAMAKI, MARILYN E. Warrant misplaced by claimant.	6/30/64	282357	143.62
SASAN, JAY A. & DIANE L. Warrant misplaced by claimant.	6/02/64	S139967	11.96
SHAM, WALLACE Warrant misplaced by claimant.	4/26/65	S124159	59.50
SILVA, OLIVE Y. K. Warrant misplaced by claimant.	4/02/65	S097333	14.19
SMITH, LEWIS A. Warrant not cashed in time.	5/06/65	S140094	37.35
SUNADA, RANNY H. Warrant misplaced by claimant.	4/29/65	S129587	22.95
TANOUE, TSUTOMO & EDNA Warrant misplaced by claimant.	5/15/64	121503	44.10
RAMOS, THOMAS N. Warrant misplaced by claimant.	3/29/65	S081335	50.32
UEHARA, SUE S. Warrant misplaced by claimant.	6/19/63	S327744	6.51
ULRICH, DAVID A. Warrant misplaced by claimant.	6/21/61	S147278	11.69
VALLON, EVELYN Warrant misplaced by claimant.	3/15/65	205509	42.15
WALSH, SANDRA ANN Warrant misplaced by claimant.	6/05/64	S146426	26.70
WOODWARD, ALBERT N. & FRANCINE M. Warrant not forwarded to claimant in time.	4/10/63	S282716	95.86

	Date	Warrant No.	Amount
YAMASHIRO, SHIRLEY K.			
Warrants misplaced by claimant.	6/30/64	P278407	20.82
	6/21/64	S163636	17.21
YOUNG, GEORGE M. C.			
Warrant misplaced by claimant.	6/03/65	S166193	179.77
ZARATE, ARNOLD A. & NANCY A.			
Warrant misplaced by claimant.	6/22/64	S170387	53.57
ESTATE OF ALBERT JOSEPH EBINGER, aka ALLEN J. EBINGER, Deceased, PROBATE NO. 28181/3	8/01/62	S006047	123.91
PANG, RUTH - Administratrix for the ESTATE OF JOHN K. C. PANG, PROBATE NO. 26291	6/22/62	S161514	67.78
ESTATE OF TAMI SAKATO, Deceased, PROBATE NO. 26994/3	5/24/63	S306175	23.02
ESTATE OF JAMES TADASHI SATO, Deceased, PROBATE NO. 27877-2	6/14/63	S323791	27.81
ESTATE OF BAGUIO TUMONGAY, Deceased, SMALL ESTATE NO. 2931	3/11/64	S057256	1.49
ESTATE OF YUKITO YAMANE, Deceased, PROBATE NO. 27781-2	6/29/51	G328647	300.00
UNIVERSITY OF HAWAII Reinstatement of 5 escheated warrants to respective appropriations.	6/22/64	S174483	165.00
	6/22/64	S174484	165.00
	5/28/64	T007845	150.00
	6/15/64	T008788	150.00
	6/15/64	T008793	150.00
ANDRES, SOTERO Warrant misplaced by claimant.	8/07/63	S006994	54.56
Section 35-6, RLH 1955, Miscellaneous Claims			
AYLETT, MRS. ALICE ANNA Back payment of widow's pension bonus for the period July 1, 1959 to June 30, 1965.			1,476.00
KEALOHA, ELOISE L. Retroactive pay due but not paid for the period September 1, 1958 to August 31, 1965.			2,233.80
JUDD, LAWRENCE M. Retroactive bonus payments for the period January 1, 1952 to July 1, 1965			8,616.00
Claims on Judgment Rendered			
AKANA, CHARLES M. & BETTY K. Satisfaction of the judgment in Civil No. 15416, Charles M. Akana and Betty K. Akana, plaintiff vs. the State of Hawaii.			857.40
FUKUDA, ROBERT T. Judgment rendered in his favor in Civil No. 16941, Robert T. Fukuda, plaintiff vs. the State of Hawaii, Noah Paio and Robert H. Ohye; for personal injury, property damage and loss of income.			552.00
HAWAIIAN TELEPHONE COMPANY Satisfaction of the judgment in Civil No. 18463, Hawaiian Telephone vs. State of Hawaii.			2,060.69
HAWAIIAN TELEPHONE COMPANY Satisfaction of the judgment in Civil No. 20693, Hawaiian Telephone vs. State of Hawaii.			362.44
SAKAMOTO, NAKAICHI Satisfaction of the judgment in Civil Nos. 3018 and 3908, Nakaichi Sakamoto vs. State of Hawaii.			30,000.00
UEKI, KAREN A. Satisfaction of the judgment in Civil No. 295, Ueki vs. State of Hawaii			10,000.00

	Date	Warrant No.	Amount
MIYASHIRO, MATSUKICHI Satisfaction of the judgment in Civil No. 4278, Matsukichi Miyashiro, Deceased, vs. the State of Hawaii			1,101.47

SECTION 2. The sums hereinabove appropriated shall be paid upon warrants issued by the comptroller of the State upon vouchers approved by the director of the state department of taxation in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said comptroller upon vouchers approved by the director of the department of budget and finance as to all other claims.

SECTION 3. 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 4. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 209

H. B. 883.

A Bill for an Act Prohibiting Wire Interception and Eavesdropping to Protect the Right of Privacy, and Providing Penalties Therefor.

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

SECTION 1. **Definitions.** In this Act:

(a) "Wire communication" means any communication made in whole or part by aid of wire, cable, or other connection furnished or operated by any person engaged as a common carrier or public utility in providing or operating such facilities for the transmission of communication.

(b) "Intercept" means the act of acquiring all or any part of any wire communication from the facility transmitting the communication through use of any electronic, mechanical, or other device.

(c) "Eavesdropping" means surreptitiously listening to, monitoring, transmitting, amplifying, or recording a private conversation.

(d) "Electronic, mechanical or other device" does not include:

(1) an extension telephone instrument furnished to subscriber or user by a communication common carrier or public utility in the ordinary course of its business; or

(2) a hearing aid or similar device used by a person with impaired hearing, for the purpose of overcoming the impairment and permitting the hearing of sounds ordinarily audible to the human ear.

SECTION 2. **Wiretapping and wire interception prohibited; penalty.** (a) Any person who within this State, whether acting under color of law or otherwise:

(1) willfully intercepts, or attempts to intercept, any wire communication without the consent of both the sender and the receiver of such communication; or

(2) willfully discloses or attempts to disclose, or uses or attempts to use, any information, knowing or having reason to know that such information was obtained in violation of paragraph (1) of this subsection, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(b) It shall be unlawful under this section for an operator of a switchboard, or an officer, employee or agent of any communications common carrier or public utility whose facilities are used in this State in the transmission of wire communications, to intercept, disclose, or use that communication in any way in the course of his employment except while engaged in an activity which is a necessary incident of the rendition of service, which shall include investigation of complaints of users of the service.

(c) It shall not be unlawful under this section for an officer, employee, or agent of the Federal Communications Commission, in any way in the course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of the Federal Communications Act, to intercept a wire communication while it is being transmitted by radio, or to disclose or use the information thereby obtained.

SECTION 3. Eavesdropping; penalty. Any person who, in this State, whether acting under color of law or otherwise:

(1) willfully uses or attempts to use any electronic, mechanical or other device for the purpose of eavesdropping, without the consent of the parties to the conversation; or

(2) willfully discloses or attempts to disclose, or uses or attempts to use, any information, knowing or having reason to know that such information was obtained in violation of paragraph (1) of this section, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

SECTION 4. Possession or sale of wiretapping and wire interception and eavesdropping devices prohibited; penalty; confiscation. Any person, other than a communications or other common carrier and its duly authorized officers and employees, or officer of the United States Government duly authorized by law, who, in this State, sells or has in his possession, or who attempts to sell or give away or distribute, any electronic, mechanical or other device, knowing or having reason to know that such device or the design of such device renders it primarily useful for the purpose of wiretapping, wire interception or eavesdropping, shall be fined not more than \$25,000, or imprisoned not more than one year, or both. Any police officer is hereby empowered to confiscate any such electronic, mechanical or other device being sold or possessed in violation of this section, and upon conviction said devices shall be destroyed or otherwise disposed of as ordered by the court.

SECTION 5. Severability and savings provisions. If any provision of this Act or the application of any provision to any person or circumstance shall be held invalid, the remainder of this Act or the application of such pro-

ACT 210

vision to persons or circumstances other than those to which it is held invalid, shall not be affected.

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

(Approved June 4, 1967.)

ACT 210

H. B. 884.

A Bill for an Act Prohibiting the Use of Dogs to Police Public Gatherings, Picketing, and Lawful Assemblies.

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

SECTION 1. The purpose of this Act is to protect the constitutionally guaranteed rights of speech and assembly.

SECTION 2. The use of dogs to police public gatherings, picketing, and lawful assemblies is hereby prohibited.

SECTION 3. Whoever is guilty of violating this Act shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

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

(Approved June 4, 1967.)

ACT 211

H. B. 885.

A Bill for an Act Relating to the Payment of Wages Lost Because of Service on Juries, Boards and Commissions.

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

SECTION 1. Act 17, Session Laws of Hawaii 1966, is amended by inserting after the word "board" in the second line of paragraph b of section 95-25 the following:

"or at any other meeting relating to the business of such public board."

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

(Approved June 4, 1967.)

ACT 212

H. B. 937.

A Bill for an Act Relating to the Civil Air Patrol and Amending Section 15-11 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Paragraphs (a) and (c) of section 15-11, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(a) The sum of \$30,000 annually, or so much thereof as may be necessary, is hereby appropriated from the airport revenue fund for the actual necessary expenses of the Hawaii Wing, Civil Air Patrol.”

“(c) The wing commander may employ a salaried assistant, who shall not be subject to the provisions of chapters 3 and 4, at a salary of not more than the SR-21 salary range. Such assistant shall perform the duties of adjutant and such other duties as may be required of him by the wing commander.”

SECTION 2. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 213

S. B. 459.

A Bill for an Act Relating to Workmen's Compensation and Amending Chapter 97, Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection 97-41(c), Revised Laws of Hawaii 1955, is amended to read as follows:

“(c) Alien dependents not residing in the United States at the time of the injury or leaving the United States subsequently shall maintain annual proof of such dependency as required by the director.”

SECTION 2. This Act does not affect rights and duties that matured and proceedings that were initiated before its effective date.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 214

S. B. 473.

A Bill for an Act Relating to the Hawaii Safety Program and Making an Appropriation Therefor.

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

SECTION 1. Declaration of purpose. Deaths of persons and injuries to them and damage to property with the other losses suffered on account of highway traffic accidents are of grave concern to the State and its citizens as well as to the federal government. The legislature finds and declares that it is in the public interest that the State initiate, coordinate and accelerate every available means to decrease the fatalities, injuries, damages and losses resulting from highway traffic accidents.

SECTION 2. The Revised Laws of Hawaii 1955 is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER
HIGHWAY SAFETY

PART I. GENERAL PROVISIONS

Sec.-1. This chapter may be cited as the “Hawaii Highway Safety Act.”

Sec.-2. Definitions. The following terms whenever used and referred to in this chapter shall have the following meanings unless a different meaning is clearly apparent from the context:

“Bus” means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons.

“Chauffeur” means every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle when in use for the transportation of persons or property for compensation.

“Chief of police” means the chief of police of each county.

“Driving instructor” means every person who, for compensation, instructs another person in the rudiments and mechanics of the operation of a motor vehicle.

“Examiner of chauffeurs” means the person or persons appointed under section ...-110.

“Executive officer” means the mayor or county chairman of each county.

“Farm tractor” means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

“Legal owner” includes a person who holds unencumbered title to a vehicle or is a secured party under a security interest in a vehicle.

“Motorcycle” means every motor vehicle having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor.

“Motor scooter” means every motorcycle, including every motor-driven cycle, with a motor which produces not more than five horsepower.

“Motor vehicle” means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

“Operator” means every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed or pushed by a motor vehicle.

“Owner” or “registered owner” includes a legal owner of a vehicle where there is no security interest held by anyone on the vehicle, a buyer under a purchase money security interest, or a debtor under any security interest.

“Passenger car” means every motor vehicle, except motorcycles and motor scooters, designed for carrying ten passengers or less and used for the transportation of persons.

“Pole trailer” means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a

reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

“Semitrailer” means a trailer so constructed that a substantial part of its weight rests upon the truck tractor by which it is drawn.

“State,” except where reference is clearly to another state, territory or possession of the United States, means the State of Hawaii.

“Title state or county” means any state or any county in any state which issues certificates of title and registration and notes liens and other encumbrances thereon.

“Tractor-semitrailer combination” means a truck tractor in use together with a semitrailer.

“Trailer” means a vehicle designed for carrying persons or property and for being drawn by a motor vehicle.

“Treasurer” means the treasurer or director of finance of a county.

“Truck” means a motor vehicle designed, used, or maintained primarily for the transportation of property.

“Truck tractor” means a truck designed and used primarily for drawing other vehicles and not so constructed as to carry a load to other than a part of the weight of the vehicle and load so drawn.

“Truck-trailer combination” means a truck in use together with a trailer.

“Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Sec.3. Powers and duties of the governor. The governor, in addition to other duties and responsibilities conferred upon him by the constitution and laws of the State, may contract and do all other things necessary in behalf of the State to promote traffic safety. To that end he shall coordinate the activities of the State and its counties.

The governor may delegate duties and functions conferred upon him by this Act to the state highway safety coordinator appointed under the authority of section ...-4.

Sec.4. Position of state highway safety coordinator. The governor shall appoint, without regard to the provisions of chapters 3 and 4, a state highway safety coordinator who shall serve at the pleasure of the governor. The highway safety coordinator shall be experienced in the field of highway safety and shall serve as the state coordinator of highway safety programs, activities, and research. His salary shall be within the range of salaries paid deputy directors of the departments of the state government. He shall be a member of the state employees' retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.

Sec.5. State highway safety council. There is established the Hawaii highway safety council. The state highway safety coordinator shall serve as its chairman. Together with the highway safety coordinator, the fol-

lowing or their designated representatives shall be members of the council: the chief justice, the attorney general, the director of health, the director of transportation, the superintendent of education, the president of the university of Hawaii, the chairman of each of the county highway safety councils established under section . . .-6, and not more than twenty other persons who shall be appointed by the governor on the basis of their interest in highway safety.

The state highway safety council shall advise the governor on matters relating to the programs and activities of the State in the field of highway safety.

Except for the state highway safety coordinator, the members of the council shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in discharge of their duties.

Sec. -----6. County traffic or highway safety councils. There is established in each county a county traffic or highway safety council. The respective boards of supervisors or the city council may make appropriations to meet the necessary expenses of their respective traffic or highway safety councils.

The following or their designated representatives shall be members of a county traffic or highway safety council: the mayor or county chairman; the chief of police; the prosecuting attorney, public prosecutor, corporation counsel or county attorney; the traffic engineer, chairman of the traffic commission or safety program coordinator; and not more than fifteen other persons residing in the county who shall be appointed by the mayor or county chairman on the basis of their interest in highway safety and their knowledge of local conditions.

The county traffic or highway safety council shall advise the mayor or county chairman on matters relating to highway safety.

Sec. -----7. County highway safety programs. Whenever it is determined by the governor to be in the public interest, he may delegate highway safety programs or portions thereof to the counties; provided that the program of each county is approved by the governor. Delegations under this section shall be made by gubernatorial proclamation.

Sec. -----8. Rules and regulations. In order to decrease the deaths, injuries, damage, and losses resulting from highway traffic accidents, the state highway safety coordinator shall, subject to the requirements of chapter 6C, adopt rules and regulations dealing with identification and surveillance of accident locations; highway design, construction and maintenance; and traffic control devices.

PART II. INSPECTION OF VEHICLES

Sec. -----20. Vehicles without required equipment or in unsafe condition. No person shall drive or cause to move on any highway any motor vehicle, trailer, semitrailer, or pole trailer, or any combination thereof, unless the equipment thereon is in good working order and adjustment as required in this part so as not to endanger the driver or other occupant or any person upon the highway.

Sec. -----21. Inspection by officers of the police department. (a) The chief of police or any police officer of any county may, at any time when he has reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, require the owner or driver of the vehicle to submit the vehicle to an inspection or make the necessary corrections or repairs.

(b) If the vehicle is found to be in an unsafe condition or if any required part or equipment is not present or if any required part or equipment is present but not in proper repair, the officer shall issue a citation to the owner or driver stating the reasons that the vehicle is deemed unsafe and shall require that a new certificate of inspection as provided in section ...-25 be obtained within five days or that the defect be cured.

(c) If upon inspection, the chief of police or any police officer determines that any vehicle is in such unsafe condition as to constitute a menace to the public and cannot reasonably be restored to a safe condition as required in this part, he shall remove the sticker which signifies the certificate of inspection and inform the treasurer who shall forthwith suspend the registration of the vehicle and give notice of the suspension to its owner. Whenever the treasurer has suspended the registration of any vehicle under this part, the owner of the vehicle shall immediately surrender and forward to the treasurer the certificate of registration and the license plates last issued upon registration of the vehicle for the current year.

(d) Any person aggrieved by this section shall have the right to a hearing before a magistrate of the district in which he is cited within five days. The magistrate shall determine whether the chief of police or any police officer reasonably performed his duties hereunder and shall make any appropriate order.

Sec. -----22. Responsibility for compliance. (a) Every owner or driver, upon receiving a citation as provided in section ...-21(b), shall comply therewith and shall within five days secure an official certificate of inspection or make the necessary corrections or repairs, or driver requests a hearing as provided in section ...-21(d).*

(b) No person shall operate any vehicle after receiving a citation with reference thereto as provided in section ...-21(b), except that if the driver is authorized to do so by the police officer, he may return the vehicle to his residence or place of business or the residence or place of business of the owner of the vehicle, or to an automotive repair shop, if within a distance of twenty miles, until a certificate of inspection is obtained or the necessary corrections or repairs are made.

Sec. -----23. Registered owner's responsibility; registration plates as prima facie evidence as to the fault of the registered owner. In any proceeding for violation of this part, the registered owner of a vehicle shall be deemed responsible for the unsafe condition of the vehicle.

Sec. -----24. Operation of a vehicle without a certificate of inspection. Whoever operates, permits the operation of, causes to be operated or parks any vehicle on a public highway without a current official cer-

* So in original.

tificate of inspection, issued under section . . .-25(d), shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. -----25. Certificates of inspection. (a) The following vehicles shall be certified as provided in subsection(e) once every six months:

- (1) motor vehicles ten years of age or older,
- (2) ambulances,
- (3) trucks, truck tractors, semitrailers, trailers, or pole trailers having a rated load capacity of one ton or more,
- (4) buses.

(b) All other vehicles, except those in subsections (c) and (d), shall be certified as provided in subsection (e) every twelve months.

(c) Any vehicle which has been involved in an accident, when it is determined by a police officer that the vehicle's equipment has been damaged so as to render the vehicle unsafe, shall be so certified before it is operated again.

(d) Every vehicle shall be certified prior to the issuance of a temporary or permanent registration by the treasurer and prior to the transfer of any registration; provided, however, (1) every vehicle sold or to be sold as a new or used car and not operated on a public highway, shall be certified or carry a current certificate of inspection prior to transfer of registration to the buyer thereof; and (2) that this requirement shall not apply to the release or transfer of a security interest in a motor vehicle which carries a current certificate of inspection.

(e) Upon application for a certificate of inspection to be issued on a vehicle, an inspection as prescribed by the state highway coordinator under subsection (f) shall be conducted on the vehicle and if the vehicle is found to be in a safe operating condition, a certificate of inspection shall be issued upon payment of a fee to be determined by the board of supervisors or council of each county. A sticker, authorized by the state highway coordinator, shall be affixed to the vehicle at the time a certificate of inspection is issued.

(f) The state highway safety coordinator shall adopt necessary rules and regulations for the administration of inspections, the issuance of certificates of inspection and the acceptance of certificates of inspection issued in other jurisdictions.

(g) This part shall not apply to any motor vehicle which is subject to the rules and regulations of the public utilities commission, or any successor agency, governing safety of operation and equipment; provided that said rules and regulations impose standards of inspection at least as strict as those imposed under subsection (f) by the state highway safety coordinator, and that certification is required at least as often as provided in subsections (a), (b), (c), and (d).

Sec. -----26. Permits to operate official inspection stations. (a) The chief of police shall issue permits for and furnish instructions and all forms to official inspection stations. The stations shall operate in the manner directed by the chief of police pursuant to standards established by the state highway safety coordinator.

(b) Application for an official inspection station permit shall be made

upon an official form and shall be granted only when the chief of police is satisfied that the station is properly equipped and has competent personnel to make the required inspections. Before issuing a permit, the chief of police shall require the applicant to file a bond in the amount of \$2,000 assuring that he will make compensation for any damage to a vehicle during an inspection due to negligence on his part or that of his employees.

(c) A permit for an official station shall not be assigned or transferred or used at any location other than that designated by the chief of police and every said permit shall be posted in a conspicuous place at the location so designated.

Sec. -----27. Suspension or revocation of permits. The chief of police shall supervise and cause inspections to be made of official inspection stations and shall suspend or revoke and require the surrender of the permit issued to a station which he finds is not properly conducting inspections. The chief of police shall maintain and post at the police department lists of all stations holding permits and those whose permits have been suspended or revoked.

Sec. -----28. Improper representation as official inspection station. Any person who shall in any manner represent that the business operated at any location is an official inspection station without a permit issued by the chief of police under section ...-26, or any person other than a person operating an inspection station under a permit granted by the chief of police who issues a certificate of inspection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. -----29. False certificates. Any person who makes, issues, or knowingly uses any imitation or counterfeit of an official certificate of inspection, or any person who displays or causes or permits to be displayed upon any vehicle any certificate of inspection knowing the same to be issued for another vehicle or issued without an inspection having been made or issued without authority as provided herein shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART IV. SAFETY EQUIPMENT

Sec. -----96. Motorcycle, motor scooter, etc.; protective devices. No person shall:

(1) Operate a motorcycle or motor scooter on any highway in the State unless he and any passenger he carries on the motorcycle or motor scooter wears (A) a safety helmet securely fastened with a chin strap; (B) safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and (C) any other protective devices required by rules and regulations adopted by the state highway safety coordinator.

(2) Lease or rent a motorcycle or motor scooter to another person unless he furnishes (A) a safety helmet; (B) safety glasses, goggles, or a face shield, in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and (C) any other protective devices required by

the rules and regulations adopted by the state highway safety coordinator for the use of the person or persons intending to operate or ride as a passenger on the motorcycle or motor scooter; provided that any person to whom a motorcycle or motor scooter is leased or rented may furnish for his own use the protective devices required by this part.

(3) Sell or offer for sale or furnish any safety helmet, safety glasses, goggles, face shield, windscreen, windshield, or other protective devices represented to meet the requirements of this part unless the device meets the specifications and requirements established by rules and regulations adopted by the state highway safety coordinator.

Sec. -----97. Whoever violates this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART V. DRIVER TRAINING SCHOOL AND DRIVER INSTRUCTORS

Sec. -----100. Licenses. (a) No person or corporation shall operate a driver training school or give instructions for hire in the driving of a motor vehicle without obtaining from the executive officer or his designated representative annually a license to operate a driver training school or to give instruction, each license expiring one year after the date of its issuance; provided that the department of education shall be exempt from the requirement of the licenses under this part.

(b) No driver training school operator's license shall be issued to an applicant: (1) unless the department of education first determines that the applicant has the necessary instructional equipment and certifies the applicant pursuant to Act 42, Session Laws of Hawaii 1966; (2) if the applicant, one or more of the partners in an applicant partnership, or one or more officers or directors in an applicant corporation formerly held a driver training school operator's license which was revoked or suspended and never reinstated; (3) if the application contains any statements known by the applicant to be false; or (4) if the application conceals any fact known to be material; and (5) unless the applicant pays a fee of \$25.

(c) No driving instructor's license shall be issued to an applicant: (1) unless he is of good moral character, has attained the age of majority, is certified as an instructor in driver education and training by the department of education pursuant to Act 42, Session Laws of Hawaii 1966, is physically able to operate safely a motor vehicle, is able to train others in the operation of a motor vehicle and holds an Hawaii operator's license for the category of vehicle that he shall use in his instruction; or (2) if he formerly held a license in the state as driving instructor, which license was revoked or suspended and never reinstated; or (3) if he has been convicted of a crime involving moral turpitude; or (4) if he knowingly makes a false statement or conceals a material fact in his application; and (5) unless the applicant pays a fee of \$10.

Sec. -----101. Insurance requirements. Every person, partnership, or corporation offering driver training to the public shall maintain bodily injury and property damage liability insurance on motor vehicles while being used in driver training, insuring against the liability of the driver training

school operator, the driving instructor, and any person taking instruction, in the following minimum amounts: (1) comprehensive public liability insurance in the amount of \$100,000 for one person and \$300,000 for one accident, and (2) comprehensive property damage insurance of \$10,000 per accident, provided that the state highway safety coordinator may, by rules and regulations, set higher limits.

Evidence of such insurance coverage in the form of a certificate from the insurance carrier shall be filed with the executive officer or his designated representative and the certificate shall name the county as co-insured and shall stipulate that the insurance shall not be canceled except upon ten days' prior written notice to the executive officer or his designated representative.

Sec. -----102. Responsibility for maintenance of vehicles. Every licensee under this part shall be responsible for the maintenance of all vehicles used in driver training in safe mechanical condition at all times.

Sec. -----103. Cancellation, suspension, and revocation of licenses. The executive officer or his designated representative may cancel, suspend or revoke a license issued under this part:

(1) When he is satisfied that the licensee has become unable to meet the requirements for the issuance of the type of license held.

(2) When the licensee permits fraud or engages in fraudulent practices or induces or countenances fraud or fraudulent practices on the part of an applicant for an operator's or chauffeur's license.

(3) When the licensee fails to comply with this part or any regulations or requirements adopted by the state highway safety coordinator pursuant to this part.

(4) When the licensee represents himself as an agent or employee of the police department or uses advertising designed to or which would reasonably have the effect of leading persons to believe that the licensee is in fact an employee or representative of the police department.

(5) When the licensee advertises in any manner or by any means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(6) When the licensee has been convicted of a felony or any other crime which manifests a disability or unfitness to perform properly the licensee's occupational duties; provided that when conviction of a crime is the basis of suspension, revocation, or cancellation, the executive officer or his designated representative shall make a specific finding as to the manner in which the conviction manifests occupational disability or unfitness, which finding shall be incorporated in the order suspending or revoking the license.

Sec. -----104. Hearings; cancellation, suspension, or revocation. (a) Every licensee is entitled to notice and hearing prior to cancellation, suspension, or revocation of his license.

(b) Any cancellation, suspension, or revocation of a license may be appealed to the circuit court of the circuit in which the license is issued. No appeal shall be heard unless a petition is filed with the court within twenty

days of the cancellation, suspension, or revocation of the license. The appeal shall not postpone or otherwise affect the effective date of cancellation, suspension, or revocation.

Sec. -----105. Continuation of business of deceased licensee. The executive officer or his designated representative may authorize the continuation of the operation of a driving school after the death of the licensee, if the certification of the school is not revoked by the department of education, for a period necessary to effect a transfer of the license to another person.

Sec. -----106. Penalty. Any person who operates a driver training school or gives instructions for hire in the driving of a motor vehicle without a current license issued under section ...-100 shall be fined not more than \$500 or imprisoned not more than six months, or both.

PART VI. MOTOR VEHICLE OPERATOR AND CHAUFFEUR LICENSING

Sec. -----111. Licensing. (a) No person, except one exempted under section ...-114 or one who holds an instruction permit under ...-119, shall operate a category of motor vehicles listed below without first being examined as provided in section ...-117 and being duly licensed by the examiner of chauffeurs as a qualified operator of that category of motor vehicles:

- (1) motor scooters;
- (2) motorcycles and motor scooters;
- (3) passenger cars of any gross weight and trucks having a registered gross weight of less than six thousand pounds;
- (4) all of the motor vehicles in category (3) and trucks having a registered gross weight of six thousand pounds or more, other than tractor-semi-trailer combinations and truck-trailer combinations;
- (5) all of the motor vehicles in categories (3) and (4) and buses;
- (6) all of the motor vehicles in categories (3), (4) and (5) and tractor-semitrailer combinations, and
- (7) all of the motor vehicles in categories (3), (4), (5) and (6) and truck-trailer combinations.

(b) No person, even if he is licensed to operate a motor vehicle in any of the categories provided in subsection (a), shall operate the motor vehicle for compensation, unless he is eighteen years of age or older and is examined as provided in section ...-117, satisfies additional requirements as established by the examiner of chauffeurs under section ...-112 and is duly licensed by the examiner of chauffeurs as a qualified chauffeur of that category of motor vehicles.

(c) No person under the age of twenty years shall be issued a license to operate or shall operate any motor vehicle which is used in the transport of persons for compensation or any bus or any motor vehicle used as a bus.

Sec. -----112. Restrictions on operator's and chauffeur's licenses; rules and regulations. The examiner of chauffeurs may adopt rules and regulations restricting the use of operators' and chauffeurs' licenses in any manner he may deem necessary for the safety and welfare of the traveling public and may impose restrictions with respect to the type of equipment or

special mechanical control devices required on the motor vehicle operated by the licensee appropriate to the driving ability of the licensee. Any restrictions shall be indicated on the license issued.

Sec. -----115. Expiration of licenses; renewals. (a) Every operator's license issued under this part, whether an original issuance or a renewal, shall expire on the fourth birthday of the licensee following the date of its issuance, unless sooner revoked or suspended; provided that the license shall expire on the second birthday of the licensee following its issuance if at that time the licensee:

- (1) Is sixty-five years of age or older;
- (2) Has been convicted of violations of the traffic laws of the State and of county traffic ordinances in the previous two years which, under the provisions of section . . .-137, total nine points;
- (3) Is twenty-four years of age or younger; or
- (4) Exhibits a physical condition or conditions which the examiner of chauffeurs reasonably believes has impaired the operator's ability to drive, unless the licensee: (1) obtains a certificate from a licensed physician that his physical condition or conditions do not impair his ability to drive; or (2) is able to correct the physical impairment, or by using a vehicle adapted to overcome such physical impairment is to the satisfaction of the examiner of chauffeurs able to drive safely.

(b) The examiner of chauffeurs may accept application for a renewal of an operator's license made not more than six months prior to the date of expiration. If renewal is not applied for within ninety days after expiration of the license, the application for renewal shall be considered an application for a new license and the applicant shall be examined as provided in section . . .-117. If any person is out of the State during the entire period in which he may apply for renewal, the examiner of chauffeurs may accept his application for renewal made not more than thirty days after his return to the State.

(c) Every chauffeur's license issued under this part shall expire one year after issue and shall be renewable on or before the date of expiration, unless sooner revoked or suspended.

Sec. -----116. Renewals; requirements. (a) Every operator's license shall be renewable as provided in section . . .-115 upon payment of a fee to be determined by the board of supervisors or council of each county; provided that the examiner of chauffeurs shall administer such physical examinations which the state highway safety coordinator deems necessary to determine an operator's fitness to continue to operate a motor vehicle.

(b) Every chauffeur's license shall be renewable as provided in section . . .-115 upon payment of a fee to be determined by the board of supervisors or council of each county; provided that the examiner of chauffeurs shall administer such examinations as the state highway safety coordinator deems necessary to determine the fitness of a licensee to continue as a chauffeur.

Sec. -----118. General provision governing the issuance of licenses to operators and chauffeurs. Upon payment of the required fee and upon demonstrating his ability to operate a certain category or categories of motor

vehicles to the satisfaction of the examiner of chauffeurs, an applicant for an operator's or chauffeur's license shall be issued a single license of a design approved by the highway safety coordinator upon which is made a notation of the category or categories of motor vehicles he may operate and any restrictive provisions to which the license is subject.

The provisions of chapter 254 and any other provisions of this chapter notwithstanding, no operator's or chauffeur's license or instruction permit shall be issued or renewed under any of the provisions hereof, where the examiner of chauffeurs is notified by the magistrate, traffic violations bureaus of the district courts or the judge of the circuit court of* the applicant has failed to respond to a traffic citation or summons for the violation of any traffic laws of the State or county or of this chapter and the same remains delinquent and outstanding.

Sec.-119. Instruction permits. (a) Any person who, except for his lack of instruction in operating a motor vehicle, would be qualified to obtain an operator's license issued under this part may apply for a temporary instruction permit at the office of the examiner of chauffeurs in the county in which the applicant resides.

The examiner of chauffeurs shall, within ten days of the filing of the application, examine every applicant for an instruction permit. The examination shall include tests of the applicants:

(1) eyesight and other physical or mental capabilities to determine if he is capable of operating a motor vehicle;

(2) understanding of highway signs regulating, warning, and directing traffic; and (3) knowledge of the traffic laws, ordinances or regulations of the State and the county where he resides or intends to operate a motor vehicle.

(c) If he is satisfied that the applicant is qualified to receive an instruction permit, the examiner of chauffeurs shall issue the permit entitling the applicant, while having the permit in his immediate possession, to drive a motor vehicle upon the highways for a period of ninety days; provided that an applicant who is registered in a driver training course shall be issued a temporary instruction permit for the duration of the course and the termination date of the course shall be entered on the permit.

(d) Except when operating a motor scooter or motorcycle, the holder of a temporary instruction permit shall be accompanied by a person licensed as an operator or chauffeur of the category of motor vehicles in which the motor vehicle which is being operated belongs. The licensed person shall occupy a seat as near the permit holder as is practical while the motor vehicle is being so operated.

(e) No holder of a temporary instruction permit shall operate a motorcycle or a motor scooter during hours of darkness or carry any passengers.

Sec.-122. Release from liability. Any person who has signed the application of a minor for an instruction permit or operator's license may file with the examiner of chauffeurs a verified written request that the permit

* So in original.

or license of the minor be canceled, together with the permit or license issued. Upon receipt of the request, the examiner of chauffeurs shall cancel the permit or license of the minor and the person who has signed the application of the minor shall be relieved from the liability imposed under this part on account of any subsequent negligence or willful misconduct of the minor in operating a motor vehicle. Nothing herein contained shall be construed to limit the liability of parents for the torts of their child as provided in chapter 330.

Sec. -----123. Revocation of license or instruction permit upon death of person signing minor's application. The examiner of chauffeurs upon receipt of satisfactory evidence of the death of a person who signed the application of a minor for an instruction permit or a license shall cancel the permit or license and shall not issue a new permit or license until such time as a new application duly signed and verified shall be made as required by this part. Upon canceling the permit or license, the examiner of chauffeurs shall notify the minor to surrender the permit or license. If the death occurs after the minor has reached majority, this section shall not apply.

Sec. -----126. Duplicate permits, licenses, and badges. The holder of an instruction permit or operator's or chauffeur's license or chauffeur's badge may upon payment of the reasonable cost of its issuance obtain a duplicate; provided that the holder shall surrender the original permit, license, or badge or furnish satisfactory proof of loss or destruction of the same.

The chief of police or a police officer shall notify a holder that his permit or license is illegible and that he shall within ten days surrender his license and apply for a duplicate. Upon failure to comply with a notice to surrender an illegible license and apply for a duplicate, the person to whom the permit or license is issued shall be subject to the punishment in section . . .-145.

Sec. -----128. Authority of examiner of chauffeurs to suspend or revoke licenses. The examiner of chauffeurs may suspend any operator's or chauffeur's license without hearing when he has reasonable cause to believe that the licensee is incompetent to operate the type of motor vehicle for which the licensee holds a license or is afflicted with mental or physical infirmities or disabilities which would make it unsafe for the licensee to operate a motor vehicle of the type for which he is licensed. When the examiner of chauffeurs suspends a license under this section, he shall immediately notify the licensee and afford him a hearing. After the hearing, the examiner of chauffeurs may rescind the suspension, or he may suspend the license for a further period or revoke the license. Any person whose license has been suspended or revoked under this section may appeal under section . . .-138.

Sec. -----129. Authority of examiner of chauffeurs to cancel license. The examiner of chauffeurs may cancel any operator's or chauffeur's license if he determines that the licensee was not entitled to it, failed to give the required or correct information in his application, or committed fraud in making his application or in obtaining the license.

Upon cancellation, the licensee shall surrender to the examiner of chauffeurs the license and the badge, if any.

Sec. -----131. Suspension of a license; surrender. Every licensee

whose license has been suspended pursuant to this part or of any traffic law or regulation of the State or any county, shall surrender his license to the examiner of chauffeurs or the court, as is appropriate, which agency shall take custody of the license during the period of suspension.

Sec. -----132. Record of conviction forwarded to examiner of chauffeurs. The record of any conviction resulting in the revocation or suspension of any person's license for a violation of this part or any traffic law or regulation of the State or county shall be forwarded by the court to the examiner of chauffeurs of the county in which the court is located.

Sec. -----143. Employing unlicensed chauffeur. No person shall employ as a chauffeur of a certain category of motor vehicle any person who is not licensed under this part to operate that category of motor vehicle.

Sec. -----145. Penalty. Whoever violates this part shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

PART VII. ALCOHOL AND HIGHWAY SAFETY

Sec. -----160. Implied consent of driver of motor vehicle to submit to testing to determine alcoholic content of blood. Any person who operates a motor vehicle upon the public highways of the State shall be deemed to have given his consent, subject to this part, to a test approved by the highway safety coordinator of his breath or blood for the purpose of determining the alcoholic content of his blood; such person shall have the option to take a test of his breath or blood, or both. The test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person driving or in actual physical control of a motor vehicle upon the public highways is under the influence of intoxicating liquor only after (1) a lawful arrest and (2) the police officer has informed the person of the sanctions of section . . . -164.

Sec. -----161. Persons qualified to take blood specimen. No person other than a physician, licensed laboratory technician, or registered nurse may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of a breath specimen.

Sec. -----162. Additional tests. The person tested may have any physician, licensed laboratory technician, or registered nurse of his own choosing withdraw blood and any person of his own choosing administer a test or tests in addition to any administered at the direction of a police officer. The result of the test or tests may be used as provided in section 311-29. The failure or inability to obtain an additional test by a person shall not preclude the admission of the test or tests taken at the direction of a police officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the police officer shall be made available to him.

Sec. -----163. Consent of person incapable of refusal not withdrawn. The consent of a person deemed to have given his consent pursuant to section . . . -160 shall not be withdrawn by reason of his being

dead, unconscious or in any other state which renders him incapable of consenting to examination, and the test may be given. In such event, a test of the person's blood shall be administered.

Sec. -----164. Revocation of privilege to drive motor vehicle upon refusal to submit to testing. If a person under arrest refuses to submit to a test of his breath or blood, none shall be given, but the arresting officer shall, as soon as practicable, submit an affidavit to a magistrate of the district in which the arrest was made, stating that at the time of the arrest, he had reasonable grounds to believe the arrested person had either been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, that the arrested person had been informed of the sanctions of this section, and that the person had refused to submit to a test of his breath or blood.

Upon receipt of the affidavit, the magistrate shall hold a hearing as provided in section ...-165, and shall determine whether the statements contained in the affidavit are true and correct. If the magistrate finds the statements contained in the affidavit are true, he shall revoke the arrested person's license, permit or any nonresident operating privilege for a period of six months.

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

The penalties provided by this section are additional penalties and not substitutes for any other penalties provided by law.

Sec. -----165. Hearing before a magistrate. A hearing to determine the truth and correctness of an affidavit submitted to a magistrate shall be held within ten days after the magistrate has received the affidavit.

The magistrate shall hear and determine whether the arresting officer had reasonable grounds to believe that the person had been either driving or in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, whether the person was lawfully arrested, whether the arresting officer had informed the person of the sanctions of section ...-164, and whether the person refused to submit to a test of his breath or blood.

Sec. -----166. Appeal to circuit judge. An order of a magistrate issued under section-164 may be appealed in the manner provided in section-138.

Sec. -----167. Interpretation of the tests. For the purposes of this part and to the fullest extent possible, the interpretation of the testing to determine alcoholic content of blood shall be as provided in section 311-29.

Sec. -----168. Proof of refusal; admissibility. If a legally arrested person refuses to submit to a test of his breath or blood, proof of refusal shall be admissible only in a hearing under section-165 or appeal

thereof and shall not be admissible in any other action or proceeding, whether civil or criminal.

Sec.-169. Other evidence not excluded. This part shall not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of intoxicating liquor.

Sec.-170. Notice to other states. When it is determined under this part that a nonresident's privilege to operate a motor vehicle in the State shall be revoked or denied, the chief of police shall inform, in writing, the official in charge of traffic control or public safety of the nonresident's home state and of any state in which he has an operator's license of the action taken.

Sec.-171. Test results to be collected. The results of any test for alcohol content made upon any person including any person who has been fatally injured in a traffic accident or upon the driver of a motor vehicle involved in an accident which resulted in another person's death, shall be sent to the state highway safety coordinator who shall compile the data without revealing the identity of any individual tested, which data shall be available only to the state and county highway safety councils and to other agencies he deems necessary and advisable.

PART VIII. TRAFFIC RECORDS SYSTEMS

Sec.-180. Uniform traffic records systems. The state highway safety coordinator shall promote the establishment of a uniform traffic records system in each county, which shall include such information as may be prescribed by rules and regulations adopted by the state highway safety coordinator for the purposes of this chapter.

Sec.-181. Relationship to other agencies. (a) The state highway safety coordinator shall have access to all traffic records of the violation bureaus of the district courts, the circuit courts, the police departments, the county treasurers, the department of health, and the department of education.

(b) The state highway safety coordinator shall authorize the furnishing of information contained in the traffic records systems of each county (1) with respect to any individual only in response to a request from a state, a political subdivision of a state, or a federal department or agency or (2) with respect to data and without identification of any individual only for research purposes he deems to be necessary and advisable."

SECTION 3. Sections 160-2, 160-3, 160-4.1, 160-4.2, 160-5, 160-6, 160-7, 160-8, 160-9, 160-11, 160-12, 160-13, 160-14, 160-15, 160-16, 160-17, 160-18, 160-220, 160-221, 160-222, 160-223, 160-224, 160-225, and 160-226 are transferred to PART III entitled REGISTRATION OF VEHICLES of the new chapter established by this Act and renumbered sections-40,-41,-42,-43,-44,-45,-46,-47,-48,-50,-51,-52,-53,-54,-55,-56,-57,-59,-60,-61,-62,-63,-64, and-65.

SECTION 4. Sections 160-31, 160-38, 160-39, 160-45, 160-55, 160-56, 160-57, 160-58, 160-59, 160-60, 160-61, 160-62, 160-63, 160-65, 160-71, 160-72, and 160-73 are transferred to PART VI entitled MOTOR VEHICLE OPERATOR AND CHAUFFEUR LICENSING of the new chapter established by this Act and renumbered respectively as follows: Sections-110,-120,-121,-125,-133,-134,-135,-136,-138,-139,-140,-141,-142,-144,-146,-147, and-148.

SECTION 5. Section 160-10, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section-49 and amended by adding to subsection (c) the following:

“....; provided that the treasurer, if he has ascertained as of the date of such application that the registered owner has not deposited or paid bail with respect to any summons or citation issued to such registered owner for stopping, standing, or parking in violation of traffic ordinances within the county, may require, as a condition precedent to such transfer, that the registered owner deposit or pay bail with respect to all such summons or citations.”

SECTION 6. Section 160-19, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section ...-58 and amended to read as follows:

“Sec.-58. **Penalty.** Any person who violates sections-40 to-57 shall be fined not less than \$5 nor more than \$1,000, or imprisoned not more than one year, or both.”

SECTION 7. Section 160-33, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section-114, and by amending subsection (c) to read as follows:

“(c) Any nonresident who is at least twenty years of age who has in his possession a valid operator’s license issued to him in his home state or the Dominion of Canada may, for a period of not more than ninety days, operate any category of motor vehicle for which he holds a valid operator’s license.”

SECTION 8. Section 160-34, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section-113, and amended in the following particulars:

- (1) By deleting subsections (b) and (d).
- (2) By amending subsection (h) to read as follows:

“To any person, as an operator, 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-117 and-118, which license may be suspended or revoked by a judge or magistrate 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-117 and-118.”

(3) By adding after subsection (h) a new subsection (i) to read as follows:

“(i) To any person who has been ordered to be hospitalized under chapter 81 or committed under chapter 82 unless the director of health certifies to the examiner of chauffeurs that the person is mentally competent and may be examined to determine his fitness to operate a motor vehicle.”

SECTION 9. Section 160-42, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -117, and its last sentence amended to read as follows:

“The examinations shall be appropriate to the operation of the category of motor vehicle for which the applicant seeks to be licensed and shall be conducted as required by the state highway safety coordinator.”

SECTION 10. Section 160-44, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -124, and amended as follows:

(1) By deleting the word “issue” in its title and inserting in lieu thereof the word “issuance”; and

(2) By deleting the words “of metal” appearing in the third line.

SECTION 11. Section 160-50, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -127, and amended by adding the following:

“The examiner of chauffeurs may dispose of any records accumulated under this section whenever he deems it advisable.”

SECTION 12. Section 160-53, Revised Laws of Hawaii 1955, is transferred to the new chapter established under this Act, renumbered section . . . -130, and amended by deleting the second paragraph.

SECTION 13. Section 160-70, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -137, and subsection (a) amended by adding the following:

“(30) Operating or carrying a passenger on a motor scooter or motorcycle without safety helmet or, in absence of windscreen or windshield, without eye and face protective devices, or other protective devices required by the state highway safety coordinator 0 to 2.

“(31) Driving after failure to renew license . . . 0 to 2.”

SECTION 14. Section 160-227, Revised Laws of Hawaii 1955, is transferred to the new chapter established by this Act, renumbered section . . . -66, and amended to read as follows:

“Sec. . . . -66. **Penalty.** Any person who violates sections . . . -59 to . . . -65 shall be fined not more than \$50.”

SECTION 15. Sections 160-1, 160-30, 160-32, 160-35, 160-36, 160-37, 160-40, 160-41, 160-46, 160-47, 160-48, 160-49, 160-51, 160-52, 160-54, 160-64, and 160-66 of the Revised Laws of Hawaii 1955 are repealed.

SECTION 16. Sections 160-200 to 160-205 of the Revised Laws of Hawaii are repealed.

SECTION 17. Existing operator's licenses invalidated. All operator's licenses issued before the effective date of this Act shall become invalid on such date or dates as may be prescribed by rules and regulations promulgated by the state highway safety coordinator.

SECTION 18. Reissuance of operator's licenses. Any person who holds an operator's license issued before the effective date of this Act who the examiner of chauffeurs determines is physically and visually qualified to be licensed shall, upon paying a fee to be determined by the board of supervisors or council of each county, be issued a new operator's license without a written or oral examination.

The time schedule for the reissuance of operator's licenses hereunder shall be in accordance with rules and regulations adopted by the state highway safety coordinator; provided that the reissuance of operator's licenses hereunder shall be completed on or before two years from the effective date of this Act.

The examiner of chauffeurs shall indicate in an appropriate manner on each new license issued the category or categories of motor vehicles for which the person named is qualified to operate. The license shall not authorize the person named to operate any other category or categories of motor vehicles.

The new licenses shall expire as provided in section-115 and be renewed as provided in section-116(a) of the new chapter established by this Act.

SECTION 19. Expiration and reissuance of chauffeur's license. Within thirty days prior to the expiration of a chauffeur's license issued before the effective date of this Act, the person who holds the license shall apply for a new chauffeur's license under section-111(b) of the new chapter established by this Act.

The examiner of chauffeurs may waive the examination of an applicant's ability to operate a vehicle if he is satisfied that the applicant is qualified to operate the category of motor vehicles for which he seeks to be licensed.

The licenses issued under this section shall expire as provided in section-115(c) and be renewed as provided in section-116(b) of the new chapter established by this Act.

SECTION 20. Chapter 311, Revised Laws of Hawaii 1955, is amended to add a new section to be appropriately designated and to read as follows:

"Section 311-..... It shall be unlawful for any operator of a motorcycle or motor scooter to permit any person under the age of seven years to ride thereon."

SECTION 21. Personnel. The governor may create no more than nine new permanent or temporary positions to be allocated by him to any of the executive departments as he shall deem proper to implement this Act.

SECTION 22. Appropriation. The sum of \$40,000 or so much thereof as may be necessary is appropriated out of the general revenues to be expended by the governor for the purposes of this Act.

SECTION 23. Inconsistent laws amended. All laws or parts of laws which are held to be inconsistent with this Act are amended to conform with the provisions of this Act.

SECTION 24. Severability. The provisions of this Act are declared to be severable and if any portion of this Act or the application thereof to any person, circumstance, or property, is held to be invalid for any reason, the validity of the remainder of this Act or the application of such portion to other persons, circumstances, or property shall not be affected thereby.

SECTION 25. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 215

S. B. 703.

A Bill for an Act Making an Appropriation for a Waimanalo Children and Youth Health Services Project.

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

SECTION 1. There is appropriated or authorized out of moneys in the treasury of the State of Hawaii received from general revenues or special funds the sum of \$231,636, or so much thereof as may be necessary, for a Waimanalo children and youth project and thirteen positions, subject to chapters 3 and 4, Revised Laws of Hawaii 1955, to provide comprehensive health services for approximately one thousand children and youth in Waimanalo; provided that \$173,727 and thirteen positions of the above authorization shall be provided by federal funds only.

SECTION 2. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 4, 1967.)

ACT 216

H. B. 509.

A Bill for an Act Amending Section 4-6, Revised Laws of Hawaii 1955, Relating to Initial Appointments.

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

SECTION 1. Section 4-6, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“Section 4-6. Initial appointments. All initial appointments shall be made at the first step of the appropriate salary range. In the event that

the recruitment of an employee is not possible at the first step, the director may, after appropriate notice and advertising, and after a determination and certification that the work required is of an essential public nature, (1) declare the class to be in a shortage category, (2) determine the lowest step within the salary range which is fair and reasonable and at which employees can be recruited from the labor market, and (3) establish that step as the minimum salary level for the class. Any employee occupying a position in a shortage category class shall be eligible for salary increments from the step at which he was recruited in the manner provided by law.

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 shortage category determinations and the justifications therefor to the legislature not later than ten days prior to the opening of each regular session.

No incumbent in a shortage category class shall be compensated at a rate less than his entry level; provided, that an employee who moves from one political jurisdiction to another within the State shall have his pay rate adjusted to the pay rate in effect in the political jurisdiction to which he moves.

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

(Approved June 4, 1967.)

ACT 217

S. B. 1.

A Bill for an Act Relating to Public Improvements and the Financing Thereof, Making Appropriations for Public Improvements and Plans Related Thereto Out of General Revenues, Special Funds, General Obligation and Revenue Bond Funds and Grants; and Providing for the Issuance of General Obligation and Revenue Bonds.

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

SECTION 1. The following sums, or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated, or authorized, as the case may be, from moneys in the treasury received from general revenues, special funds, general obligation bond funds, harbor revenue bond funds, airport revenue bond funds, University of Hawaii revenue bond funds, Hawaii housing authority bond funds, and grants, to be expended by the department of accounting and general services, unless otherwise specified in the subsection. The governor, in his discretion, is authorized to use either general fund revenues or general obligation bond funds to finance those projects where the method of funding is not designated and the total sum of general obligation bond funds and general fund revenues so used shall not exceed \$94,625,000. General obligation bonds may be issued as provided by law to yield the amount that may be necessary

to finance projects herein that do not have funding specifically designated; provided that the sum total of the general fund revenues used and general obligation bonds (including general obligation bonds with debt service costs to be paid from special funds) so issued shall not exceed \$94,625,000. The letter symbols used after the specific project appropriations, if any, indicate the source of financing and shall have the following meaning: (a) general obligation bond funds with debt service costs to be paid from special funds, (s) special funds, (r) revenue bond funds, (FAI) federal aid interstate highway funds, (FAP) federal aid primary highway funds, (FAS) federal aid secondary highway funds, (FAU) federal aid urban highway funds, (FA) federal aid highway funds available for use in two or more categories, (f) other federal funds and (x) county funds.

A. DEPARTMENT OF AGRICULTURE

- 1. Relocation of Animal Quarantine Station, Halawa, Oahu..... 500,000

B. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Director, Department of Land and Natural Resources)

Statewide

- 1. State Monuments, All Islands—Researching, composing, fabricating and installing a number of official state historic site markers throughout the State, selected and ranked in importance according to established program. Continuing incremental acquisition, researching, restoration and interpretation of the most appropriate historic sites throughout the State. 75,000
(38,000 f)*

Land Development Projects

- 2. Waimanalo Core Development, Koolaupoko, Oahu—Incremental development of state lands into urban uses, including the design and construction of sewer interceptors. 576,000 a
- 3. Wahikuli Land Development, Lahaina, Maui—Incremental development of state lands into residential lots, including construction of a reservoir. 290,000 s
- 4. Waiakea Peninsula, South Hilo, Hawaii—Site improvements, including demolishing existing pavement, new road construction, water and drainage systems, relocating existing utilities, and land acquisition. 994,000 a
- 5. Hapuna Bay, Lalamilo, Hawaii—Planning and development of recreational and beach facilities, houselots and resorts of state lands at Hapuna and Lalamilo, South Kohala, Hawaii, including water transmission mains and tank. 165,000 a
- 6. Pasture Agriculture Land and Parks Development, Hamakua, Hawaii—To develop lands in the Hamakua area by construction of roads, trails, fences and utilities, including clearing of undesirable plant growths; provided that the department shall employ temporary personnel who shall be exempt from the provisions of chapters 3 and 4, RLH 1955, as amended. The department shall work in close consultation with the superintendent of the University Experiment Station, Hilo Branch, on this project; the Department may enter into contracts for the necessary equipment and supplies to be used in the project by public bid. Prior appropriation in Sec. 1-D-2-b, Act 30, SLH 1962, Sec. 1-D-2-d, Act 201, SLH 1963 and Sec. 1-D-1-f, Act 52, SLH 1964 may be utilized for this project. 1,000

* Non-add federal reimbursement.

Fish and Game

- 7. Lanai Game Management and Enforcement Facilities, Lanai—Purchase of land and construction of permanent Division of Fish and Game residence buildings. 40,000
- 8. Hawaii Game Management Facilities, Hawaii—Incremental construction of game management facilities, including cabin to accommodate field personnel, hunter checking station, culverts and fords and roads for hunter access, range improvements; game water units, signs and markers. 17,000
5,000 f
- 9. Kauai Game Management Facilities, Kauai—Construction of storage building at Lihue; game water units (3) in Puu Ka Pele area; paving of parking area at Kokee checking station, signs and markers. 6,000
(2,000 f)*

Forestry

- 10. Forest Development and Timber Access Road, Hawaii—Continuing construction of unpaved roads in several forest reserves to improve access to merchantable stands for reforestation, hunting, other recreation and fire protection. 3,000
- 11. Forestry Headquarters, South Hilo, Hawaii—Incremental construction of improvements at forestry headquarters site. 25,000
- 12. Forest Development—Trails, Kauai—To provide quick access to forest planting areas, to provide forest fire protection, provide increased outdoor recreation sites; student or temporary help may be used. 25,000
- 13. Forest Development—Shelters, Kauai—Continuing construction of trail and roadside shelter units for wildlife picnic and over-night trail stops, including pit toilets, open shelter unit tables and bench units. Student help may be used. 8,000

State Parks

- 14. Kahana Valley State Park, Koolauloa, Oahu—Acquisition by installments of the entire valley in fee, followed by development as a major park, including dredging and filling, utilities and structures. 1,035,000
518,000 f
- 15. Keaiwa Heiau State Recreation Area, Oahu—Provision of camping, additional picnicking and hiking facilities, with nature and historical interpretive devices. Provision of a caretaker's residence to facilitate management. 50,000
- 16. Waiianapanapa Caves State Park, Hana, Maui—Incremental development of a major park, including additional roads, parking areas, interpretation of natural and historic features, trails, overnight campgrounds, and group use facilities. 220,000
(44,000 f)*
- 17. Palaaau State Park, Molokai—Incremental development of additional overnight camping and picnicking facilities, trails, overlooks, etc., of this park and interpretation of its natural, legendary and historic values. 10,000
- 18. Maalaea-Kaanapali State Parkway, Lahaina, Maui—Incremental development of parkways on state lands located along Honoapiilani Highway, including Wahikuli Park development. 140,000
(70,000 f)*
- 19. Hapuna Beach State Park, Hawaii—Improvements and expansion of former county park to include overnight camping, cabins, extensive grassed areas with shade and flowering trees, picnic facilities, beach facilities, etc., to include considerable more area than the original county park, and including necessary utilities, roads and parking, grading,

* Non-add federal reimbursement.

irrigation system, management facilities, etc. Acquisition of private lands surrounded by state lands.	370,000 (106,000 f)*
20. Wailoa River State Recreation Area, Hawaii—Incremental expansion of existing facilities in the vicinity of Hilo Bay, Waiakea Pond and Wailoa River, including utilities, grading, landscape planting and a botanical collection, visitor center to portray the attractions of the Big Island, including furnishings, boating facilities, picnic facilities, roads and parking, a park maintenance shop, etc. Acquisition of privately owned property adjoining the park.	280,000 (32,000 f)*
21. Mauna Kea State Park, Hawaii—Incremental development of a major park, including necessary roads; utilities; cabins; group use facilities; and camping, hiking, riding and other facilities.	160,000 (80,000 f)*
22. MacKenzie State Park, Hawaii—Expansion of existing park into adjoining state lands and private land, development of a swimming beach, picnic, camping and cabin facilities. Needed private land to be acquired by gift or exchange if possible, by purchase if necessary.	155,000
23. Recreational Facilities, Laupahoehoe, Hawaii—To supplement prior appropriation in the development and construction of boat launching ramp and swimming area.	24,000
24. Recreational Facilities, Waipio Beach, Hawaii—Planning and construction of sanitary facilities with utilities.	24,000
25. Kalapana Development, Hawaii—Incremental expansion of facilities and landscaping for further development to facilitate tourist travel along chain of craters complex.	100,000 75,000
26. Akaka Falls Cable Car, Hawaii.	75,000
27. Kokee-Waimea Canyon State Park, Kauai—Incremental expansion, improvement, development and construction of utilities, roads, overlooks, interpretation of natural and historical features, camping facilities, hiking and riding trails and visitor and vacation facilities.	450,000 (22,000 f)*
28. Wailua River State Park, Kauai—Incremental development of the many recreational attractions of Wailua River, including boating facilities, campgrounds at Lydgate and upstream, cabins upstream, archaeological features, picnic areas and scenic overlooks, with necessary docks, moorages, roads, parking areas, utilities, visitor facilities, within park boundaries in the upstreams area.	198,000
29. Haena State Park, Kauai—Acquisition and planning for future development as an overnight campground, picnic area and swimming beach. Acquisition should include Ke'e Beach, the heiaus and the caves in the vicinity in addition to sufficient back-up and buffer area to provide for the projected development and for protection of the settings of these outstanding features. Development to be low density and rustic so as not to detract from the values of the site. Sufficient parking area should be provided for the use of hikers on the trail to Kalalau.	165,000 (82,000 f)*
30. Na Pali Coast State Park, Kauai—Provision of camping, picnicking and hiking facilities, protection and interpretation of historic and archaeological sites, management facilities, etc., for a wilderness type of park. The area includes the recreation and historic resources of the entire Na Pali area.	5,000 (2,000 f)*

* Non-add federal reimbursement.

31. Russian Fort, Kauai—Plans, acquisition, restoration, interpretation and development. 20,000
- In connection with park projects the board of land and natural resources may use its present staff, and shall employ temporary personnel who shall be exempt from the provisions of chapters 3 and 4, R.L.H. 1955, as amended, and who are unemployed and are duly registered as unemployed with the department of labor and industrial relations, to the maximum practical extent. The board may enter into contracts for the necessary equipment and supplies to be used in the project by negotiation.

Water Development

32. Maui County Water Project, engineering and geologic investigations and economic analysis for the development of water resources for Maui County. 150,000
33. Kihei-Makena Pipeline (To be expended by Maui County Board of Water Supply) 50,000
34. Pohakuloa Water Development, Hawaii—Development of a water system for Pohakuloa including the source and transmission facilities. 50,000
35. Kona Water Development, North Kona, Hawaii—Extension of water system along Mamalahoa Highway including pipelines and reservoirs to serve the proposed school, Hawaii Housing Authority's proposed housing project, and adjoining lands. 430,000
36. Honokahua Water Project, Hawaii—Development of a water system to serve the Honokahau Resort Development including the source, transmission and storage facilities. 465,000
37. Honaunau Water Project, Hawaii—Extension of water system along Mamalahoa Highway toward Hookena School. 150,000
38. Laupahoehoe Water Project, Hawaii—To supplement prior appropriation for construction of Laupahoehoe water system. (To be expended by Hawaii County Board of Water Supply) 115,000
39. Kapoho Water System, Hawaii—Develop well, install pumps, chlorinator, reservoir, pipelines and appurtenances. (To be expended by Hawaii County Board of Water Supply) 260,000
40. Paauilo Water System—Trunk line from Pohakea to Paauilo. (To be expended by Hawaii County Board of Water Supply) 15,000
41. Water Project—Hanalei District, Kauai—Repair and clearing irrigation ditches, using student or temporary help. 50,000
42. Water Project—County Base Yard, Kauai—Relocation of base yard to Kapaa Industrial Site. (To be expended by County of Kauai) 50,000
43. Sewer Systems, Kauai—To construct sewer systems at Kapaa, Wailua, Lihue, Koloa and Hanapepe. 750,000

Flood Control

44. Waimanalo Drainage Improvement Project, Koolaupoko, Oahu—Construction of drainage improvements within state owned lands in Waimanalo. 150,000
45. Kona Watershed Project, Hawaii—Construction of channel, culvert bridges, and other appurtenances for flood control at Kailua and Kainaliu, including land acquisition and related measures. 143,000
55,000 f
46. Puukapu Flood Control Project, Hawaii—Construction of flood control measures. 50,000

C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Director, Department of Transportation)

Airports

1. Statewide Airport Planning—Continuing airport studies, re-

search and advance planning of airfield and terminal facilities.	10,000	s
2. Kalaupapa Airport, Molokai—Installation of 3-inch water line from existing settlement line to airport terminal building.	10,000	s
3. Extension and Widening of Runway 3-21, Lihue Airport, Kauai—Plans for widening of existing runway, land acquisition, extension to present runway, holding aprons, parallel taxiway and other improvements.	41,000	a
	750,000	f
4. Airfield Improvements, Kahului Airport, Maui—Construction of drainage facilities, pavements and other improvements including plans for extension of runway 2-20 to 10,500 feet to accommodate jets.	585,000	a
	584,000	f
5. Alterations and Improvements at Honolulu International Airport—Construction of alterations and improvements at Honolulu International Airport. Funds to be supplemented by any unexpended balances from appropriations made in Items E-1, E-2, and E-3 of Act 195, SLH 1965 and Item II-C-1 of Act 38, SLH 1966.	9,280,000	r
	1,500,000	f
6. Motor Vehicle Testing and Recreation Facilities at Burns Field.	20,000	
7. Kona Airport, Hawaii—Expansion, improvements and alterations of terminal building and parking lot.	180,000	
8. Improvements to Terminal Building, Molokai Airport—Construction of miscellaneous improvements to existing terminal building, including covered walkways.	46,000	s
9. Airfield Improvements, Lanai Airport—Construction of taxiway turnarounds and runway lights and airport beacon.	91,000	s
10. Alterations and Additions, Kamuela Airport—Expansion of terminal building, additional automobile parking and aircraft apron areas, and construction of a small plane hangar.	130,000	a
11. Air Cargo Building, Kahului Airport—Construction of an air cargo building.	95,000	a
12. New Terminal and Ramp, General Lyman Field—Plans for new terminal complex.	150,000	a
13. General Lyman Field, Hawaii—Expansion of parking lot, alteration of terminal building and lighting improvements including related equipment. Any unrequired balances of funds from this project may be used for the planning of a new terminal building at General Lyman Field.	150,000	
Harbors—Commercial		
14. Statewide Harbor Planning—Continuing harbor studies, research and advance planning of harbor and terminal facilities on all islands.	10,000	s
15. Development of Container Facilities at Fort Armstrong, Honolulu—Incremental construction and improvements at Fort Armstrong to meet container facility needs.	1,941,000	r
	50,000	s
16. Reconstruction of Pier 1, Kaunakakai Harbor, Molokai—Demolition and reconstruction of Pier 1 apron, including plans for deep sea harbor.	872,000	r
17. Reconstruction of Pier 2, Kahului Harbor, Maui—Demolition and reconstruction of Pier 2—apron.	540,000	r
18. Honolulu Harbor Waterfront Improvement, Honolulu—Create and develop back-up area for Sand Island Wharf to handle future shipping requirements, improvement of other waterfront properties at Honolulu Harbor for con-		

tainer operation, and reconstruction of Piers 8, 9, and 10 aprons.	2,185,000 r 170,000 s
19. Kahului Harbor Improvements, Maui—Construction of bulkhead wall, pilot boathouse and other improvements.	30,000 s
20. State-owned Drydock, Honolulu—Incremental construction of commercial drydock at Honolulu Harbor, including studies.	10,000 s
21. New Fuel Lines to Pier 1, Honolulu Harbor—Construction of new petroleum lines and new diesel line from Pier 11 area to Pier 1 extension; relocation and rehabilitation of existing lines in Harbor Area.	357,000 s
22. Deep-Water Port at Barber's Point, Oahu—Incremental development of a second deep-water port for Oahu.	155,000 f
23. Nawiliwili Harbor Improvements, Kauai—Construct comfort station for passenger vessels, relocated roadway and other improvements, provided funds appropriated herein may be used to supplement prior appropriations for other improvements at Nawiliwili Harbor.	132,000 s
24. Pier 1 Improvements, Hilo Harbor, Hawaii—Paving of back-up area for container operations, construction of comfort station for passenger vessels and other improvements.	75,000 s
25. Kewalo Basin Improvements, Honolulu—Improvements to existing facilities including construction of new dock for fish and wildlife service, wave absorbers and other improvements.	208,000 s 265,000 180,000 f
26. Master Plan for Piers 2-8, Honolulu Harbor, Oahu—Preparation of a master plan and feasibility study for the area bounded by Piers 2 and 8.	25,000 s
27. Office and Comfort Station, Kaunakakai Wharf, Molokai—Demolish existing building and construct new office and comfort station on Kaunakakai Wharf.	20,000 s

Harbors—Small Boats

28. Honokahau Small Boat Harbor, Kona, Hawaii—Development of a 415-boat capacity all-weather marina on state-owned land at Kealakehe, Kona, Hawaii, including dredging of entrance channel and harbor basin; design and construction of mooring and shore facilities for 60 boats.	718,000 662,000 f
29. Additional Moles and Improvements at Ala Wai Small Boat Harbor, Honolulu—Prepare master plan and incrementally construct new breakwater, new bulkhead walls, dredge and fill to create 2 new moles, boat slip, construct new catwalks, utilities, roads, restroom facilities, landscaping, and other improvements, provided that this project shall not interfere with the sport of surfing.	1,097,000
30. Improvements to Lanai Small Boat Harbor, Manele Bay, Lanai—Improvements to Lanai Small Boat Harbor including construction of silting basin and diversion ditch, reimbursement of claims for extra work on first phase small boat harbor project.	275,000 165,000 f
31. Heeia-Kea Small Boat Harbor, Oahu—Completion of dredging and catwalks. To supplement funds authorized by Act 38, SLH 1966, for incremental improvements.	7,000
32. Haleiwa Small Boat Harbor, Oahu—Incremental development of light draft harbor to accommodate 220 boats. Dredging of outer basin and middle basin, construction of Mole A, makai side of revetment, Mole B, revetment in	

	Anahulu Stream, construction of catwalks, comfort station, utilities and other improvements.	574,000
33.	Wailoa River Bulkhead Repairs, Hilo, Hawaii—Repair undermined bulkhead wall within sampan basin and other improvements.	55,000
34.	Port Allen Small Boat Harbor Breakwater Modification, Kauai—Modify existing breakwater to prevent damage to small boat harbor facilities.	27,000
35.	Additional Improvements to Maalaea Small Boat Harbor, Maui—Incremental development of present harbor including grading and paving existing roadway and parking area, construction of utilities to existing mooring facilities, and other improvements.	52,000
36.	Kawaihae Small Boat Harbor, Hawaii—Incremental construction of a small boat harbor for 300 craft, including wave absorber, mole, access channel, and other improvements.	31,000 f
37.	Improvements to Kukuiula Small Boat Harbor, Kauai—Construction of comfort station, utilities, parking area and other improvements and acquisition of land.	40,000
38.	Kaunakakai Small Boat Harbor, Molokai—Construct a small boat harbor along the east side of existing mole, including additional mooring facilities at existing small boat harbor area.	5,000 10,000 f
39.	Hanalei Small Boat Harbor, Kauai—Plans, construction, acquisition of land, dredging and other improvements at mouth of Hanalei River for small boat navigation.	88,000
40.	New Lahaina Small Boat Harbor—Construction of a new small boat harbor between Lahainaluna Road and Dickenson Street. To supplement prior appropriations.	5,000

Harbors—Beach Erosion and Others

41.	Restoration of Waikiki Beach, Honolulu—Restoration of Waikiki Beach, including the placement of coral fill covered with sand and the construction of new groins.	426,000 82,000 f
42.	Statewide Beach Erosion Control Study—Engineering study to determine causes and extent of erosion of beaches in the Islands and to determine solutions to the erosion problems.	50,000
43.	Kihei Beach Erosion	142,000

Highways—Statewide

44.	Federal-Aid Highway Route Planning Traffic, Finance, Road Use, Road Life and Economic Studies, Statewide—Highway studies and research and advance planning of federal-aid highway projects required to qualify the State to receive federal-aid on specific projects.	250,000 s 547,000 FAI 44,000 FAP 29,000 FAS 18,000 FAU
45.	Miscellaneous Improvements to Existing Intersections and Highway Facilities, Statewide.	99,000 s 23,000 FAP
46.	Clean-up of Highway Rights-of-Way Requirements, Statewide.	200,000 s
47.	Scenic Development and Roadside Beautification of Federal-Aid Highways, Statewide.	7,000 s 15,000 f 425,000 f

Highways—Oahu

48.	Interstate Route H-1, West of Waiiau Interchange to East of Halawa Interchange—Continuing construction of approxi-
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	mately 3.3 miles of eight-lane divided highway, including the Waiawa and Halawa Interchanges, from west of the Waiawa Interchange to east of the Halawa Interchange.	2,274,000 a
		12,882,000 FAI
49.	Interstate Route H-1, East of Kunia Interchange to East of Waiawa Interchange—Continuing construction of approximately 3.9 miles of eight-lane divided highway, including the Waiawa Interchange, from east of Kunia Interchange to east of Waiawa Interchange.	348,000 a
		1,970,000 FAI
50.	Interstate Route H-3, Junction at H-1 to Kaneohe Marine Corps Air Station—Continuing construction of approximately 14.5 miles of four-lane divided highway from Junction at H-1 to Kaneohe Marine Corps Air Station.	1,400,000 a
		7,900,000 FAI
51.	Interstate Route H-1, East of Waiawa Interchange to West of Waiawa Interchange—Continuing construction of approximately 1.1 miles of eight-lane divided highway from east of Waiawa Interchange to west of Waiawa Interchange.	864,000 a
		4,896,000 FAI
52.	Kamehameha Highway Improvements, Aiea, Oahu—Widening of existing four-lane divided highway to 6 lanes from Aiea Interchange to Pearl Harbor Spur.	157,000 s
		43,000 a
		165,000 FAP
53.	Kamehameha Highway, Pali Golf Course to Kaneohe Bay Drive—Continuing construction of approximately 1.8 miles of four-lane divided highway from the Pali Golf Course to Kaneohe Bay Drive.	364,000 a
		298,000 FAP
54.	Kalaniana'ole Highway Improvement—Widening of existing 4-lane highway to 6 lanes and other improvements from vicinity of Ainakoa Avenue toward Aina Haina.	459,000 a
		375,000 FAP
55.	Mokapu Saddle Road—Construction of approximately 1.5 miles of four-lane divided highway from Kaneohe Bay Drive to existing Mokapu Boulevard.	1,241,000 a
		1,015,000 FAS
56.	Moanalua Road Improvements, Aiea Toward Middle Street—Improvement of existing four-lane divided highway from Aiea to Middle Street.	2,668,000 a
		2,183,000 FAP
57.	Emergency Truck Turnouts at Pali Highway and Likelike Highway—Construction of 4 emergency truck turnouts.	156,000 a
58.	Farrington Highway Improvements Between Piliokoe Gulch and Kaena Point—Incremental improvement of Farrington Highway from Piliokoe Gulch to Kaena Point.	559,000
59.	Kahekili Highway—Construction of approximately 1.0 mile of two-lane highway from Kamehameha Highway in the vicinity of Hygienic Store to connect to existing Kahekili Highway, including preliminary plans for Kamehameha Highway on new alignment beyond this connection towards Kualoa.	1,867,000
60.	Relocation of Testing Laboratory Facilities—Relocation and construction of testing laboratory facilities from Ft. Armstrong baseyard to a new location.	402,000
61.	Miscellaneous Drainage Improvements—Incremental drainage improvements to existing highway facilities on Oahu.	93,000 a
		7,000 s
62.	Ala Moana Boulevard at Ala Wai Canal—Widening of existing bridge and approaches from present 4-lanes to 6-lanes. State funds to be matched by City & County of Honolulu.	370,000

63. Installation of Median Guardrail, Pali Highway—Installation of median guardrail on Pali Highway from Carter's Corner to Pali Tunnel and Kahanaiki Bridge to Waimanalo Junction.	15,000 a 111,000 s 103,000 FAP
64. Installation of Median Guardrail, Likelike Highway—Installation of median guardrail on Likelike Highway from School Street to Kaneohe Bay Drive.	215,000 a 176,000 FAP
65. Intersection Improvement, Kalaniana'ole Highway at Maunawili Road—Intersection improvements.	76,000 s 63,000 FAP
66. Roadway Improvements on Likelike Highway at Kula Kolea Drive—Installation of traffic signal system and construction of deceleration lane.	19,000 s 16,000 FAP
67. Traffic Signals on Nimitz Highway at Puuhale Road—Installation of traffic signals.	9,000 s 7,000 FAP
68. Highway Lighting along Nimitz Highway, Elliot Street to Middle Street—Installation of highway lighting system.	48,000 s 39,000 FAP
69. Highway Lighting along Kamehameha Highway, Makalapa Gate to Pearl Harbor Spur—Installation of highway lighting system.	16,000 s 14,000 FAP
70. Roadway Improvement on Kamehameha Highway at Waihanu Street—Construction of deceleration lane.	22,000 s 18,000 FAP
71. Highway Lighting along Pali Highway, Pauoa Ramp to Wyllie Ramps—Installation of highway lighting system.	35,000 s
72. Highway Lighting along Farrington Highway, Ewa Junction to Leokane Street—Installation of highway lighting system.	32,000 s
73. Farrington Highway, Landscaping—Installation of sprinkler system and planting of shrubs and trees within the highway right-of-way of Farrington Highway from KAHU radio station to Ewa-Schofield Junction.	160,000 a
74. Vehicle and Equipment Storage Shed at Hauula Baseyard—Demolish and remove existing storage shed and construction of vehicle and equipment storage building.	7,000 s
75. Castle Junction Interchange—Plans for construction of an interchange at the junction of Kamehameha Highway and Kalaniana'ole Highway and Pali Highway.	11,000 s 9,000 FAP
75a. Likelike Highway, School Street to Kalihi Street—Construction of additional lanes on Likelike Highway mauka of School Street to the vicinity of Kalihi Street including improvements at School Street intersection.	52,000 a 38,000 x
76. Nimitz Highway Curve in vicinity of Iwilei—Reconstruction and improvement of existing curve for the outbound lanes of Nimitz Highway vicinity of Iwilei Road, including acquisition of additional rights-of-way as required, installation of barriers, lights, signs and other improvements.	198,000 a 161,000 FAP
77. Pedestrian overpass over Kalaniana'ole Highway at Lunalilo Home Road.	75,000
78. Interstate H-1—Off-Ramp for Ewa-bound traffic at 11th Avenue, Kaimuki, Honolulu Plans, Rights-of-Way and Construction.	479,000
79. See item 92.	

80. See item 93.	
81. Halawa Heights Road—Widening and Overhead Street Lights at Moanalua Road intersection.	90,000
82. Second Entrance to Wahiawa, Oahu—To provide a second entrance to Wahiawa on the southeasterly side of Wahiawa.	200,000
83. Waimano Home Road—Widening of road on existing right-of-way with City and Council of Honolulu participating in financing project.	240,000
84. Kamehameha Highway — Whitmore Avenue Intersection — Plans and construction of a deceleration lane on Kamehameha Highway for turn into Whitmore Avenue.	10,000
85. Interchange for Likelike Highway and School Street—For plans.	20,000
86. Interchanges for Kahekili-Kamehameha-Likelike Highways—For plans.	20,000
87. Waipahu Street—Need and feasibility study for the eventual widening of Waipahu Street (particularly in the vicinity of portion to be realigned for the construction of Interstate Route H-1) as a 4-lane divided highway.	5,000
88. Kamehameha Highway—Kipapa Street Intersection—Provide a left turn deceleration-storage lane in the median for Honolulu-bound traffic.	19,000
89. Moanalua Road Improvement—Widening of Honolulu-bound lane on Moanalua Highway between Aiea access road and Hale Street.	50,000
90. Kamehameha Highway—Waihonu Street Intersection—Provide a left turn deceleration-storage lane in the median for Honolulu-bound traffic.	22,000
91. Farrington Highway from Makua toward Kaena Point—Plans, land acquisition, and incremental construction along new alignment.	250,000
92. Likelike Highway—Valley View Drive Intersection Improvement—Construction of deceleration lane in median.	10,000
93. Fort Shafter Overpass and Kaua Street Intersection—Installation of traffic signals.	20,000

Highways—Maui

94. Kahului Airport—Maalaea Highway—Construction of a highway from Kahului Airport to Honoapiilani Highway near Maalaea.	22,000 s 18,000 FAS
95. Haleakala Highway—Continue widening and resurfacing portions of existing narrow (10 ft. wide) highway.	180,000 a
96. Hana Belt Road, Lower Paia Section—Construction of approximately 2.6 miles of 2-lane highway mauka of existing county road, beginning approximately one-half mile west of lower Paia and ending at the beginning of Project F-036-1(1) near Hookipa Park.	68,000 a 55,000 FAP
97. Haleakala Highway, Airport Junction to lower Kula Road Junction—Widen, realign and reconstruct approximately 7.7 miles of existing road from the Kahului Airport Junction on Hana Highway to its junction with the Kula Highway at Pukalani.	75,000 a 51,000 FAP
98. Maui Baseyard—Supplementary appropriation for construction of maintenance yard and office for Maui District Office—To include feasibility study of joint use by State and County.	16,000 s 152,000 a
99. Kaahumanu Avenue Sidewalk—Construction of concrete sidewalk from Papa Avenue to Baldwin High School.	15,000

100. Hana Belt Road—Widening, reshaping and paving approximately 12.0 miles of existing highway.	27,000
101. Piilani Highway, Kihei to Ulupalakua Section—Construction of approximately 8.0 miles of 2-lane highway from Kihei to Ulupalakua along route shown on County of Maui Master Plan.	18,000 s 15,000 FAS
102. Kahekili Highway, Waihee to Honokohau, Maui — Widen, shape and pave approximately 18.3 miles of existing dirt road, beginning at Waihee, and finish work presently underway at the Honokohau terminus of this project.	220,000
<p>The Department of Transportation shall, whenever practicable, utilize the labor of wards of the Corrections Division of the Department of Social Services. The department may also use its present staff and staff of other state agencies including, but not limited to, staff of the Department of Land and Natural Resources and Accounting and General Services and the County of Maui, employ temporary personnel who shall be exempt from the provisions of chapters 3 and 4, R.L.H. 1955, as amended, and who are duly registered as unemployed with the Department of Labor and Industrial Relations, to the maximum practical extent. The department may enter into contract with other governmental agencies for necessary equipment, supplies, and other services to be used in the project, if not with governmental agencies then with private firms by public bid.</p>	
<p>Highways—Hawaii</p>	
103. Hawaii Belt Road, Mud Lane Toward Kamuela Race Track —Construction of approximately 7.0 miles of two-lane highway between Mud Lane and Kamuela Race Track on an alignment by-passing Waimea.	148,000 a 122,000 FAP
104. Kawaihae Road, Kawaihae Toward Kamuela Race Track— Construction of approximately 11.0 miles of two-lane highway on a new alignment, from the end of Project S-0260 (1) at Kawaihae to junction with the Hawaii Belt Road in Waimea near the Kamuela Race Track.	89,000 a 73,000 FAS
105. Hawaii Belt Road, beginning of Project FAP 10C(1) to end of Project F10(6)—Reconstruction and resurfacing of approximately 4.2 miles of existing two-lane highway from the beginning of project FAP 10C(1) to the end of Project F10(6).	152,000 a
106. Hawaii Belt Road, End of Project F10(6) to Waimea—Improve and resurface approximately 9.0 miles of the Hawaii Belt Road from the End of Project F10(6) to Waimea.	252,000
107. Olaa-Hilo Road, Inbound Lane—Reconstruction of approximately 2.75 miles of existing old Volcano Road between Olaa Slaughter House road and Makalika Street in Panaewa Forest Reserve.	100,000 a 257,000 FAP
108. Kawaihae-Mahukona Road—Complete construction of approximately 11.318 miles of two-lane roadway from Kawaihae to Mahukona and 0.104 mile of access road.	510,000
109. Hawaii Belt Road, Kainaliu to Papa—Construction of approximately 26 miles of two-lane highway from Kainaliu to the beginning of F-011-1(3) in Papa.	8,000 a 20,000 s 22,000 FAP
110. Pahoa-Kalapana Road, Kaimu to beginning of Project ER-4(1)—Construction of approximately 4.2 miles of two-lane highway from Kaimu to beginning of Project ER-4(1).	584,000 a 493,000 FAS
111. Keaau-Pahoa Road and Keaau-Pahoa Road Junction—To supplement prior appropriations made under Act 38, SLH 1966	

	and to construct storage lane and other improvements at Keaau-Pahoa Road Junction.	93,000 a 77,000 FAS
112.	Kailua-Kawaihae Road, Section II, Honokahau to Keahole—Construction of approximately 4.9 miles of two-lane highway from the vicinity of the Honokahau Small Boat Harbor to the vicinity of the proposed new airport at Keahole.	344,000
113.	Hilo Baseyard—Construction of vehicle storage sheds, paving, sidewalks, curbs, drywell and other related improvements, supplementary appropriation to complete improvements to Hilo Baseyard located at 50 Makaala Street and to amend Item D-60, Section 1, Act 195/65 to not limit the project to the construction of a vehicle storage shed.	17,000 s
114.	Keaouhou Baseyard—Supplementary appropriation for grading, paving, construction of a chain link security fence and erection of a quonset hut.	15,000 s
115.	Honokaa Baseyard—Supplementary appropriation for grading, paving, construction of a chain link fence and erection of a quonset hut and supplementary utilities.	10,000 s
116.	Honokaa-Waipio-Mud Lane Road—For construction, including engineering and rights-of-way costs, of the additional sections of the two-lane high-type pavement roadway from Haina Road intersection to Waipio Lookout; and to authorize a route feasibility study from Waipio Lookout to Hawaii Belt Road, vicinity of Mud Lane, and the expenditure of unexpended balances of prior authorizations and appropriations for previous sections of the Honokaa-Waipio Road project on the additional sections authorized herein.	323,000 a 277,000 FAS
117.	Kailua-Kawaihae Road, Section III, Keahole to Puako—Plans for construction of approximately 22 miles of two-lane highway from the vicinity of the proposed new airport at Keahole to Puako on an alignment which by-passes Puako Beach Lots.	90,000
118.	Kanoelehua Avenue, Inbound Lane, End of Project No. F-011-1(2) to Kamehameha Avenue—Plans for construction of approximately 3.788 miles of four-lane highway by utilizing the present two-lane highway and constructing an additional two-lane highway on a parallel alignment from end of Project No. F-011-1(2) to Kamehameha Avenue, existing two-lane highway to be resurfaced with 1" asphalt concrete.	10,000 s
119.	Hamakua (Plumeria) Road—Plans and construction of two-lane highway from Mud Lane Road to Honokaa town with the County of Hawaii participating in financing project. (To be expended by County of Hawaii.)	50,000
120.	Pahoa-Pohoiki Junction—Plans for construction to follow state and federal secondary highway standards.	40,000
121.	Overpass, Hamakua Belt Road, Honokaa—Plans, land acquisition and construction of an overpass.	22,500
122.	Kaumana Drive, Hawaii—Widening, improvement and construction of shoulders for a footpath, originating from Kaumana School in both directions.	75,000
123.	Hilo Waterfront Road, Wailoa River to Hilo Wharf approach road and including Wailoa Bridge—Plans for construction of approximately 1.3 miles of four-lane divided highway beginning at Wailoa River (new Wailoa Bridge included) and along an alignment following the existing Kamehameha Avenue and Silva Street to an ending at a junction with Kalaniana'ole Avenue.	75,000
124.	Keaukaha to King's Landing Road—Route Study and plan preparation for new scenic route from Keaukaha toward	

King's Landing, including plans for water system. (To be expended by the County of Hawaii.)	100,000
Highways—Kauai	
125. Kauai Belt Road—Wainiha Section—Construction of approximately 1.2 miles of a two-lane roadway including two bridges and one box culvert, beginning at the intersection of Wainiha Power House Road and Kuhio Highway towards Lumahai Bridge.	64,000 a 53,000 FAS
126. Kauai Belt Road—Kapaia Truck Climbing Lanes—Construction of truck climbing lanes on both sides of Kapaia Bridge.	225,000 a
127. Ahukini-Nawiliwili Cutoff Road—Construction of 1.1 miles of two-lane highway from Ahukini Road to Rice Street.	2,000 a 36,000 s 32,000 FAP
128. Kauai Highway Base Yard—Construction of a new base yard for the Kauai District in Kapaa industrial site.	202,000 a 97,000 x
129. Aakukui Bridge, Pakala—Revamping channel section of Aakukui Bridge utilizing crushed rock base and concrete paving and walls.	47,000 a
130. Roadway Improvement—Kuhio Highway in the vicinity of Wailua Golf Course—Widen shoulders, install guard rail and traffic control devices and extend culverts.	27,000 a 23,000 FAP
131. Landscaping Kauai Belt Road—Planting of shrubs and trees such as: shower trees, poinciana, oleander, hibiscus, hala, Samoan coconut, bougainvillea, and kalamona within the federal-aid highway rights-of-way. Student and temporary workers may be hired for this project.	25,000 a 11,000 FAP 10,000 FAS
132. Highway Lighting along Ahukini Road from Airport to Kauai Belt Road at Lihue — Installation of highway lighting system.	65,000 a
133. Grade roadway in Annie Hussey Tract, Aguiar Tract and Texiera Tract—(To be expended by the County of Kauai.)	20,000
134. Kauai Belt Road through Kapaa—Plans, rights-of-way and construction of Kauai Belt Road from Waikaea Canal to Kawaihau Road.	60,000 a 111,000 FAP
135. Hanalei Bridge Reinforcing—(To be expended by the County of Kauai.)	20,000
136. Lihue-Wailua-Princeville Scenic Road—To continue construction of road from north fork Wailua River along power line to the Princeville area. To supplement Item D-75, Act 195, SLH 1965.	50,000
137. Kokee Road Resurfacing—(To be expended by the County of Kauai.)	100,000

D. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Director, Department of Planning and Economic Development)

1. Foreign Trade and Pacific Affairs Facilities, Honolulu, Oahu —Cover V-yard between Pier 39 shed wings A & B. Approximate area 50,000 sq. ft. Construction will include roof, front wall, and lighting. Prefabricated material.
2. Updating Kauai Master Plan—(To be expended by County of Kauai.)

- 3. Master plan for public facilities in Nanakuli and Waianae. 10,000
- 4. Hamakua, Hawaii—To supplement prior appropriations under Section 1-G-13, Act 195, SLH 1965 for visitors destinations study, including recreation and park sites. Prior appropriation for this project shall be expended by the Department of Planning and Economic Development. 1,000

E. UNIVERSITY OF HAWAII

- 1. Greenhouse Facilities, All Islands—Planning, construction and equipping of replacement and additional greenhouses for the College of Tropical Agriculture. 150,000
- 2. Land Acquisition, Manoa, Oahu—Acquisition of approximately 30 acres of land for the development and establishment of University of Hawaii facilities. (Total cost of land to be paid in yearly installments.) 1,000,000
- 3. Plant Science Building, Manoa—The completion of construction of instructional and research laboratories, offices and classrooms and the acquisition of furniture and equipment for the Plant Sciences Facility. 448,000
- 4. Student Center, Manoa—Facilities for student activities, snack and lease services and bookstore. 757,000
2,519,000 r
- 5. Student Dormitories, Manoa—Acquisition of furniture and equipment for the student dormitory for single students. 82,000 r
- 6. Student Dormitory, Manoa—Dormitory facilities to house single students. 269,000 r
- 7. Engineering Facilities, Manoa—Completion of plans and construction of facilities for the College of Engineering. 400,000
- 8. Sinclair Library Conversion, Manoa—Alterations to and re-furnishing of the Sinclair Library including the acquisition of additional furniture and equipment. 462,000
- 9. Astronomy Office-Laboratory Facilities, Manoa—Planning, construction and equipping of facilities to support the astronomy programs on the Manoa Campus. 2,435,000 f
- 10. Warehouse Building, Alterations, Manoa—The completion of biophysics teaching and research laboratories in the Warehouse Building by the installation of partitions, laboratory benches and equipment. 80,000
- 11. Temporary and Semi-Permanent Buildings, Manoa—Planning, construction and equipping of a single-story temporary and/or semi-permanent facilities to provide interim classrooms, laboratories and offices until the completion of construction of more permanent facilities. 550,000
- 12. Minor CIP Projects, Manoa—Planning, construction and equipping of minor improvements including new facilities as well as existing structures. 375,000
- 13. General Utilities Improvements, Manoa—Planning and construction of utilities improvements on the Manoa Campus. 643,000
- 14. Road Improvements, Manoa—Planning and construction of lower campus and Magoon property road improvements on the Manoa Campus. 90,000
- 15. Physical Sciences Facilities, Manoa—Planning of facilities for the Physical Sciences programs of the College of Arts and Sciences. 150,000
- 16. Major CIP Planning, Manoa—Preliminary planning of a number of major facilities to be planned and constructed in the next few years excluding parking structures, student dormitories and faculty housing. 300,000
- 17. Land Acquisition, Manoa—Acquisition of approximately 5.7 acres of land and improvements in Manoa fronting on Dole Street and known as the Pineapple Research Institute. (Cost

	based on preliminary estimates.) The balance, if needed, to be included in a subsequent budget request in accordance with price determination.	882,000
18.	Art Facilities, Manoa—The completion of plans and the construction of facilities for the Art Department.	792,000 f
19.	Student Dormitory, Hilo—Acquisition of furniture and equipment for the new student dormitory project for single students.	41,000 r
20.	Mauna Kea Observatory, Hawaii—Planning, construction and equipping of a road, mid-elevation dormitory and base camp and a sea-level laboratory office building, for the Mauna Kea Observatory including additional furniture and equipment for the observatory.	2,440,000 865,000 f
21.	Classroom-Laboratory Facilities, Hilo—Construction of facilities to house classrooms, laboratories, etc., especially for the biological sciences program at the Hilo Campus.	473,000
22.	Cafeteria, Hilo—Planning of facilities to supplant the existing cafeteria facilities.	19,000
23.	Minor CIP, Hilo—Planning, construction and equipping of minor improvements to the Hilo Campus. Includes the construction of new facilities as well as modifications to existing structures.	50,000
24.	Astronomy Laboratory, Maui—Acquisition of furniture and equipment for the Astronomy laboratory. The appropriation made by Item L-A-28, Act 38, SLH 1966 may be used at a location other than Kahului, Maui.	45,000
25.	Site Improvements, Hilo Campus, Hilo, Hawaii—Construction of covered walkway.	15,000
26.	Administration Building, Hilo Campus, Hilo, Hawaii—Planning and construction of a building to house administrative, staff, and business offices.	48,000
27.	Student Union and Cafeteria Building, Hilo Campus, Hilo, Hawaii—Planning and construction.	50,000
28.	Student Dormitory, Hilo Campus, Hilo, Hawaii—Planning and construction of a dormitory facility.	617,000
29.	Facilities for Economics, Planning, Urban Growth and Community Development Programs, Manoa, Oahu—Planning of facilities for related instructional, research, and public service programs.	228,000
Community College System		
30.	System Planning, Community College System, All Islands.	25,000
31.	Site Development, Leeward Oahu Community College—Development of land, utility, road, and power services connections including off-site development.	820,000
32.	Library, Leeward Oahu Community College—Design and construction of Library facilities, including built-in equipment, bookshelves and furniture.	937,000
33.	Classrooms, Leeward Oahu Community College—Construction and equipping of classrooms including science laboratories.	119,000
34.	Maintenance Facilities, Leeward Oahu Community College—Design and construction of maintenance facilities.	200,000
35.	Hotel-Restaurant Facilities, Kapiolani Community College—Furnishing of hotel-restaurant facilities with equipment for training purposes, and designing and constructing of cafeteria-lanai facilities.	204,000
36.	Relocatable Units, Honolulu Community College—Design and construction of relocatable units.	108,000
37.	Land Acquisition, Honolulu Community College—Study, appraisal and acquisition of adjoining land.	1,320,000

38. Campus Cafeteria-Bookstore, Leeward Oahu Community College—Design and construction of a cafeteria-bookstore consisting of a bookstore, food facilities and student activities space.	608,000
39. Engineering and Technical Trades Facilities, Leeward Oahu Community College—Design and construction of engineering and technical trades facilities including furniture and equipment.	1,400,000 411,000 f
40. Relocatable Units, Kapiolani Community College—Design and construction of relocatable units.	36,000
41. Landscape and Site Improvements, Kapiolani Community College—Landscaping and Site improvement, including a security fence. (The appropriations for the Leeward Oahu Community College items may be combined and allocated in such manner as the University deems appropriate to carry out the purposes of the construction program.)	30,000
42. Restroom Facilities, Maui Community College—Design and construction of restroom facilities, provided that all funds, including prior appropriations, may be used for the purchase of land.	75,000
43. Library, Maui Community College—Supplementary funds for construction of library facilities including equipment, provided that all funds, including prior appropriations may be used for purchase of land.	100,000
44. Landscaping, Maui Community College — Landscaping and other improvements, provided that all funds, including prior appropriations, may be used for the purchase of land.	50,000
45. Relocatable Units, Kauai Community College—Design and construction of relocatable units.	72,000
46. Community College, Kauai—Plans, construction and furnishings. The development of the Kauai Community College shall be determined after consultation with the Department of Planning and Economic Development, the Kauai County Planning and Traffic Commission and the University of Hawaii.	309,000

Educational Television

47. Addition to Television Production Building, Manoa—Second of three stages for development of production building including all major equipment. Federal funds to be solicited and used to offset state funds to extent available.	332,000
48. Additional Studio Production Equipment, Manoa—Acquisition of additional equipment for previously authorized Studios A and B.	65,000 32,000 f
49. Transmission Equipment for Hana, Maui.	10,000 10,000 f

Provided that state funds appropriated for any of the foregoing projects of the University of Hawaii may be applied by the Governor to any of the following projects for which the University of Hawaii qualifies for federal funds.

- a. Chemistry Facilities
- b. Engineer Facilities

F. DEPARTMENT OF EDUCATION

Public Law 815 Funded Schools

1. Makakilo Elementary, Oahu—Planning and construction of 1st increment—30 classrooms, administration, library, kitchen, multi-purpose dining room, site work, and equipment.	878,400 f
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2. Parker Elementary, Oahu—Planning and construction of 10 classrooms, administration, library, kitchen-multi-purpose dining room, site work, and equipment.	645,700 f
3. Wheeler Intermediate, Oahu—Planning and construction of 1st increment—16 regular classrooms, 10 special classrooms, kitchen-multi-purpose dining room, site improvement and equipment.	1,202,900 f
4. Wheeler 2nd Elementary, Oahu—Planning and construction of 1st increment—18 classrooms, administration, library, kitchen-multi-purpose dining room, site work, and equipment.	1,291,400 f

Additions to Existing Schools

5. Kalihi-waena Elementary, Oahu—Planning and construction of additional classrooms and multi-use room.	60,000
6. Waipahu Intermediate, Oahu—Planning and construction of additional classrooms and improvement to athletic field.	980,000
7. Kalaniana'ole Elementary and Intermediate, Hawaii—Planning and construction of classrooms.	60,000
8. Kauai High, Kauai—Planning and construction of physical education facilities.	250,000
9. Campbell High, Oahu—Planning and construction of additional classrooms.	188,000
10. Keaau Elementary and Intermediate, Hawaii—Master plan and planning and construction of classrooms.	158,000
11. Ernest B. de Silva Elementary, Hawaii—Planning and construction of classrooms and multi-purpose assembly area.	216,000
12. Pope Elementary, Oahu—Planning and construction of additional classrooms.	243,000
13. Enchanted Lake Elementary, Oahu—Planning and construction of additional classrooms and library.	244,000
14. Iliahi Elementary, Oahu—Planning and construction of classrooms.	144,000
15. Niu Valley Intermediate, Oahu—Planning and construction of additional classrooms.	241,000
16. Waialua High, Oahu—Supplementary to prior appropriation (Act 52).	55,000
17. King Intermediate, Oahu—Planning and construction of additional classrooms and completion of science and special classrooms.	200,000
18. Kalaheo-Hillside Intermediate, Oahu—Planning of additional classrooms.	32,000
19. Kaimuki High, Oahu—Planning and construction of 5 portable classrooms.	75,000
20. Kalani High, Oahu—Planning and construction of additional classrooms and site improvement.	22,000
21. Waialua Elementary, Oahu—Planning of classrooms and library.	22,000
22. Kailua Intermediate, Oahu—Planning of additional classrooms.	25,000

New Schools

23. Ewa Beach Intermediate, Oahu—Planning and construction of classrooms, kitchen-multi-purpose dining room, physical education unit, administration and library buildings, and music room.	1,592,000
24. Manana Elementary, Oahu—Construction of classrooms, administration and library buildings and kitchen.	789,000
25. Moanalua Intermediate, Oahu—Planning and construction of classrooms.	291,000
26. Nanakuli High, Oahu—Planning and construction of additional classrooms, and site work.	464,000

27. Keolu Extension Elementary, Oahu—Construction of classrooms, administration and library buildings, kitchen and site work.	789,000
28. Makalapa Elementary, Oahu—Planning and construction of classrooms, administration and library buildings, kitchen and site work.	789,000
29. Waipahu 3rd Elementary, Oahu—Planning and construction of additional classrooms.	242,000
30. Waipahu 4th Elementary, Oahu—Construction of classrooms, office, library, kitchen and site work.	789,000
31. Moanalua High, Oahu—Planning and construction of classrooms, music rooms, shops, physical education unit, kitchen-multi-purpose dining room and site improvement.	1,792,000
32. New Lahaina Elementary, Maui—Planning of classrooms, kitchen-multi-purpose dining room and administration and library buildings and site work.	60,000
33. Kealahou Elementary, Hawaii—Supplementary to prior appropriation and planning and construction of additional classrooms.	160,000
34. Heeia-uka Elementary, Oahu—Planning of classrooms, office, library, kitchen and site work.	55,000

Land Acquisition and Plans

(To be expended by the Department of Education.)

35. Heeia Intermediate, Oahu—Land acquisition and planning.	750,000
36. Waimano-Pearl City Elementary, Oahu—Land acquisition and planning.	264,000
37. Kailua 2nd High, Oahu—Site study and master plan of new high school or expansion of present Kailua High School.	854,000
38. Mikilua Elementary, Oahu—Land acquisition, master plan and planning.	245,000
39. New Waimea Elementary, Kauai—Pre-land acquisition study.	10,000
40. Pearl City High, Oahu—Land acquisition, planning and construction.	1,070,000
41. Waiiau Elementary, Oahu—Land acquisition and planning.	519,000
42. Waimalu Intermediate, Oahu—Land acquisition and planning.	718,000
43. Salt Lake Elementary, Oahu—Land acquisition and master plan.	213,000
44. Mililani High, Oahu—Land acquisition and planning.	790,000
45. Sunset Beach Elementary, Oahu—Land acquisition.	100,000
46. New Holualoa Elementary, Hawaii—Master plan and feasibility study.	10,000
47. Waihee Elementary, Maui—Pre-land acquisition study and master plan.	5,000
48. Kauai Schools—Master plan of Kekaha, Kalaheo, Kilauea, and Hanalei Schools.	25,000
49. Wailuku-Kahului Intermediate, Maui—Master plan and feasibility study of a new intermediate school in the Wailuku-Kahului area. If the study determines that the intermediate school should be built instead of the new Maui High, then funds allotted in Act 38/66 may be used to plan and construct the new intermediate school.	10,000

Replacement of Existing Facilities

50. Kau High and Pahala Elementary, Hawaii—Master plan and planning and construction—renovation to science room; planning of agricultural laboratory and classrooms.	43,000
51. Kapaa High and Intermediate, Kauai—Planning and construction of music and classroom building.	170,000
52. Hilo Intermediate, Hawaii—Master plan and planning and construction of cafeteria and music-band building.	267,000

53. Honokaa High and Elementary, Hawaii—Land acquisition and plans.	17,000
54. Haaheo Elementary, Hawaii—Master plan and planning and construction of kindergarten classroom.	48,000
55. Pahoia High and Elementary, Hawaii—Master plan.	5,000
56. Konawaena Elementary, Hawaii—Planning and construction of classrooms.	138,000
57. Molokai Intermediate and High, Molokai, Maui—Planning and construction—improvement to athletic field and agricultural laboratory classroom and new gym.	112,000
58. Kohala High and Elementary, Hawaii—Master plan and planning of classrooms.	13,000

Administration and Library Buildings

59. Kahaluu Elementary, Oahu—Planning and construction of library and classrooms.	114,000
60. Liliuokalani Elementary, Oahu—Administration and library buildings, multi-use classroom and supplementary to prior appropriation in Act 195/65.	27,000
61. Linapuni Elementary, Oahu—Planning of administration and library buildings.	12,000
62. Maunawili Elementary, Oahu—Planning and construction of administration and library buildings.	193,000
63. Wilson Elementary, Oahu—Planning and construction of administration, library, and classroom buildings.	206,000
64. Kapunahala Elementary, Oahu—Planning and construction of administration and library buildings.	193,000
65. Kaunakakai Elementary, Molokai—Planning of library building.	15,000
66. Noelani Elementary, Oahu—Planning of library building.	15,000
67. Nuuana Elementary, Oahu—Planning of library building.	15,000
68. Aiea Intermediate, Oahu—Planning and construction of administration and library buildings.	255,000
69. Lanikai Elementary, Oahu—Planning and construction of library building.	100,000

Cafeteriums and Improvements to Existing Facilities and Grounds

70. Roosevelt High, Oahu—Renovation to kitchen (supplementary to prior appropriation in Act 201/63 and Act 38/66).	25,000
71. Waiakea Elementary, Hawaii—Planning and construction of dishwashing room and plans for administration and classroom buildings.	28,000
72. Aliamanu Elementary, Oahu—Planning and construction structural corrections to existing buildings.	100,000
73. Farrington High, Oahu—Plans for improvement to existing classrooms.	5,000
74. Lincoln Elementary, Oahu—Planning and construction—improvement to existing classrooms.	68,000
75. Kapaa Elementary, Kauai—Playground improvement and alteration of existing classrooms (supplementary to prior appropriation).	12,000
76. Lanai High and Elementary, Lanai—Planning and construction—improvement to athletic field.	51,000
77. Paaulo Elementary and Intermediate, Hawaii—Replacement of roof covering and plans for expansion of library and administration units.	79,000
78. Ahrens Elementary, Oahu—Site improvement.	11,000
79. Konawaena High and Intermediate, Hawaii—Planning and construction of retaining wall (supplementary to prior appropriation).	60,000
80. Castle High, Oahu—Replacement of bleachers.	84,000

- 81. Waianae Intermediate, Oahu—Planning and construction of physical education field. 110,000
- 82. Waiakea Intermediate, Hawaii—Planning and construction of band room and music room addition (supplementary to prior appropriation in Act 38/66). 90,000

Special Schools

- 83. Diamond Head School, Oahu—Construction of practical arts building. Supplemental to Act 38/66. 82,000
- 84. Hawaii Technical, Hawaii—Supplementary building and equipment monies for hotel/restaurant, cooking and dormitory programs. Unencumbered balance from Item I-B-94, Act 38, SLH 1966 may be used for this project. 522,000
50,000 f
- 85. Education Capital Improvement Funds—Statewide minor capital improvement, construction and relocation of portables, drainage, grounds, roadways, and utilities improvement and supplementary construction funds, and elimination of architectural barriers. 868,000

Public Libraries

- 86. McCully-Moiliili Branch Library, Oahu—To supplement prior appropriation including humidity and temperature control. 82,000
70,000 f
- 87. Keaau School-Community Library, Hawaii—To supplement prior appropriation to construct public and school library on school property including humidity and temperature control. 45,000
20,000 f
- 88. Kahuku Community-School Library, Oahu—To supplement prior appropriation including humidity and temperature control. 95,000
- 89. Pearl City Library, Oahu—To supplement prior appropriation including humidity and temperature control. 113,000
77,000 f
- 90. Central Library—Hilo, Hawaii—To supplement prior appropriation to improve the parking lot. 8,000
7,000 f
- 91. Kamuela Branch Library, Hawaii—To supplement prior appropriation for school-public library at Kamuela including humidity and temperature control. 190,000
30,000 f
- 92. Land acquisition, plans, construction, equipment and furniture for new schools, alterations, improvements, repairs and additions to existing facilities and grounds, additions to existing schools including but not limited to classrooms, administration, library, gymnasiums, and cafeteriums, and other minor capital improvement program projects for schools listed herein below and for various other schools for program improvement, health and safety and enrollment increases; plans, construction, including temperature and humidity control and furniture for public libraries and elimination and correction of architectural barriers: 7,000,000
(To be expended by the Department of Education.)

Oahu

Castle High & Intermediate
 Hauula Elementary
 Kahaluu Elementary
 Kahuku High & Elementary
 Kailua Elementary
 Kailua High
 Kailua Intermediate

Kalaeo Hillside Intermediate
 Ahuimanu Terrace
 Kaala Elementary
 Leilehua High
 Ahrens Elementary
 Campbell High & Intermediate
 Highlands Intermediate

Nanaikapono Elem. & Inter.
 Aliamanu Intermediate
 Hickam Elementary
 Kalihi Elementary
 Farrington High
 Kapalama Elementary
 Kaiulani Elementary
 Kalakaua Intermediate
 Kalihi-kai Elementary
 Central Intermediate
 Kaahumanu Elementary
 Kawananakoa Intermediate
 Lincoln Elementary
 McKinley High
 Ala Wai Elementary
 Hokulani Elementary
 Kaimuki High
 Kuhio Elementary
 Aliiolani Elementary
 Anuenue Elementary
 Jarrett Intermediate
 Liholiho Elementary
 Kahala Elementary
 Kaimuki Intermediate
 Heeia-uka
 King Intermediate
 Parker Elementary
 Waiahole Elementary & Intermediate
 Puohala Elementary
 Wahiawa Elementary

Waialua Elementary
 Waialua High & Intermediate
 Radford High
 Waianae Intermediate
 Waianae High
 Kalihi-waena Elementary
 Linapuni Elementary
 Puuhale Elementary
 Lanakila Elementary
 Maemae Elementary
 Kauluwela Elementary
 Likelike Elementary
 Nuuanu Elementary
 Pauoa Elementary
 Royal Elementary
 Stevenson Intermediate
 Lunalilo Elementary
 Manoa Elementary
 Noelani Elementary
 Washington Intermediate
 New Manoa Intermediate
 Liliuokalani Elementary
 Palolo Elementary
 Waikiki Elementary
 Wailupe Valley Elementary
 Wilson Elementary
 Hawaii-kai Elementary
 Jefferson Elementary
 Kalani High

Hawaii

Mountain View Elem. & Inter.
 Haaheo Elementary
 Hilo High
 Hilo Intermediate
 Hilo Union Elementary
 Pahoa High & Elementary
 Kaumana Elementary
 Waiakea Elementary
 Waiakea Intermediate
 Waiakeawaena Elementary

Kapiolani Elementary
 Honokaa High & Elementary
 Laupahoehoe High & Elementary
 Honaunau Elementary
 Kau High & Pahala Elementary
 Paaulo Elementary & Intermediate
 Konawaena High & Intermediate
 Naalehu Elementary
 Kohala High & Elementary
 Kealakehe Elementary

Lanai and Molokai

Kaunakakai Elementary
 Lanai High & Elementary

Maunaloa Elementary
 Molokai High & Elementary

Maui

Baldwin High
 Hana High & Elementary
 Kahului Elementary
 New Lahaina Elementary

Kula Elementary
 Lahainaluna High
 Waihee Elementary
 New Maui High

Kauai

Kalaheo Elementary
 Kapaa Elementary
 Kapaa High & Intermediate
 Kauai High
 Kekaha Elementary

Kilauea Elementary
 Wilcox Elementary
 New Waimea Elementary
 Hanalei Elementary

Public Libraries and Special Schools

Oahu

Ewa Beach Library
Kaimuki Library
Kalihi-Palama Library
Pearl City Library

Waimanalo Library
McCully-Moiliili Library
Diamond Head School

Hawaii

Keaau Library
Kamuela Library

Mountain View Library

Maui

Maui Public Library

Provided that the department of education or the department of accounting and general services with the approval of the governor is authorized within its appropriation to expend funds for capital improvement projects not specifically itemized herein or may supplement specific appropriations itemized herein to cope with contingencies related to elements such as fires, natural disasters, unexpected significant increases in student enrollment, program enrichments and school consolidations; provided further that such contingencies create an urgent need to pursue a course of action as permitted herein; provided further that the department of education, to fund these projects, shall utilize projects savings or substitute departmental projects as contained in this Act; and provided further that the governor shall report to the next budget session of the legislature on all projects affected by provisions contained herein.

G. HAWAIIAN HOME LANDS

(To be expended by the Director, Hawaiian Home Lands)

- | | |
|---|---------------------|
| 1. Nanakuli Roads, Oahu—Repair of existing roads to meet City and County standards, second increment of two blocks on Nanakuli Avenue, including part of Mano and Kawahia Avenues in Nanakuli, Oahu. | 170,000
55,000 s |
| 2. Anahola Subdivision, Kauai—To build roads, install utilities, survey and stake out 50 residence lots at Anahola, Kauai. | 180,000 |

H. DEPARTMENT OF HEALTH

Oahu

- | | |
|---|-------------------|
| 1. Hale Mohalu Hospital, Oahu—Plan a complete new hospital complex on Oahu for treatment and care of Hansen's Disease patients. | 100,000 |
| 2. Correct Fire Safety Deficiencies, Hawaii State Hospital, Oahu—Provide fire escape stairways—Wards Waipa, Lokai, Iolani, Haloa. Provide fire alarms for all permanent buildings. | 67,000 |
| 3. Diamond Head Health Center, Oahu—Plans for a multi-purpose facility to house certain health functions. Unexpended balances from Act 195, SLH 1965, item K-1 may be used for this purpose. | 42,000 |
| 4. Renovation of Entire Nursing Care Area, Maluhia Hospital, Honolulu—Renovation of the entire nursing care area of hospital includes radio communication system for Maluhia ambulance. | 465,000
15,000 |
| 5. Recondition Refrigeration Plant, Hawaii State Hospital, Oahu. | |
| 6. Remodel Cooke Ward, Hawaii State Hospital, Kaneohe, Oahu—Remodeling of Cooke Ward as a residential treatment center for the mentally disturbed adolescent children. | 129,000 |
| 7. Remodel Wards 4, 6, 7, and Hospital Annex, Waimano Training School and Hospital, Oahu. | 177,000 |

7a. Sheltered Workshop for Physically and Mentally Handicapped, Wahiawa, Oahu.	62,400
	57,600 f
8. Remodel Judd and Mahi Wards, Hawaii State Hospital, Oahu—To complete remodeling of Judd and Mahi Wards—similar to remodeled Akahi Ward.	156,000
9. Lanakila Health Center, Honolulu, Oahu—Plans for a public health center.	50,000
10. Remodel Damien Ward, Hawaii State Hospital, Kaneohe, Oahu—Remodeling of Damien Ward as a residential treatment center for the mentally disturbed adolescent children.	100,000
11. Leeward Hospital—Study to determine the feasibility of establishing a hospital in Leeward, Oahu.	12,000
12. Child Development Center, Wahiawa, Oahu.	10,608
	9,762 f
13. Kahuku Hospital—Installation of fire sprinkler and alarm systems and other improvements. Grant.	21,500

Maui

14. Water Storage Tank, Kalaupapa, Molokai—Provide a new water storage tank to replace existing tank. Unexpended balances from Act 195, SLH 1965, Item K-9-a may be used for this purpose.	19,000
15. Remodel Hospital Kitchen, Kula Sanatorium, Maui.	170,000
16. Maui Memorial Hospital—Purchasing and installing equipment for intensive coronary care unit and construction of new south wing.	35,000
17. Seclusion Rooms for Mental Patients, Kula Sanatorium, Maui—Converting two solarium spaces for seclusion rooms for highly disturbed mental patients.	21,000
18. Repairs to Water Main in Waikolu Valley, Molokai.	20,000
19. Lanai Community Hospital, Lanai—To supplement prior appropriation in Act 195, SLH 1965.	70,000

Hawaii

20. Kona Hospital, Hawaii—Plans.	90,000
21. Pathological Incinerator, Kohala Hospital, Hawaii.	7,000
22. Correct Defect in Ambulance Ramp and Protect Stairway, Hilo Hospital, Hawaii.	14,000
23. Complete Enclosure of Lanais, and Purchasing of Equipment, Hilo Hospital, Hawaii.	51,000
24. Additions to Kona Health Center, Hawaii, including Parking Area.	68,000
25. Improvements to Honokaa Hospital, Hawaii—Improvements to meet the requirements of the Social Security Act Amendments of 1965. To supplement appropriations made in Act 38, SLH 1966, Item IV-C-5.	50,000
26. Kau Hospital—To supplement prior appropriations to plan and construct hospital.	150,000
27. Kona Hospital, Hawaii—Improvements to geriatrics facilities.	10,000
28. Improvements to geriatrics facilities, Hilo Hospital, Hawaii.	35,000
29. Workshop for the Handicapped—To supplement prior appropriation. Construction of a workshop for the mentally and physically handicapped at Honokaa, Hawaii.	110,000

Kauai

30. Kauai Veterans Memorial Hospital, Waimea, Kauai—Plans, construction and equipment for O.B. Wing.	70,000
31. Kauai Veterans Memorial Hospital—Air Conditioning of certain rooms at Kauai Veterans Memorial Hospital.	10,000
32. Kauai Veterans Memorial Hospital, Waimea, Kauai—Purchase x-ray equipment.	35,000
33. Mahelona Hospital, Kealia, Kauai—Paving access road and parking area.	18,000

34. Correct Fire Deficiencies, Kauai Veterans Memorial Hospital, Waimea, Kauai.	42,000
35. Occupational Therapy Shop Building and Service Ramp, Mahelona Hospital, Kealia, Kauai—Plans for construction of a reinforced concrete building to centralize occupational therapy services and activities and a covered service ramp from the hospital to the proposed Occupational Therapy Shop Building.	44,000
36. Wilcox Hospital, Lihue, Kauai—Hospital improvements.	100,000
37. Expand Administration Office Area, Kauai Veterans Memorial Hospital, Waimea—Plans and construction of an addition.	20,000
38. Kauai Veterans Memorial Hospital, Waimea, Kauai—Master plan for hospital.	7,000

I. DEPARTMENT OF SOCIAL SERVICES

Social Services

1. Conditional Release Centers (Opport. Homes), Oahu—Reconstruct and equip the State Prison Superintendent's residence to provide for in community housing and supervision of 15 inmates prior to their parole. This could be referred to as a "half-way out house."	26,000
2. Relocate Security Towers No. 7 and No. 8, Hawaii State Prison, Oahu.	5,000
3. Completion of Air Conditioning, Liliuokalani Building, Honolulu.	74,000
4. Boys Community Foster Home, Hawaii Youth Correctional Facility, Honolulu—Rent, lease, or construct an apartment-type home for older boys while on parole. Said foster home to house not more than ten boys until they are able to find suitable living arrangements.	30,000
5. Alternate Electric Power Source, Hawaii Youth Correctional Facility, Oahu—Provide an alternate source of electrical power which will be automatically turned on in the event of power failure from the existing source.	10,000
6. Camp Illumination Project, Kulani Honor Camp, Hawaii.	3,000
7. Stainback Highway, Kulani Honor Camp, Hawaii—Survey, regrade, install culverts and resurface Stainback Highway to county road standards.	119,000

Hawaii Housing Authority

(To be expended by Hawaii Housing Authority)

8. Low-Income Housing, Oahu—Dwelling units for families of low income.	13,750,000 r
9. Community Facilities, Honolulu, Hawaii—Community Facility Building at Mayor Wright Homes.	155,000 r
10. Molokai Low-Income Housing—50 dwelling units for families of low income.	1,070,000 r
11. Kapaa or Lihue Low-Income Housing, Kauai—50 dwelling units for the elderly.	960,000 r

J. DEPARTMENT OF DEFENSE

1. Expansion of Wahiawa Armory, Oahu—Construction of a single-story, concrete masonry addition to the existing Hawaii National Guard Armory at Wahiawa to provide an additional 1,200 sq. ft. of space. The project to consist of the construction of a 40 ft. extension of the 30 ft. wide wing of the existing armory.	35,000
2. Modification of Battery Birkhimer, Ft. Ruger, Oahu—Modification of the State Civil Defense Emergency Operating Center, Battery Birkhimer, Fort Ruger, to provide protec-	

tion against the effects of a nuclear explosion and fallout, and to provide an adequate emergency power generating plant.	33,000	
3. Inter-Island Police Radio Intercommunications, Statewide—Installation of a Police Radio Inter-Island Intercommunications system as part of the State Civil Defense disaster warning system.	33,000	f
4. Additional Disaster Warning Sirens, Island of Niihau, and Kapaa, Kauai.	3,500	
5. Additional Disaster Warning Siren, Kapoho, Hawaii.	3,500	f
6. Construction of Vehicle Maintenance and Service Area, Ft. Ruger, Oahu—Construction of vehicle storage, maintenance and service area for Maintenance Company, 29th Support Battalion, Ft. Ruger. To consist of construction of asphalt concrete pavement and chain link security fencing.	4,000	
7. Paving and Construction of Off-Street Parking Area, Ft. Ruger, Oahu.	4,000	f
8. Replacement of Civil Defense Warning Sirens, Statewide—Continuous program for replacement of Civil Defense disaster warning sirens worn out and unserviceable because of age, use or exposure conditions.	2,000	
9. Paving of Maintenance and Service Area, Kapaa Armory, Kauai.	2,000	f
10. Kauai Civil Defense—Construction of an office and warehouse.	8,000	
11. Civil Defense System—Acquisition of a radio frequency activated electrical generator to provide power to the disaster warning system on Niihau.	9,000	
12. Security Fence at Hanapepe Armory, Kauai—Construction of chain link security fence around the Hanapepe Armory building and grounds.	7,500	
	7,500	f

K. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

Statewide

1. State Capitol, Honolulu, Oahu—Construction, equipment, fine arts and moving costs necessary to occupy the new state Capitol and underground parking.	3,420,000	
2. Historic Building Survey, Statewide—Summer project for measuring and recording historic buildings.	500,000	r
3. Renovations to Existing State Buildings to accommodate Physically Handicapped, Statewide—Plans for and renovations and other modifications to existing buildings to make them accessible and useable by the physically handicapped.	6,000	
4. Major CIP Planning, Public Facilities, Statewide—Programs, masterplans, and preliminary planning for new facilities and modification of existing facilities housing state agencies served by DAGS.	6,000	f
	188,000	
	100,000	

Oahu

5. Plans for Renovation of Office Space to accommodate New Occupants, Honolulu Civic Center, Oahu.	40,000	
6. Interim Provisions for Office and Parking Needs, State Capitol Complex, Honolulu, Oahu—Includes renovations to existing improvements and leasing of facilities to accommodate state programs.	250,000	

7. Iolani Barracks Restoration, Honolulu, Oahu—Completion of exterior restoration and plans for interior modifications.	60,000
8. Communication System for State Government in Honolulu Civic Center, Honolulu, Oahu—Design and construction of ductlines interconnecting buildings.	120,000
9. Plans for Relocation of DAGS Facilities to Fort Shafter Flats, Oahu—Includes plans for a Record Storage Center.	90,000
10. Honolulu Civic Center Master Plan, Oahu—Updating and refining Honolulu Civic Center Master Plan.	53,000
11. Iolani Palace Restoration, Honolulu, Oahu—Plans to restore and preserve Iolani Palace as a historic structure.	60,000
12. Nanakuli Service Center, Oahu—Joint use facility to provide comprehensive services to the community including those for health, education, and welfare. The unexpended balances of Items K-4 and N-8, Section 1, Act 195, SLH 1965, shall be used for this project	15,000
13. Senior Opportunity Center, Oahu—Plans and construction of a Senior Opportunity Center at Haleiwa.	20,000
14. Senior Opportunity Center, Waipahu, Oahu—Plans and construction.	20,000

Maui

15. Incremental Alterations and Improvements to 2nd Circuit Court and Tax Office Building, Wailuku, Maui—Modification work in both the Circuit Court and Tax Office Building necessary to accommodate state agencies within the Wailuku Civic Center area.	90,000
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Hawaii

16. State Office Building, Hilo, Hawaii—To supplement Act 38, SLH 1966, Item IV EI. Includes planning for landscaping and mall construction.	1,937,000
17. Mental Health and Rehabilitation Center, Kona, Hawaii—Plans and construction of a mental health and rehabilitation center to be located on the grounds of the Konawaena High and Elementary School.	120,000
18. Plans and construction of Civil Center, North Kohala, Hawaii.	175,000

Kauai

19. Plans for Alterations and Improvements to 5th Circuit Court Building, Lihue, Kauai.	7,000
20. Kapaa Senior Opportunity Center, Kauai—Plans for the development of the Kapaa Senior Opportunity Center for joint use by governmental agencies connected with health, social services, OEO outreach programs and an aging center.	20,000

L. DEPARTMENT OF TAXATION

1. Elevator, Hale Auhau, Honolulu, Oahu—Install new elevator with increased capacity and access to the second floor.	37,000
2. Renovation of Room 201, Oahu—Renovation of office of the Director of Taxation.	5,000

M. LIEUTENANT GOVERNOR

1. Voting Machine and other voting devices (to be expended by Lt. Governor's Office).	100,000
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N. DEPARTMENT OF JUDICIARY

Oahu

1. District Court of Ewa, Oahu—Plans, construction and equipment for new district court facilities and temporary interim-use facilities.	258,000
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2. Renovation of Existing Facilities, District Court of Honolulu.	40,000
3. Plans for Judiciary Complex, Honolulu.	75,000
4. Air Conditioning of Supreme Court Law Library, Honolulu.	25,000
5. Alterations and Improvements to Judiciary Building, Honolulu.	36,000

Hawaii

6. Court Building, Hawaii—Construction of district court building and parking space for the district court of Hamakua at Honokaa, Hawaii.	90,000
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Kauai

7. District Court, Library and Multi-purpose Facility, Hanalei, Kauai.	90,000
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O. AID TO COUNTIES

Oahu

(To be expended by City and County of Honolulu)

1. Sewage Treatment Plant, Waialua, Oahu—Plans. (To be matched 1:1 by City and County of Honolulu)	25,000
2. Manoa Valley Community Center at Manoa Park. (Balance of funds to be provided by City and County of Honolulu)	200,000
3. Alarm System, City and County of Honolulu—For leasing and installing an emergency alarm system on such locations as are determined by the Police, Fire and Parks and Recreation Depts. of the City and County of Honolulu. (To be expended by City and County of Honolulu)	80,000
4. Kalaepohaku Park, Honolulu, Oahu. (To be expended by City and County of Honolulu)	25,000
5. Kapahulu Youth Center, Oahu—Plans for a new facility of approximately 8,000 sq. ft.	40,000
6. Police Activities League Center, Honolulu — Planning and construction of League Center, with the City and County of Honolulu participating in project financing. (Balance of funds to be by City and County of Honolulu)	50,000
7. McCully Community Center — Planning and construction, with the City and County of Honolulu participating in project financing.	100,000
8. Kapiolani Park, Little Theater, City and County of Honolulu —Planning and construction with the City and County of Honolulu participating in project financing.	70,000
9. Diamond Head Road—Improvements to Monsarrat Avenue and Diamond Head Road.	55,000
10. Traffic Lights System—Planning and installation of traffic control light system at intersection of University Avenue and Varsity Place.	17,000
11. Waiomao Slide Area—To supplement City and County's appropriation to stabilize the slide condition.	150,000
12. Palolo Stream—Plans and construction of retaining wall from Kalua Street to Kiwila Street with the City and County of Honolulu participating in project financing.	100,000
13. Palolo Stream—Plans and construction of a retaining wall to prevent erosion along Palolo Stream from Keanu Street to St. Louis Drive with the City and County of Honolulu participating in project financing.	40,000
14. The Rehabilitation Center of Hawaii, Honolulu—Grant-in-aid for plans, construction and equipment for expansion.....	300,000

Hawaii

(To be expended by the County of Hawaii)

15. Kawili Street Extension, Hilo. (To be matched \$50,000 by County of Hawaii.)	112,000
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16. Mt. View Water System—Improvement and waterline facilities and related appurtenances.	20,000
(To be expended by the Board of Water Supply, County of Hawaii.)	
17. Puukapu-Nienie Water System—Completion of the installation of a transmission pipeline, electrical power extension and pumps on Hawaiian Home Lands at Puukapu and Nienie pasture lots.	50,000
(To be expended by the Board of Water Supply, County of Hawaii.)	
18. Puukapu Farm Lots—Extension of water pipeline at Puukapu Farm Lots.	10,000
(To be expended by Hawaii County Board of Water Supply.)	
19. Study and Plans for Water System in Volcano Area.	5,000
(To be expended by Hawaii County Board of Water Supply.)	
20. Puneo and Keaukaha Sewerage Development projects.	150,000
21. Milolii Road—Repair and resurface.	60,000
22. Hilo Storm Drainage System.	100,000

Maui

(To be expended by the County of Maui)

23. Kahului Sewerage System, Maui—To supplement funds previously appropriated.	250,000
24. Kaunakakai Sewerage System—Incremental construction of sewerage system including treatment plant and other appurtenances and land acquisition. To supplement funds appropriated by Act 38, SLH 1966.	100,000
25. Kekaulike Highway Restroom Facilities, Maui—Plans and construction of restroom facilities along Kekaulike Highway including acquisition of land. Project to be participated in by the County of Maui.	25,000
26. Maui War Memorial Center—Construction of a recreational, cultural and entertainment center complex including necessary building and facilities. Project to be participated in by the County of Maui.	100,000
27. Maui Zoo—Feasibility study, including plans and construction of a zoo.	25,000
28. Lahaina Restoration, Maui Historic Commission—Unencumbered balances of Item C-1-f, Section 1, Act 201, SLH 1963; Item G-7, Section 1, Act 195, SLH 1965 and Item III-A-4a, Section 1, Act 38, SLH 1966, shall be used for this project and expended by the County of Maui.	10,000
29. Lower Kula Transmission Line, Maui—For incremental development of transmission lines, tanks and other appurtenances. (To be expended by the Board of Water Supply, County of Maui.) Funds to be supplemented by any unexpended balances from appropriations made in Section 1, Item III-F, 1, of Act 38, SLH 1966, provided that funds will be available only upon assurance that the rates for farm use will be reduced substantially.	700,000

Kauai

(To be expended by County of Kauai)

30. Lihue Police Station—Plans and construction for an addition to the Lihue Police Station.	50,000
31. Water Projects.	197,000
(To be expended by the Kauai County Board of Water Supply.)	
Wailua-Kapaa Water System—Plans and construction for Wailua (Nonou) water tank.	
Kekaha Water System—Plans and construction of 500,000 gallon tank and connecting main.	
Lihue Water System—Plans and construction of 1 million	

	gallon storage tank and connecting main. Koloa-Poipu Water System—Plans and construction of Kukuiula pipeline.	
32.	Wilcox School, Kauai—Construction of parking area, chain link fence, and other improvements.	10,000
	(To be expended by the County of Kauai.)	
	Other Assistance Projects	
33.	Grant-in-aid for Hospital Construction.	720,000
	\$100,000 for St. Francis Hospital, \$200,000 for Kuakini Hospital, \$300,000 for Queen's Hospital, and \$120,000 for Kapiolani Maternity Hospital	

SECTION 2. The director of the designated expending agency is authorized to delegate to the departments and counties the planning and construction of projects under section 1 when it is determined by him that it is more advantageous to do so.

SECTION 3. The appropriations and authorizations in section 1 include land purchase, plans, site preparation, improvements to land, construction and necessary equipment when riders to authorizations are not specific.

SECTION 4. All general obligation bond funds used for any federal aid highway project, land development project, or airport project shall have the bond principal and interest reimbursed from the highway special fund, the land development special fund, or the airport special fund, respectively. Bond issued for irrigation projects shall be reimbursed, as provided by section 86-21 of the Revised Laws of Hawaii 1955, as amended.

SECTION 5. The department of transportation is authorized to issue pursuant to the provisions of Part III, chapter 137, RLH 1955, as amended, harbor revenue bonds or other harbor revenue obligations for harbor revenue bond financed projects authorized by this Act, in such principal amount as shall be required to yield the amounts appropriated by this Act from harbor revenue bonds for such projects, plus, if so determined by the department and approved by the Governor, such additional amounts as may be deemed necessary by the department to establish, maintain or increase reserves for such bonds or other revenue obligations and pay the expenses of issuance of such bonds or other revenue obligations. To the extent not paid from the proceeds of such revenue bonds or other revenue obligations, the expenses of the issuance of such harbor revenue bonds or other revenue obligations and the principal and interest on such bonds or other revenue obligations shall be paid or provided for from the harbor special fund. The Governor, in his discretion, is authorized to use harbor special funds to finance these projects in section 1 where the method of financing is designated to be by harbor revenue bond funds.

SECTION 6. The Hawaii housing authority is authorized to issue housing authority revenue bonds for housing authority revenue bond financed projects authorized by this Act, pursuant to provisions of part 5.5,* chapter

* So in original. Should read "section 9-5.5."

9, RLH 1955, as amended. The expenses of the issuance of such housing authority revenue bonds and the principal and interest on such bonds sold shall not be a general obligation to the State of Hawaii.

SECTION 7. The Governor shall determine when the authorized projects shall be initiated. In releasing funds for projects, the Governor shall consider the objectives of the user agency, its programs, the scope and level of the user agency's intended service, and the means, efficiency and economics by which the project will meet the objectives of said user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service, and construct the improvement to meet the objectives of said user agency in the most efficient and economical manner possible.

SECTION 8. The purchase of land and the construction of buildings by state agencies shall be subject to the approval of the Governor.

SECTION 9. In case the amount specified for capital improvement projects shall not be wholly required to complete the work of such item or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amounts may be expended for any capital improvements projects authorized by the Legislature with the approval of the Governor.

SECTION 10. All school buildings erected and all land acquired for school purposes under any item in this Act shall be subject to the approval of the department of education as to the location of the land purchased and the size, arrangement, dimensions, acoustics and lighting of rooms, and sanitary facilities for the buildings erected.

SECTION 11. Where the Governor or any agency of any government unit is able to secure federal funds or other property made available under any Act of Congress, or any funds or other property from private organizations or individuals, to be expended in connection with or for the planning and/or construction of any program or works authorized by this Act, or otherwise the Governor or agency (with the Governor's approval) shall have the power to enter into such undertaking with the proper offices or agencies of the Federal government or private organization or individuals if approved by the Governor. While most federal aid allocations are known and local matching funds are provided in this Act, there may be programs for which federal-local cost sharing is not yet determined. In such cases, the availability of federal funds shall be construed as a reduction of local costs whenever possible.

SECTION 12. The department of transportation is authorized to issue airport revenue bonds for airport projects authorized by this Act to be financed by airport revenue bonds, in such principal amount as shall be required to yield the amounts appropriated by this Act from airport revenue

bond funds for such projects, plus, if so determined by the department and approved by the Governor, such additional amounts as may be deemed necessary by the department to establish, maintain and increase reserves for the airport revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of part III, chapter 137, Revised Laws of Hawaii 1955, as amended. The expenses of the issuance of such airport revenue bonds and the principal and interest of such bonds, to the extent not paid from the proceeds of such bonds, shall be paid solely from the revenues from airports and related facilities under the ownership of the State and operated and managed by the department of transportation or such part thereof as the department may determine, including rents, landing fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of airports and related facilities and the furnishing and supplying of the services thereof; provided, however, that said revenues shall not include any revenue derived from or dependent upon the taxing power of the State of Hawaii. The Governor, in his discretion, is authorized to use airport special funds to finance those projects in section 1 where the method of financing is designated to be by airport revenue bond funds.

SECTION 13. Anything in the bill and in the law, including section 35-29, Revised Laws of Hawaii 1955, as amended, to the contrary notwithstanding, funds authorized by this Act which are unencumbered or unallotted on June 30, 1968, shall not lapse.

SECTION 14. The Governor shall submit to the regular session of the legislature convening in 1969, a progress and status report of the capital improvements program authorized herein including recommendation for lapsing of projects authorized by this bill.

SECTION 15. If any portion of this Act or its application to any persons 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 16. This Act, upon its passage and approval in the manner provided by the Constitution of the State, shall take effect on July 1, 1967.
(Approved June 5, 1967.)

ACT 218

S. B. 400.

A Bill for an Act Relating to the Staffing of Public Utilities Commission.

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

SECTION 1. Section 106C-2, Revised Laws of Hawaii 1955, as

amended, is hereby amended by deleting the second paragraph entitled "Immediate staffing".

SECTION 2. The present superintendent of transportation, rates and records examiner, and traffic and safety officer of the public utilities commission shall become civil service employees without the loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges, without having to meet minimum qualification requirements, and without the necessity of examination.

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

(Approved June 5, 1967.)

ACT 219

H. B. 647.

A Bill for an Act Amending Chapter 6, Revised Laws of Hawaii 1955, as Amended, and Relating to the Withholding of Dues and Insurance Premiums from Retirement Payments.

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

SECTION 1. Chapter 6 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to be appropriately numbered and to read as follows:

"Sec. 6-..... **Withholding of dues and insurance premiums.** A retired member, if he requests in writing, may have withheld from his pension, annuity, or retirement allowance payments to employee organizations for dues and insurance premiums."

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

(Approved June 5, 1967.)

ACT 220

S. B. 570.

A Bill for an Act Relating to Public Employment and Recruitment Therefor and Amending Section 5-1 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 5-1, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto a new subsection (f) to read as follows:

"(f) The foregoing requirement of three years' residence shall not apply to persons recruited by the State or its political subdivisions for essential professional or highly specialized technical classes certified to be in shortage categories by the director of personnel services. Shortages shall be declared to exist and cease to exist by the director of personnel services with the approval of the governor. Professional and highly specialized technical positions generally mean positions which require an individual to acquire a body of knowledge in a specialized or scientific field requiring a high level of

training and proficiency, and the ability to apply this knowledge to the performance of professional and technical tasks. Preparation usually requires post-graduate work and advanced training and experience directed toward the development of specialized skills. In declared classified shortage occupations only, if there are less than three qualified local candidates, the local candidates shall be certified to the department, but nonresident applicants who qualify on examination may also be certified to complete the list of five. First consideration must be given to qualified local residents in selection. Where shortages are declared, out-of-state advertising of a vacancy shall begin at the same time as within-state advertising."

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

(Approved June 5, 1967.)

ACT 221

H. B. 871.

A Bill for an Act Relating to Honolulu Harbor; Authorizing the Acquisition of Private Properties and Facilities with General Obligation Bond and Revenue Bond Funds, the Issuance of General Obligation and Revenue Bonds, and Expenditures from the Harbor Special Fund for the Fiscal Year Beginning July 1, 1967; and Amending the Revised Laws of Hawaii 1955, to Facilitate the Revenue Bond Financing of the Acquisition.

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

SECTION 1. The legislature finds and declares that it is in the best interest of the public that all maritime-related facilities in the Honolulu Harbor complex should be vested in the single ownership of the State in order to insure the orderly and efficient development of the Harbor for maritime purposes.

SECTION 2. The sum of \$18,500,000 to finance the acquisition of 85.56 acres of private properties at Honolulu Harbor is authorized to be expended for such purposes from general obligation bond funds and harbor revenue bond funds as the first of five yearly incremental payments to be applied against the total acquisition cost of either (1) \$40,228,486, or (2) the fair market value of the 85.56 acres as of the date of approval of this Act, whichever is lower; provided that liability by the State for the further incremental payments shall be incurred only when authorized by subsequent enactments of the legislature.

SECTION 3. General obligation bonds may be issued to yield an amount up to \$10,500,000 of general obligation bond funds for the purposes of section 2 of this Act. All general obligation bond funds shall have the bond principal and interest reimbursed from the harbor special fund. Reimbursement may be made on actual interest payments for the first three years and for principal and interest in equal annual amounts for a period not to exceed twenty-seven years thereafter, even though the general obligation

bonds so issued may commence maturing within three years after their issuance and may have a shorter final maturity than thirty years. The harbor special fund shall be liable to the general fund for interest on the difference between (1) the payments made by the harbor special fund to the general fund and (2) the amounts paid by the general fund on the general obligation bonds issued hereunder. Both the reimbursement and the interest on the difference shall constitute bond requirements on general obligation bonds within the meaning of the paragraph beginning with the word "Fourth" of section 112-20 of the Revised Laws of Hawaii 1955, as amended, and shall be paid pursuant to that paragraph.

SECTION 4. The department of transportation may issue harbor revenue bonds pursuant to part III, chapter 137, Revised Laws of Hawaii 1955, as amended, to yield an amount up to \$10,500,000 of harbor revenue bond funds for the purposes of section 2 of this Act, plus, if so determined by the department and approved by the governor, any additional amounts as may be deemed necessary by the department to pay interest on the harbor revenue bonds for a period not to exceed two years from the date of their issuance, to establish, maintain or increase reserves for the bonds and to pay the expenses of the issuance of the bonds. The expenses of the issuance of the harbor revenue bonds are payable out of the harbor special fund or from the proceeds of the sale of the bonds. The principal and interest on the harbor revenue bonds are payable or provided for out of the harbor special fund.

SECTION 5. Section 112-18, Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

"Sec. 112-18. Rates, how fixed. The department shall adjust and fix and enforce the rates assessable and chargeable by it in respect to dockage, wharfage, demurrage and other rates and fees pertaining to harbors, wharves and properties managed and operated by it so as to produce from the rates and fees:

(1) In respect to all such harbors, wharves and other properties, except such as are principally used for recreation or the landing of fish, revenues sufficient to: (A) pay when due the principal of and interest on all bonds and other obligations for the payment of which the revenue is or shall have been pledged, charged or otherwise encumbered, or which are otherwise payable from the revenue or from a special fund maintained or to be maintained from the revenue, including reserves therefor, and to maintain the special fund in an amount at least sufficient to pay when due all bonds or other revenue obligations and interest thereon, which are payable from the special fund, including reserves therefor; (B) provide for all expenses of operation and maintenance of the properties, including reserves therefor, and the expenses of the department in connection with operation and maintenance; and (C) reimburse the general fund of the State for all bond requirements for general obligation bonds which are or shall have been issued for harbor or wharf improvements, or to refund any of the improvement bonds, exclud-

ing bonds, the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties.

(2) In respect to properties under its control and management which are principally used for recreation or the landing of fish, revenues may be collected based on the expenses of operation and maintenance and the cost to the State of the improvements used; provided, that rates established under this paragraph shall be reasonable and shall be fixed with due regard to the primary purposes of providing public recreational facilities and promoting the fishing industry. All revenues shall be deposited with the director of finance to the credit of the general fund."

SECTION 6. Section 112-20, Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 112-20. Harbor special fund; harbor reserve fund. There is created in the treasury of the State the harbor special fund into which funds collected by the department under paragraph (1) of section 112-18 shall be deposited.

The harbor special fund shall be applied, used and disposed of as follows, and in the following order of priority:

First, for the payment when due of all bonds and interest thereon, for the payment of which the revenues are or shall have been pledged, charged or otherwise encumbered, including reserves therefor;

Second, for the expenses of operation and maintenance of the properties designated in paragraph (1) of section 112-18, including reserves therefor and the expenses of the operation of the department in connection with those properties, the general administrative overhead to be prorated between those properties and the properties designated in paragraph (2) of section 112-18;

Third, for the purposes, within the jurisdiction, powers, duties and functions of the department, including the creation and maintenance of reserves, as have been covenanted in any resolution or resolutions of the department or certificate or certificates of the head of the department providing for the issuance of revenue bonds or creating other revenue obligations;

Fourth, to reimburse the general fund of the State for all bond requirements for general obligation bonds which are or have been issued for harbor or wharf improvements with respect to properties designated in paragraph (1) of section 112-18, excluding bonds, the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties, or to refund any of the bonds, except insofar as the obligation or reimbursement has been or is canceled by the legislature. Unless otherwise provided by the legislature, bond requirements are the interest on term and serial bonds, sinking fund for term bonds, and principal of serial bonds maturing the following year;

Fifth, for any purpose within the jurisdiction, powers, duties, and functions of the department (excluding properties principally used for recreation

or the landing of fish, except the properties located at Kewalo Basin, ewa of Ala Moana Park, Honolulu), including acquisitions, constructions, additions, expansions, improvements, renewals, replacements, reconstruction, engineering, investigation and planning, all or any of which in the judgment of the department are necessary to the performance of its duties or functions. There is created in the treasury of the State a second separate harbor special fund, into which shall be deposited all moneys to be applied to the foregoing purposes of this paragraph. In anticipation of the payments into and accumulations in the second separate special fund, the department may issue revenue bonds or other revenue obligations of the State, in such sums only as may be authorized by specific act or acts of the legislature and repayable solely out of the second separate special fund, to finance in whole or in part the cost of any acquisition, construction, addition, expansion, improvement, renewal, replacement, or reconstruction. If any revenue bonds or other revenue obligations payable from the second separate special fund are issued, then while any such revenue bonds or other revenue obligations are outstanding: (1) the amount deposited and to be deposited in the second separate special fund from the moneys in the harbor special fund shall never be less than the amount necessary to pay when due the principal of and interest on the bonds and other obligations, including reserves therefor; (2) the department may create any accounts within the second separate special fund as it may deem necessary or desirable; and (3) the moneys in the harbor special fund and in the second separate special fund, in lieu of being appropriated, applied or expended for the purposes and in the order of priority set forth in section 137-59, shall be appropriated, applied or expended as provided in this section, subject to the modifications hereinafter set forth in this paragraph. While any revenue bonds of the State payable directly from the harbor special fund are outstanding, the payments into the second separate special fund to provide for the payment of principal of and interest on the revenue bonds or other revenue obligations payable solely out of the second separate special fund, including reserves therefor, shall be made after the application of moneys in the harbor special fund for first, second and third priority items of this section but prior to the application thereof for the purposes of the remaining paragraphs of this section. After all revenue bonds of the State payable directly from the harbor special fund have been paid or sufficient funds for their payment have been set aside in trust for that purpose, the payments into the second separate special fund to provide for the payment of the principal of and interest on the revenue bonds or other revenue obligations payable solely from the second separate special fund, including reserves therefor, shall be made prior to the use and application of the moneys in the harbor special fund for any other purposes of this section, including without limitation, the second through ninth priority items. Any moneys in the second separate special fund not required for the payment when due of the principal of and interest on any revenue bonds or other revenue obligations payable from the second separate special fund, including reserves therefor, shall be applied to the payment of the costs of acquisitions,

constructions, additions, expansions, improvements, renewals, replacements and reconstructions required by the legislature to be paid from either the harbor special fund or the second separate special fund. All revenue bonds or other revenue obligations for harbor acquisitions, constructions, additions, expansions, improvements, renewals, replacements, or reconstructions authorized by the legislature at the regular session of 1966, or thereafter, to be issued pursuant to part III, chapter 137, may be issued by the department, either payable as to principal and interest directly from the harbor special fund or from the second separate special fund pursuant to this paragraph;

Sixth, to make payments into the general fund as may be required under the provisions of section 132-18;

Seventh, to make any and all other outlays or expenditures not otherwise restricted in this section;

Eighth, to provide a reserve for betterments to harbor undertakings under the jurisdiction of the department;

Ninth, to provide funds for other special reserve funds and other special funds as are created by law.

Until adequate provision is otherwise made for the purposes of this section, no transfer shall be made of all or any part of the moneys in the harbor special fund or in any other special fund created in this section, to the general funds of the State nor shall the funds be applied for any other purposes.

There is created the harbor reserve fund into which the department may make transfers from the harbor special fund in the amounts and at the times as the department shall determine. The amount of the harbor reserve fund shall not at any time exceed \$750,000. The harbor reserve fund may be expended for any of the purposes of and in the same manner as the harbor special fund and shall be subject to the same limitations as are placed upon the harbor special fund. No amount held in or paid from the harbor reserve fund shall be used to reduce the rates assessable or chargeable by the department under paragraph (1) of section 112-18, but in computing its expense under paragraph (1) of section 112-18, the department shall not include any amount for the purpose of increasing or replenishing the reserve fund. The harbor reserve fund shall be maintained at the balances required by the resolutions or certificates providing for the issuance of all bonds payable from the harbor special fund and issued prior to January 1, 1967, or issued thereafter, payable on a parity with bonds issued prior to January 1, 1967, and when permitted by the resolutions or certificates, the moneys in the harbor reserve fund may be applied to the final payment or redemption of those bonds, and the harbor reserve fund shall thereupon be abolished."

SECTION 7. Section 132-18, Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 132-18. Transfer from harbor special fund. Any other law to the contrary notwithstanding, there shall be deducted from time to time by the director of finance for the purpose of defraying the prorated estimate of central service expenses of government in relation to the harbor special

fund five per cent of all receipts and deposits in the harbor special fund after deducting therefrom any amounts pledged, charged or encumbered for the payment of bonds or interest thereon during the current year, from which receipts or deposits no deduction of five per cent has previously been made. The deductions shall be transferred to the general fund of the State and become general realizations of the State. For the purposes of this section, the term 'any amounts pledged, charged or encumbered for the payment of bonds or interest thereon during the current year' shall include: (1) the amounts which are so pledged, charged or encumbered; (2) amounts otherwise required to be applied to the payment of principal of and interest on revenue bonds or other revenue obligations; (3) amounts required to be paid into a separate special fund for the payment of principal of and interest on revenue bonds or other revenue obligations payable from the second separate special fund; and (4) amounts required by law to be paid from the harbor special fund into the general fund of the State to reimburse the general fund for bond requirements for general obligation bonds issued for harbor purposes. The second separate special fund maintained by deposits from the harbor special fund shall not be deemed to be a special fund within the meaning of section 132-16 or section 132-17. The director of transportation shall cooperate with the director of finance in effecting such transfer."

SECTION 8. Section 137-50, Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 137-50. Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

'Bonds' means bonds, certificates, notes or other obligations or evidences of indebtedness.

'Undertaking' means any public works and properties of the State, or combination thereof.

'Department' means any state department, board, commission, officer, authority or agency (other than a 'municipality' defined by section 140-1) which is charged by law with the administration of an undertaking.

'Governing body' means any board, commission or other body consisting of more than one person, having charge of a department.

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

SECTION 9. Section 137-52, Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 137-52. Additional powers of departments. In addition to the powers which it may otherwise have, any department shall have power under this part: (1) to construct, acquire by gift, purchase or the exercise of the right of eminent domain, reconstruct, improve, better or extend any undertaking within its jurisdiction, and to acquire by gift, purchase or the exercise of the right of eminent domain, lands or rights in land or water rights in connection therewith; (2) to operate; and maintain any undertaking within its jurisdiction and furnish the services, facilities and commodities

thereof for its own use and for the use of public and private consumers; (3) to issue revenue bonds of the State in the amounts authorized by specific act or acts of the legislature of the State to finance in whole or in part the cost of the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any undertaking; (4) to prescribe and collect rates, fees and charges for the services, facilities and commodities furnished by the undertaking; and (5) to pledge the punctual payment of the bonds and interest thereon, or to covenant to pay into any special fund from which any of the bonds may be payable, the revenues of the undertaking, (including improvements, betterments or extensions thereto thereafter constructed or acquired) or of any part of the undertaking sufficient to pay the bonds and interest as they shall become due and to create and maintain reasonable reserves to pay the principal and interest. The amount so pledged or covenanted to be paid may consist of all or any part or portion of the revenues. The department, in determining the cost, may include all costs and estimated costs of the issuance of the bonds, all engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this part."

SECTION 10. Section 137-57, Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 137-57. Bonds not a general obligation of State. No holder or holders of any bonds issued under this part shall ever have the right to compel any exercise of the taxing power of the State to pay the bonds or the interest thereon. Each bond issued under this part shall recite in substance that the bond, including interest thereon, is payable from the revenues of the undertaking pledged to its payment or is otherwise payable from the revenues or from a special fund to be maintained from the revenues, and that the bond does not constitute a debt of the State within the meaning of any limitation of law."

SECTION 11. Section 137-58, Revised Laws of Hawaii 1955, is amended to read as follows:

"Sec. 137-58. Undertakings to be self-supporting. The department issuing bonds pursuant to this part shall prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities of the undertaking, and shall revise the rates, fees or charges from time to time whenever necessary so that the undertaking shall be and always remain self-supporting. The rates, fees or charges prescribed shall produce revenues at least sufficient: (1) to pay, when due all bonds and interest thereon, for the payment of which the revenues are or shall have been pledged, charged or otherwise encumbered, or which are otherwise payable from the revenues or payable from a special fund maintained or to be maintained from the revenues, including reserves therefor, and to maintain the special fund in an amount at least sufficient to pay when due all bonds and interest thereon which are payable from the special fund, including reserves therefor; and (2) to pro-

vide for all expenses of operation and maintenance of the undertaking, including reserves therefor.”

SECTION 12. In addition to the sum authorized under section 2 of this Act, the department of transportation may expend from the harbor special fund the following sums, or so much thereof as may be necessary to accomplish the purposes or programs of the fund for the fiscal year beginning July 1, 1967:

Harbors

Administration (Including debt service)	\$1,100,000 (10)
Operation and Maintenance	312,516 (29)

SECTION 13. The amounts authorized in section 12 of this Act and the number of positions indicated by the number enclosed in parentheses immediately thereafter shall be in addition to the amounts and the number of positions authorized for the purposes and programs of the harbors division of the department of transportation by any other act for the fiscal year beginning July 1, 1967.

SECTION 14. If any section, paragraph, sentence, clause, phrase, authorization or appropriation contained in this Act is for any reason held to be unconstitutional or invalid, that holding shall not affect the validity of the remaining portions of this Act.

SECTION 15. This Act shall take effect upon its approval.
(Approved June 5, 1967.)

ACT 222

H. B. 7.

A Bill for an Act Relating to a Constitutional Convention and Making Appropriations Therefor.

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

SECTION 1. **Election of delegates.** The governor shall issue a proclamation ordering an election which shall be held on June 1, 1968, for the special election of delegates to a constitutional convention.

Except as otherwise provided by this Act, the candidates for delegates shall be nominated and their filing fees paid, the special election conducted, the returns made and results ascertained, and the certificates of election issued in the same manner as prescribed by chapter 11, Revised Laws of Hawaii 1955, governing general elections except that there shall be no primary election.

Any person who is registered as a duly qualified elector shall be eligible to vote in these elections. The general county register shall be closed before the election in the manner set forth in section 11-14, Revised Laws of Hawaii 1955, for special elections.

Each candidate shall be a qualified elector of the representative district or combination of precincts of the representative district in which he is a

candidate for delegate. The name of no candidate shall be printed upon any official ballot to be used at the special election unless at least thirty days prior to the special election, a nomination paper shall have been filed in his behalf as provided in section 11-93 of the Revised Laws of Hawaii 1955, as amended, signed by not less than fifteen qualified electors of the representative district or the combination of precincts in which he is a candidate. There shall be deposited with each nomination paper a fee of \$25 which shall be paid into the treasury of the State. The lieutenant governor shall provide appropriate nomination papers.

No such nomination paper shall contain any reference to or designation of any political party, and the ballots used at the special election shall be non-partisan and shall not contain any reference to or designation of the political party or affiliation of any candidate. The names of the candidates in each representative district and of the candidates in each combination of precincts of the representative districts shall be on separate ballots.

Each voter at the special election shall be entitled to receive a ballot notwithstanding section 11-102.5, Revised Laws of Hawaii 1955.

The ballots submitted to the voters of each representative district or combination of precincts shall separately set forth the names of candidates for delegate-at-large from such representative districts or for delegate from such combination of precincts, and shall instruct the voters that the number of candidates to be voted for by such voter shall not exceed the number of delegates to which the representative district or combination of precincts is entitled. The candidates receiving the highest number of votes in the election, not to exceed the number of delegates to which the respective district or combination of precincts is entitled, shall be elected as delegates to the convention.

The governor shall fill any vacancy by appointing a qualified voter from the representative district or combination of precincts in which the vacancy occurs.

The convention shall consist of eighty-two delegates apportioned among the existing representative districts of the State as follows:

First representative district. One delegate at large;

Second representative district. Three delegates at large; and one delegate from combined precincts of 1, 2, 3, 4, 5, 6, 7, 8, 9 and 11; and one delegate from combined precincts of 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22;

Third representative district. One delegate at large;

Fourth representative district. One delegate at large;

Fifth representative district. One delegate at large;

Sixth representative district. One delegate at large;

Seventh representative district. Three delegates at large; and one delegate from combined precincts of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11; and one delegate from combined precincts of 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27;

Eighth representative district. Five delegates at large; and one delegate

from combined precincts of 1, 2 and 6; one delegate from combined precincts of 3, 4 and 15; one delegate from combined precincts of 5, 7, 14 and 16; one delegate from combined precincts 8 and 10; and one delegate from combined precincts of 9, 11, 12, 13 and 17;

Ninth representative district. One delegate at large; and one delegate from combined precincts of 1, 2, 5 and 6; and one delegate from combined precincts of 3, 4, 7 and 8;

Tenth representative district. Five delegates at large; and one delegate from combined precincts of 1, 2 and 9; one delegate from combined precincts of 3, 4, 5, 14 and 15; one delegate from combined precincts of 6, 8, 10, 11 and 16; and one delegate from combined precincts of 7, 12 and 13;

Eleventh representative district. Three delegates at large; and one delegate from combined precincts of 1, 2, 3, 4, 6 and 8; and one delegate from combined precincts of 5, 7, 9, 10, 11 and 12;

Twelfth representative district. Two delegates at large; and one delegate from combined precincts of 3, 4, 5, 9 and 10; and one delegate from combined precincts of 1, 2, 6, 7 and 8;

Thirteenth representative district. Two delegates at large;

Fourteenth representative district. Three delegates at large; and one delegate from combined precincts of 1, 3, 4, 6, 8 and 11; one delegate from combined precincts of 2, 5, 9, 15 and 16; and one delegate from combined precincts of 7, 10, 12, 13 and 14;

Fifteenth representative district. Six delegates at large; and one delegate from combined precincts of 7, 11, 22 and 23; one delegate from combined precincts of 8, 9, 10, 12, 20 and 24; one delegate from combined precincts of 2, 18, 19 and 21; one delegate from combined precincts of 4, 5, 6, 16 and 17; and one delegate from combined precincts of 1, 3, 13, 14 and 15;

Sixteenth representative district. Three delegates at large; and one delegate from combined precincts of 6, 7, 8 and 16; one delegate from combined precincts of 1, 3, 4, 5, 9 and 15; and one delegate from combined precincts of 2, 10, 11, 12, 13 and 14;

Seventeenth representative district. Four delegates at large; and one delegate from combined precincts of 1, 2, 3, 10, 11 and 13; one delegate from combined precincts of 4, 5, 6, 12 and 14; and one delegate from combined precincts of 7, 8 and 9;

Eighteenth representative district. One delegate at large; and one delegate from combined precincts of 1, 2, 3, 4, 5, 12 and 13; one delegate from combined precincts of 8, 9, 10 and 11; and one delegate from combined precincts of 6 and 7.

SECTION 2. Convening of convention. The delegates to the convention thus elected shall meet at Honolulu on the 15th day of July, 1968, at a suitable place designated by the governor, and shall proceed with the organization of the convention. The delegate from the first representative district shall serve as temporary chairman.

SECTION 3. Powers. In addition to its inherent powers under the

Constitution, the convention may exercise the powers of legislative committees as provided for by chapter 2, Revised Laws of Hawaii 1955, and may appoint staff members without regard to chapters 3 and 4, Revised Laws of Hawaii 1955, and contract for the legal and consultative services of qualified persons as it may require.

Officers and employees of the State shall have the same duty to the convention as prescribed by section 2-12, Revised Laws of Hawaii 1955, with respect to legislative committees.

SECTION 4. Salaries and allowances for delegates. Delegates to the convention shall be entitled to the same salaries as legislators who attend a general session of the legislature and shall be entitled to the same per diem and travel allowances as legislators. State and county employees who are elected and serve as delegates shall have leave, without pay, from their employment from the time the convention convenes until it adjourns, and they shall be entitled to the salaries and allowances for delegates hereunder.

SECTION 5. Ratification election. Unless the convention determines otherwise, any constitutional revision or amendment proposed by the convention shall be submitted to the electorate at the general election of 1968.

SECTION 6. Appropriations. There is hereby appropriated to the office of the governor, or to the lieutenant governor if so designated by the governor, out of the general revenues of the State the sum of \$100,000, or so much thereof as may be necessary, for the arrangement and purchase of advertising in the general media to cover, on an equal and fair basis, the issues involved or likely to be involved in the convention and in addition thereto to do such things as he may consider necessary to focus the public's attention on the importance of the constitutional convention.

There is hereby appropriated to the legislative reference bureau, out of the general revenues of the State the sum of \$20,000, or so much thereof as may be necessary, to defray the expenses of contracting for the services of qualified temporary professional and clerical assistance, who may be appointed without regard to chapters 3 and 4 of the Revised Laws of Hawaii 1955, for the purpose of up-dating the 1950 Manual on State Constitutional Provisions and to prepare necessary reports for the convention.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. This Act shall take effect upon its approval.
(Approved June 5, 1967.)

ACT 223

H. B. 35.

A Bill for an Act Relating to Sales Practices Concerning Land Located in Hawaii and Elsewhere to Be Known as the Uniform Land Sales Practices Act.

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

SECTION 1. Definitions. When used in this Act, unless the context otherwise requires:

(1) "disposition" includes sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision, if undertaken for gain or profit;

(2) "offer" includes every inducement, solicitation or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit;

(3) "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;

(4) "purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land;

(5) "subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner;

(6) "subdivision" and "subdivided lands" mean any land which is divided or is proposed to be divided for the purpose of disposition into 2 or more lots, parcels, units or interests and also includes any land whether contiguous or not if 2 or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale;

(7) "commissioner of securities" means the director of regulatory agencies in his capacity as commissioner of securities.

SECTION 2. Administrative director. This Act shall be administered by the director of regulatory agencies who will hereinafter be called the director.

SECTION 3. Exemptions. (a) Unless the method of disposition is adopted for the purpose of evasion of this Act, the provisions of this Act do not apply to offers or dispositions of an interest in land:

(1) by a purchaser of subdivided lands for his own account in a single or isolated transaction;

(2) if fewer than 20 separate lots, parcels, units or interests in subdivided lands are offered by a person in a period of 12 months;

(3) on which there is a residential, commercial, or industrial building, or as to which there is a legal obligation on the part of the seller to construct such a building within 2 years from date of disposition;

(4) to persons who are engaged in the business of construction of buildings for resale, or to persons who acquire an interest in subdivided lands for

the purpose of engaging, and do engage in the business of construction of building for resale;

- (5) pursuant to court order;
- (6) by any government or government agency;
- (7) as cemetery lots of interests;
- (8) established as a horizontal property regime pursuant to chapter 170A of the Revised Laws of Hawaii 1955.

(b) Unless the method of disposition is adopted for the purpose of evasion of this Act, the provisions of this Act do not apply to:

- (1) offers or dispositions of evidences of indebtedness secured by a mortgage or deed of trust of real estate;
- (2) offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;
- (3) a subdivision as to which the plan of disposition is to dispose to 10 or fewer persons;
- (4) a subdivision as to which the director has granted an exemption as provided in section 10;
- (5) offers or dispositions of securities currently registered with the commissioner of securities of this State; and
- (6) offers or dispositions of any interest in oil, gas or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by the United States or by the commissioner of securities of this State;
- (7) subdivisions of less than 20 lots, parcels, units, or interests, if they are all located in jurisdictions requiring the developer prior to sale to provide or post bond for road access, sewage disposal, water and other public utilities, if such requirements have been complied with.

SECTION 4. Prohibitions on dispositions of interests in subdivisions. Unless the subdivided lands or the transaction is exempt by section 3:

- (1) no person may offer or dispose of any interest in subdivided lands located in this State, nor offer or dispose in this State of any interest in subdivided lands located without this State prior to the time the subdivided lands are registered in accordance with this Act;
- (2) no person may dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.

SECTION 5. Application for registration. (a) The application for registration of subdivided lands shall be filed as prescribed by the director's rules and shall contain the following documents and information:

- (1) an irrevocable appointment of the agency to receive service of any lawful process in any non-criminal proceeding arising under this Act against the applicant or his personal representative;
- (2) a legal description of the subdivided lands offered for registration,

together with a map showing the division proposed or made, and the land area of the lots, parcels, units or interests and the relation of the subdivided lands to existing streets, roads, and other off-site improvements;

(3) the states or jurisdictions in which an application for registration or similar document has been filed, and any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

(4) the applicant's name, address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this State;

(5) the name, address, and principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status or performing similar functions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within 30 days of the filing of the application;

(6) a statement, in a form acceptable to the director, of the condition of the title to the subdivided lands including encumbrances as of a specified date within 30 days of the date of application by a title opinion of a licensed attorney, not a salaried employee, officer or director of the applicant or owner, or by other evidence of title acceptable to the director;

(7) copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(8) copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;

(9) if there is a lien or encumbrance affecting more than one lot, parcel, unit or interest a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;

(10) copies of instruments creating easements, restrictions, or other encumbrances, affecting the subdivided lands;

(11) a statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;

(12) a statement of the existing provisions for access, sewage disposal, water, and other public utilities in the subdivision; a statement of the improvements to be installed, the schedule for their completion, and a statement as to the provisions for improvement maintenance;

(13) a narrative description of the promotional plan for the disposition of the subdivided lands together with copies of all advertising material which has been prepared for public distribution by any means of communication;

(14) the proposed public offering statement;

(15) any other information, including any current financial statement, which the director by his rules requires for the protection of purchasers.

(b) If the subdivider registers additional subdivided lands to be offered for disposition, he may consolidate or incorporate by reference the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan.

(c) The subdivider shall immediately report any material changes in the information contained in any application for registration.

SECTION 6. Public offering statement. (a) A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. The proposed public offering statement submitted to the director shall be in a form prescribed by his rules and shall include the following:

(1) the name and principal address of the subdivider;

(2) a general description of the subdivided lands stating the total number of lots, parcels, units, or interests in the offering;

(3) the significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;

(4) a statement of the use for which the property is offered;

(5) information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities, and the estimated cost, date of completion and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in subdivided lands;

(6) additional information required by the director to assure full and fair disclosure to prospective purchasers.

(b) The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the director approves or recommends the subdivided lands or disposition thereof. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the director requires it.

(c) The director may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the director and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated.

SECTION 7. Inquiry and examination. Upon receipt of an application for registration in proper form, the director shall forthwith initiate an examination to determine that:

(1) the subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyances in trust or other safeguards have been provided;

(2) there is reasonable assurance that all proposed improvements will be completed as represented;

(3) the advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the director in his rules and afford full and fair disclosure;

(4) the subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime involving land dispositions or any aspect of the land sales business in this State, United States, or any other state or foreign country within the past 10 years and has not been subject to any injunction or administrative order within the past 10 years restraining a false or misleading promotional plan involving land dispositions;

(5) the public offering statement requirements of this Act have been satisfied.

SECTION 8. Notice of filing and registration. (a) Upon receipt of the application for registration in proper form, the director shall issue a notice of filing to the applicant. Within 45 days from the date of the notice of filing, the director shall enter an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within 45 days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.

(b) If the director affirmatively determines, upon inquiry and examination, that the requirements of section 7 have been met, he shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.

(c) If the director determines upon inquiry and examination that any of the requirements of section 7 has not been met, the director shall notify the applicant that the application for registration must be corrected in the particulars specified within 10 days. If the requirements are not met within the time allowed the director shall enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for 20 days during which time the applicant may petition for reconsideration and shall be entitled to a hearing.

SECTION 9. Annual report. (a) Within 30 days after each annual anniversary date of an order registering subdivided lands, the subdivider shall file a report in the form prescribed by the rules of the director. The report shall reflect any material changes in information contained in the original application for registration.

(b) The director at his option may permit the filing of annual reports within 30 days after the anniversary date of the consolidated registration in lieu of the anniversary date of the original registration.

SECTION 10. General powers and duties. (a) The director shall prescribe reasonable rules which shall be adopted, amended, or repealed in compliance with the administrative procedure act. The rules shall include but not be limited to provisions for advertising standards to assure full and fair disclosure; provisions for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for; provisions for operating procedures; and other rules as are necessary and proper to accomplish the purpose of this Act.

(b) The director by rule or by an order, after reasonable notice and hearing, may require the filing of advertising material relating to subdivided lands prior to its distribution.

(c) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this Act, or a rule or order hereunder, the director, with or without prior administrative proceedings may bring an action in the circuit court to enjoin the acts or practices and to enforce compliance with this Act or any rule or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The director is not required to post a bond in any court proceedings.

(d) The director may intervene in a suit involving subdivided lands. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the director notice of the suit and copies of all pleadings.

(e) The director may:

(1) accept registrations filed in other states or with the federal government;

(2) contract with similar agencies in this State or other jurisdictions to perform investigative functions;

(3) accept grants in aid from any source.

(f) The director shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices.

(g) The director may exempt a subdivision of 100 or fewer lots, parcels, units or interests from the provisions of this Act if he determines that the plan of promotion and disposition is primarily directed to persons in the local community or county in which the subdivision is situated.

SECTION 11. Investigations and proceedings. (a) The director may:

(1) make necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate this Act or any rule or order hereunder, or to aid in the enforcement of this Act or in the prescribing of rules and forms hereunder;

(2) require or permit any person to file a statement in writing, under

oath or otherwise as the director determines, as to all the facts and circumstances concerning the matter to be investigated.

(b) For the purpose of any investigation or proceeding under this Act, the director or any officer designated by rule may administer oaths or affirmations, and upon its own motion or upon request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

(c) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the director may apply to the circuit court for an order compelling compliance.

(d) Except as otherwise provided in this Act, all proceedings under this Act shall be in accordance with the administrative procedure act.

SECTION 12. Cease and desist orders. (a) If the director determines after notice and hearing that a person has:

- (1) violated any provision of this Act;
- (2) directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;
- (3) made any substantial change in the plan of disposition and development of the subdivided lands subsequent to the order of registration without obtaining prior written approval from the director;
- (4) disposed of any subdivided lands which have not been registered with the director;
- (5) violated any lawful order or rule of the director;

he may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the director will carry out the purposes of this Act.

(b) If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order he may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the director whenever possible by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

SECTION 13. Revocation. (a) A registration may be revoked after notice and hearing upon a written finding of fact that the subdivider has:

- (1) failed to comply with the terms of a cease and desist order;
- (2) been convicted in any court subsequent to the filing of the application for registration for a crime involving fraud, deception, false pretenses,

misrepresentation, false advertising, or dishonest dealing in real estate transactions;

(3) disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

(4) failed faithfully to perform any stipulation or agreement made with the director as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement;

(5) made intentional misrepresentations or concealed material facts in an application for registration.

Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(b) If the director finds after notice and hearing that the subdivider has been guilty of a violation for which revocation could be ordered, he may issue a cease and desist order instead.

SECTION 14. Judicial review. Proceedings for judicial review shall be in accordance with the administrative procedure act.

SECTION 15. Penalties. Any person who willfully violates any provision of this Act or of a rule adopted under it or any person who willfully, in an application for registration makes any untrue statement of a material fact or omits to state a material fact is guilty of a felony and may be fined not less than \$1,000 or double the amount of gain from the transaction, whichever is the larger but not more than \$50,000; or he may be imprisoned for not more than 2 years; or both.

SECTION 16. Civil remedy. (a) Any person who disposes of subdivided lands in violation of section 4, or who in disposing of subdivided lands makes an untrue statement of a material fact, or who in disposing of subdivided lands omits a material fact required to be stated in a registration statement or public offering statement or necessary to make the statements made not misleading, is liable as provided in this section to the purchaser unless in the case of an untruth or omission it is proved that the purchaser knew of the untruth or omission or that the person offering or disposing of subdivided lands did not know and in the exercise of reasonable care could not have known of the untruth or omission, or that the purchaser did not rely on the untruth or omission.

(b) In addition to any other remedies, the purchaser, under the preceding subsection, may recover the consideration paid for the lot, parcel, unit or interest in subdivided lands together with interest at the rate of 6% per year from the date of payment, property taxes paid, costs, and reasonable attorneys fees less the amount of any income received from the subdivided lands upon tender of appropriate instruments of reconveyance. If the purchaser no longer owns the lot, parcel, unit or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a recon-

veyance less the value of the land when disposed of and less interest at the rate of 6% per year on that amount from the date of disposition.

(c) Every person who directly or indirectly controls a subdivider liable under subsection (a), every general partner, officer, or director of a subdivider, every person occupying a similar status or performing a similar function, every employee of the subdivider who materially aids in the disposition, and every agent who materially aids in the disposition is also liable jointly and severally with and to the same extent as the subdivider, unless the person otherwise liable sustains the burden of proof that he did not know and in the exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution as in cases of contract among persons so liable.

(d) Every person whose occupation gives authority to a statement which with his consent has been used in an application for registration or public offering statement, if he is not otherwise associated with the subdivision and development plan in a material way, is liable only for false statements and omissions in his statement and only if he fails to prove that he did not know and in the exercise of the reasonable care of a man in his occupation could not have known of the existence of the facts by reason of which the liability is alleged to exist.

(e) A tender of reconveyance may be made at any time before the entry of judgment.

(f) A person may not recover under this section in actions commenced more than 4 years after his first payment of money to the subdivider in the contested transaction.

(g) Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with this Act or any rule or order under it is void.

SECTION 17. Jurisdiction. Dispositions of subdivided lands are subject to this Act, and the circuit courts of this State have jurisdiction in claims or causes of action arising under this Act, if:

(1) the subdivided lands offered for disposition are located in this State; or

(2) the subdivider's principal office is located in this State; or

(3) any offer or disposition of subdivided lands is made in this State, whether or not the offeror or offeree is then present in this State, if the offer originates within this State or is directed by the offeror to a person or place in this State and received by the person or at the place to which it is directed.

SECTION 18. Interstate rendition. In the proceedings for extradition of a person charged with a crime under this Act, it need not be shown that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding or other state.

SECTION 19. Service of process. (a) In addition to the methods of service provided for in the Rules of Civil Procedure service may be made by delivering a copy of the process to the office of the director, but it is not

effective unless the plaintiff (which may be the director in a proceeding instituted by it):

(1) forthwith sends a copy of the process and of the pleading by certified mail to the defendant or respondent at his last known address, and

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

(b) If any person, including any nonresident of this State, engages in conduct prohibited by this Act or any rule or order hereunder, and has not filed a consent to service of process and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the director to receive service of process in any noncriminal proceeding against him or his successor which grows out of that conduct and which is brought under this Act or any rule or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection (a).

SECTION 20. Fees and inspection expenses. (a) Notices of filing pursuant to section 8 shall not be issued until the applicant has paid to the director the proper registration fee and advanced the inspection expenses, which shall not be refunded in the event registration is rejected. The fee shall be based upon the number of lots, parcels, units, or interests to be registered, at the following rates:

- (1) up to one hundred lots\$25.00
- (2) 101 to 500 lots 50.00
- (3) over 500 75.00

(b) In addition to the registration fee, the applicant shall deposit with the director sufficient sums to cover the following inspection expenses:

- (1) round trip air and ground transportation from Honolulu to the site of the subdivision;
- (2) per diem of \$30 per day for each day in which travel is required, plus one day for site inspection.

(c) The director may waive the requirement for inspection.

SECTION 21. Uniformity of interpretation. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 22. Short title. This Act may be cited as the Uniform Land Sales Practices Act.

SECTION 23. 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 application, and to this end the provisions of this Act are severable.

SECTION 24. Repeal. Sections 170-30 to 170-38 are repealed.

SECTION 25. Effective date. This Act shall take effect upon approval.

(Approved June 5, 1967.)

ACT 224

H. B. 500.

A Bill for an Act Amending Section 5-72, Revised Laws of Hawaii 1955, as Amended, Relating to Hours of Work: Back-to-Back Scheduling.

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

SECTION 1. Section 5-72, Revised Laws of Hawaii 1955, as amended, is further amended by adding a new subsection to read as follows:

“In operating units rendering public service 24 hours per day and 7 days per week, whenever an employee whose work is subject to shifts is required to render full-time service for more than six consecutive days, he shall be entitled to overtime for each hour of work performed on the seventh day unless after the lapse of 24 nonwork hours.”

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

(Approved June 5, 1967.)

ACT 225

H. B. 803.

A Bill for an Act Relating to Exemptions from the Real Property Tax.

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

SECTION 1. The last sentence of section 128-18, subsection (c), of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“Exemption is allowed by this subsection for property used for charitable purposes which are of a community, character building, social service or educational nature, including museums, libraries, art academies and 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.”
(underlined portion added)

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

(Approved June 5, 1967.)

ACT 226

S. B. 16.

A Bill for an Act Relating to Victims of Criminal Acts, to Provide for Compensation of Victims of Certain Crimes or Dependents of Deceased Victims, and for Indemnification of Private Citizens for Personal Injury or

Property Damage Suffered in Prevention of Crime or Apprehension of a Criminal.

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

SECTION 1. The Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new chapter to be appropriately numbered and to read as follows:

“CHAPTER
CRIMINAL INJURIES COMPENSATION ACT

PART I. INTRODUCTORY

Section-1. Purpose. The purpose of this chapter is to aid victims of criminal acts, by providing compensation for victims of certain crimes or dependents of deceased victims, and for indemnification of private citizens for personal injury or property damage suffered in prevention of crime or apprehension of a criminal.

Section-2. Definitions. As used in this chapter, unless the context otherwise requires:

‘Child’ means an unmarried person who is under twenty years of age and includes a stepchild or an adopted child;

‘Commission’ means the criminal injuries compensation commission established by this chapter;

‘Dependents’ mean such relatives of a deceased victim who were wholly or partially dependent upon his income at the time of his death or would have been so dependent but of the incapacity due to the injury from which the death resulted and shall include the child of such victim born after his death;

‘Injury’ means actual bodily harm and, in respect of a victim, includes pregnancy and mental or nervous shock; and ‘Injured’ has a corresponding meaning;

‘Private citizen’ means any natural person other than a peace officer of the State;

‘Relative’ means a victim’s spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse’s parents;

‘Victim’ means a person who is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State which is within the description of any of the crimes specified in section ...-31 of this chapter.

PART II. ESTABLISHMENT OF COMMISSION

Section-10. Criminal injuries compensation commission. There is hereby established a criminal injuries compensation commission which shall be composed of three members to be appointed and be removable in the manner prescribed by section 14A-3. One member of the commission shall be an attorney who has been admitted to practice before the

supreme court of the State for at least five years. No officer or employee of the State or any political subdivision thereof shall be eligible for appointment to the commission. The commission is hereby placed within the department of social services for administrative purposes.

Section-11. Tenure and compensation of members. The term of office of each member of the commission shall be four years or until his successor is appointed except that (1) the terms of office of the members first taking office shall expire as designated by the governor at the time of the appointment, one on December 31, 1968, one on December 31, 1969, and one on December 31, 1970; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Each member of the commission shall be eligible for reappointment, subject to the provisions of section 14A-3. A vacancy in the commission shall not affect its powers. If any member of the commission is unable to act because of absence, illness or other sufficient cause, the governor may make a temporary appointment, and such appointee shall have all the powers and duties of a regular member of the commission for the period of his appointment.

Each member of the commission except the chairman shall be compensated at the rate of \$50 per day for each day's actual attendance to his duties, provided such compensation shall not exceed a maximum of \$6,600 per year. The chairman shall be compensated at the rate of \$55 per day for each day's actual attendance to his duties, provided such compensation shall not exceed a maximum of \$7,200 per year. The members of the commission shall be paid their necessary travelling and subsistence expenses incurred in the discharge of their duties.

Section-12. Powers and procedures of commission. Upon an application made to the commission under the provisions of this chapter, the commission shall fix a time and place for a hearing on such application and shall cause notice thereof to be given to the applicant. The commission may hold such hearings, sit and act at such times and places, and take such testimony as the commission may deem advisable. The chairman and one other member of the commission shall constitute a quorum; and where opinion is divided and only one other member is present, the opinion of the chairman shall prevail. Any member of the commission may administer oaths or affirmations to witnesses appearing before the commission. The commission shall have such powers of subpoena and compulsion of attendance of witnesses and production of documents and of examination of witnesses as are conferred upon a circuit court. Subpoenas shall be issued under the signature of the chairman. The circuit court of any circuit in which a subpoena is issued or served or in which the attendance or production is required shall have power, upon the application of the commission, to enforce the attendance and testimony of any witness and the production of any document so subpoenaed. Subpoena and witness fees and mileage shall be the same as in criminal cases in the circuit courts, and shall be payable from funds appropriated for expenses of administration.

Section-13. Hearings and evidence. Where any application is made to the commission under this chapter, the applicant and the commission's legal adviser shall be entitled to appear and be heard. Any other person may appear and be heard who satisfied the commission that he has a substantial interest in the proceedings. In any case in which the person entitled to make an application is a child, the application may be made on his behalf by any person acting as his parent or guardian. In any case in which the person entitled to make an application is mentally defective, the application may be made on his behalf by his guardian or such other individual authorized to administer his estate.

Where under this chapter any person is entitled to appear and be heard by the commission, that person may appear in person or by his attorney. All hearings shall be open to the public unless in a particular case the commission determines that the hearing, or a portion thereof, should be held in private, having regard to the fact that the offender has not been convicted or to the interest of the victim of an alleged sexual offense.

Every person appearing under this section shall have the right to produce evidence and to cross-examine witnesses. The commission may receive in evidence any statement, document, information, or matter that may in the opinion of the commission contribute to its functions under this chapter, whether or not such statement, document, information, or matter would be admissible in a court of law.

If any person has been convicted of any offense with respect to an act or omission on which a claim under this chapter is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

Section-14. Medical examination. The commission may appoint an impartial licensed physician to examine any person making application under this chapter, and the fees for such examination shall be paid from funds appropriated for expenses of administration.

Section-15. Attorneys' fees. The commission may, as a part of any order entered under this chapter, determine and allow reasonable attorneys' fees, which if the award of compensation is more than \$1,000 shall not exceed 15 per centum of such award, to be paid out of but not in addition to such award, to the attorneys representing the applicant, provided that the amount of the attorneys' fees shall not, in any event, exceed the award of compensation remaining after deducting that portion thereof for expenses actually incurred by the claimant.

Any attorney who charges, demands, receives, or collects for services rendered in connection with any proceedings under this chapter any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than \$2,000.

Section-16. Judicial review. Any person aggrieved by a final order or decision of the commission on the sole ground that the order or

decision was in excess of the commission's authority or jurisdiction, shall have a right of appeal to the Supreme Court, provided the appeal is filed within thirty days after service of a certified copy of the order or decision. Except as provided in the preceding sentence, orders and decisions of the commission shall be conclusive and not subject to judicial review.

PART III. COMPENSATION TO VICTIMS OR DEPENDENTS

Section -----30. Eligibility for compensation. (a) In the event any person is injured or killed by any act or omission of any other person coming within the criminal jurisdiction of the State after the effective date of this Act, which act or omission is within the description of the crimes enumerated in section ...-31 of this chapter, the commission may, in its discretion, upon an application, order the payment of compensation in accordance with the provisions of 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

(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.

(b) For the purposes of this chapter, a person shall be deemed to have intentionally committed an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(c) In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant, and the commission shall consider the behavior of the victim, and whether, because of provocation or otherwise, the victim bears any share of responsibility for the crime that caused his injury or death and the commission shall reduce the amount of compensation in accordance with its assessment of the degree of such responsibility attributable to the victim.

(d) An order may be made under this section whether or not any person is prosecuted for or convicted of a crime arising out of an act or omission described in subsection (a), provided an arrest has been made or such act or omission has been reported to the police without undue delay. No order may be made under this section unless the commission finds that:

(1) such an act or omission did occur; and

(2) the injury or death of the victim resulted from such act or omission. Upon application from the prosecuting attorney of the appropriate county, the commission may suspend proceedings under this chapter for such period as it deems desirable on the ground that a prosecution for a crime arising out of such act or omission has been commenced or is imminent.

Section -----31. Violent crimes. The crimes to which part III of this chapter applies are the following enumerated offenses and all other offenses in which any enumerated offense is necessarily included:

(1) Arson—Sec. 263-2;

(2) Intermediate Assault or Battery—Sec. 264-5;

- (3) Aggravated Assault or Battery—Sec. 264-3 or any other aggravated assault offense enacted by law;
- (4) Use of dangerous substances—Sec. 264-4;
- (5) Murder—Sec. 291-7;
- (6) Manslaughter—Sec. 291-7;
- (7) Kidnapping—Sec. 292-1;
- (8) Child-stealing—Sec. 292-4;
- (9) Unlawful use of explosives—Sec. 296-8;
- (10) Sexual intercourse with a female under sixteen—Sec. 309-14;
- (11) Assault with intent to rape or ravish—Sec. 309-16;
- (12) Indecent Assault—Sec. 309-17;
- (13) Carnal abuse of female under twelve—Sec. 309-20;
- (14) Rape—Sec. 309-31;
- (15) Attempted Rape—Secs. 248-1, 309-31.

Section-32. Award of compensation. The commission may order the payment of compensation under this part for:

- (1) expenses actually and reasonably incurred as a result of the injury or death of the victim;
- (2) loss to the victim of earning power as a result of total or partial incapacity;
- (3) pecuniary loss to the dependents of the deceased victim;
- (4) pain and suffering to the victim; and
- (5) any other pecuniary loss directly resulting from the injury or death of the victim which the commission determines to be reasonable and proper.

Section-33. Relationship to offender. No compensation shall be awarded, except for expenses specified in section ...-32(1), if the victim:

- (1) is a relative of the offender; or
- (2) was at the time of his injury or death living with the offender as spouse or as a member of the offender's household.

Section-34. Recovery from offender. Whenever any person is convicted of an offense that includes any crime enumerated in section ...-31 and an order or the payment of compensation is or has been made under this part for injury or death resulting from the act or omission constituting such offense, the commission may institute a derivative action against such person and against any person liable at law on his behalf, in the name of the victim or such of his dependents as have been awarded compensation under this part in the circuit court of the circuit in which any such person resides or is found, for such damages as may be recoverable at common law by the victim or such dependents without reference to the payment of compensation under this part. Such court shall have jurisdiction to hear, determine, and render judgment in any such action. The time from the occurrence of such act or omission until conviction of such offense and, thereafter, as long as the offender is in confinement for conviction of such offense, shall not constitute any part of the time limited for the commencement of such action by the commission under the applicable statute of limitations. Any recovery in such

action shall belong to the State, provided that the commission shall amend its order of compensation to provide for the payment of any portion of the recovery in excess of the amount of compensation prescribed in such order to any of the persons entitled to receive compensation under section . . .-30 in such proportions and upon such terms as the commission shall deem appropriate. If the legislature fails to appropriate funds to pay all or any part of the award of payment made by the commission and there is a recovery of money from the offender, the commission shall pay all of such recovery to the claimant or such portion thereof, to the claimant as to the commission appears just and equitable, but in no case shall any claimant be given an award in excess of both the recovery and the award.

PART IV. COMPENSATION TO PRIVATE CITIZENS

Section-40. Eligibility for compensation. In the event a private citizen incurs injury or property damage in preventing the commission of a crime within the State, in apprehending a person who has committed a crime within the State, or in materially assisting a peace officer who is engaged in the prevention or attempted prevention of such a crime or the apprehension or attempted apprehension of such a person, the commission may, in its discretion, upon an application, order the payment of compensation in accordance with the provisions of this chapter:

- (1) to or for the benefit of the private citizen; or
- (2) to any person responsible for the maintenance of the private citizen, where that person has suffered pecuniary loss or incurred expenses as a result of the private citizen's injury.

Section-41. Award of compensation. The commission may order the payment of compensation under this part for:

- (1) expenses actually and reasonably incurred as a result of the injury of the private citizen;
- (2) pain and suffering to the private citizen;
- (3) loss to the private citizen of earning power as a result of total or partial incapacity; and
- (4) pecuniary loss to the private citizen directly resulting from damage to his property.

PART V. GENERAL PROVISIONS

Section-50. Terms of order. Except as otherwise provided in this Act, any order for the payment of compensation under this chapter may be made on such terms as the commission deems appropriate. Without limiting the generality of the preceding sentence, the order may provide for apportionment of the compensation, for the holding of the compensation or any part thereof in trust, and for the payment of the compensation in a lump sum or periodic installments. All such orders shall contain words clearly informing the claimant that all awards and orders for payments under this Act are subject to the making of an appropriation by the legislature to pay the claim.

Section-51. Limitations upon award of compensation. (a) No order for the payment of compensation shall be made under this chapter

unless the application has been made within eighteen months after the date of injury, death or property damage.

(b) No compensation shall be awarded under this chapter in an amount in excess of \$10,000.

Section -----52. Recovery from collateral source. (a) The commission shall deduct from any compensation awarded under this chapter any payments received from the offender or from any person on behalf of the offender, or from the United States, a state, or any of its subdivisions, or any agency of any of the foregoing, for injury or death compensable under this chapter.

(b) Where compensation is awarded under this chapter and the person receiving same also receives any sum required to be, and that has not been, deducted under subsection (a), he shall refund to the State the lesser of said sum or the amount of the compensation paid to him under this chapter.

Section -----53. No double recovery. Application may be made by any eligible person for compensation under both parts III and IV of this chapter, but no order shall have the effect of compensating any person more than once for any loss, expense or other matter compensable under this chapter.

Section -----54. Legal adviser. The attorney general shall serve as legal adviser to the commission.

Section -----55. Exemption from execution. No compensation payable under this chapter shall, prior to actual receipt thereof by the person or beneficiary entitled thereto, or their legal representatives, be assignable or subject to execution, garnishment, attachment or other process whatsoever, including process to satisfy an order or judgment for support or alimony.

Section -----56. Survival and abatement. The rights to compensation created by this chapter are personal and shall not survive the death of the person or beneficiary entitled thereto, provided that if such death occurs after an application for compensation has been filed with the commission, the proceeding shall not abate, but may be continued by the legal representative of the decedent's estate.

Section -----57. Rule-making powers. In the performance of its functions, the commission is authorized to adopt, amend and repeal rules and regulations, not inconsistent with the provisions of this chapter, prescribing the procedures to be followed in the filing of applications and the proceedings under this chapter and such other matters as the commission deems appropriate.

Section -----58. Commission staff. Supervisory, administrative and clerical personnel necessary for the efficient functioning of the commission shall be appointed as provided in section 14A-4.

Section -----59. Annual report. The commission shall transmit annually to the governor and to the director of finance, at least thirty days prior to the convening of the legislature a report of its activities under this chapter

including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded. The director of finance shall, within five days after the opening of the legislative session, transmit such report, together with a tabulation of the total amount of compensation awarded, to the Committee on Ways and Means of the Senate and the Committee on Appropriations of the House of Representatives (or any successor committee). The funds necessary to pay the compensation awarded shall be appropriated in the same manner as payment of other claims for legislative relief sought pursuant to section 35-6. Compliance with this section shall be deemed compliance with section 35-6."

SECTION 2. This Act shall take effect on July 1, 1967.
(Approved June 6, 1967.)

ACT 227

H. B. 827.

A Bill for an Act Relating to Industrial Development Bonds and Amending Chapter 140A, Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. The purpose of this Act is to broaden the powers of the political subdivision of the State to issue industrial development bonds by allowing such bonds to be used not only for the purchase or construction of industrial enterprise but also of tourist facilities. One of the greatest potentials for economic development in the neighbor counties is in tourism. Without means for financing adequate accommodations which could be accomplished through the issuance of industrial bonds, this growth will be inhibited.

SECTION 2. Section 140A-2(a), Revised Laws of Hawaii 1955, is hereby amended to read as follows:

(a) "Industrial development bond" means any general obligation or revenue bond issued by any political subdivision of the State for the purpose of financing the purchase or lease of land; the purchase or construction, including reconstruction, improvement, expansion, extension and enlargement, of buildings and appurtenances; and the purchase and installation of machinery, equipment or fixtures, when the purchases or leases are made primarily for sale or continuing lease to a private individual, partnership or corporation for use in connection with the development of an industrial, commercial, or hotel enterprise;

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 228

H. B. 32.

A Bill for an Act Relating to Mortgage Brokers and Mortgage Solicitors.

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

SECTION 1. **Short title.** This Act may be cited as the "Mortgage Brokerage Act."

SECTION 2. Definitions. In this Act unless the context or subject matter otherwise requires:

(a) "Person" means an individual, partnership, corporation, association or other organization.

(b) "Mortgage loan" means a loan secured by a mortgage on real property.

(c) "Mortgage broker" means a person not exempt under section 3 of this Act who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly makes, negotiates, acquires or sells or offers to make, negotiate, acquire or sell a mortgage loan, but excluding transactions involving the sale or purchase of notes or bonds secured by mortgages which are subject to registration under chapter 199, Revised Laws of Hawaii 1955, as amended.

(d) "Mortgage solicitor" means an individual not licensed as a mortgage broker who performs any of the functions set forth in subsection (c) of this section and who is employed by a mortgage broker or whose business transactions are under the direction, control or management of a mortgage broker.

(e) "Mortgage commissioner" means the director of regulatory agencies who is hereinafter referred to as the "commissioner."

(f) "Licensee" means a person, whether mortgage broker or mortgage solicitor, licensed under this Act.

(g) "License" means a license issued under this Act.

SECTION 3. Exemptions. This Act does not apply to the following:

(a) Banks, trust companies, building and loan associations, pension trusts, credit unions, insurance companies, industrial loan companies or federally licensed small business investment companies, authorized under any law of this State or of the United States to do business in the State of Hawaii.

(b) A person making or acquiring a mortgage loan with his own funds for his own investment without intent to resell the mortgage loan.

(c) A person licensed to practice law in the State, not actively and principally engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as an attorney.

(d) A person licensed as a real estate broker or salesman in the State, not actively engaged in the business of negotiating loans secured by real property, when such person renders services in the course of his practice as a real estate broker or salesman.

SECTION 4. Licensing, requirements, application. (a) No person shall act as a mortgage broker or mortgage solicitor without a license therefor as provided in this Act, and no person not licensed under this Act shall charge or receive any commission, fee or bonus in connection with arranging for, negotiating or selling a mortgage loan.

(b) No mortgage broker or mortgage solicitor license shall be granted

to any person who is not a citizen of the United States, or who is not twenty years of age or older.

(c) Every person licensed as a mortgage broker shall deposit with the commissioner, prior to doing business as such, a bond in the amount of \$15,000, executed by the mortgage broker as principal and a surety company authorized to do business in the State as a surety. The bond shall be conditioned upon the faithful compliance of the broker with the provisions of this Act. The bond shall run to the State for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the broker or his solicitors; provided, however, that the aggregate liability of the surety shall, in no event, exceed the sum of such bond. The surety may cancel the bond by giving sixty days' notice in writing to the commissioner and shall thereafter be relieved of any liability for any breach of condition occurring after the effective date of cancellation. A mortgage broker's license shall not be in effect at any time when said bond is not in full force and effect. Only one bond shall be required of any person.

(d) Each application for a license or for its renewal shall be made in writing, on the forms and in the manner and accompanied by evidence in support of the applications as prescribed by the commissioner. The commissioner shall require such information with regard to the applicant as he may deem desirable, with due regard to the paramount interests of the public, as to the experience, integrity and competency of the applicant as to financial transactions involving primary or subordinate mortgage financing. In the event the commissioner orders denial of issuance or of renewal of a license, such order shall be made only pursuant to chapter 6C, Revised Laws of Hawaii 1955, as amended.

(e) The license fee for a license calendar year or any part thereof shall be \$100 for a mortgage broker and \$25 for a mortgage solicitor, which fees shall be deposited with the director of finance to the credit of the general fund.

(f) If the licensee is a person other than an individual, the license issued to it entitles one officer or member thereof, on behalf of the corporation, partnership, association or other organization, to engage in the business of mortgage broker, and such officer or member shall be designated in the application for license. Each officer or member, other than the officer or member so designated through whom it engages in the business of mortgage broker, shall be required to be licensed as a mortgage solicitor as provided in this Act.

(g) A license shall be prominently displayed in the office of the mortgage broker. A mortgage solicitor's license shall remain in the possession of the licensed mortgage broker employer until canceled or until the mortgage solicitor leaves the employ of the mortgage broker. A license shall not be transferable or assignable; provided, however, that upon payment of a reissuance fee of \$3, a new license may be issued to a mortgage solicitor, valid for the remainder of the calendar year in which it is issued, when he is employed by a different mortgage broker.

(h) Immediately upon the mortgage solicitor's withdrawal from the employ of the mortgage broker, the mortgage broker shall return the mortgage solicitor's license to the commissioner for cancellation.

(i) Every licensed mortgage broker shall have and maintain a principal place of business in the State for the transaction of business. The license shall specify the address of said principal place of business. In the event the mortgage broker maintains a branch office or offices, the commissioner shall, upon application and payment of a fee of \$2, issue a branch office license specifying thereon the address of such branch office. In case the address of the principal place of business or of any branch office is changed, the licensee shall notify the commissioner of the change of address, and the commissioner shall endorse the change of address on the license without charge.

SECTION 5. Suspension, revocation. (a) The commissioner may suspend a license for a period not exceeding two years for any of the following acts or conduct of a licensee:

(1) Making a false promise tending to influence, persuade or induce, or pursuing a course of misrepresentation or false promises through agents, solicitors, advertising or otherwise.

(2) Misrepresentation or concealment of any material fact with respect to any transaction resulting in injury to any party.

(3) Failure to disburse funds in accordance with an agreement.

(4) Failure to account or deliver to any person any personal property such as money, fund, deposit, check, draft, mortgage or other document or thing of value which has come into his hands and which is not his property or which he is not in law or equity entitled to retain, and at the time which has been agreed upon, or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to such accounting or delivery.

(5) Failure to place, within a reasonable time upon receipt, any money, fund, deposit, check or draft, entrusted to him by any person dealing with him as a broker, in escrow pursuant to a written agreement, or to deposit said funds in a trust or escrow bank account maintained by him with a bank located and doing business in the State, wherein said funds shall be kept until disbursement thereof is authorized.

(6) Failure to comply with this Act or any order, rule or regulation made under the authority of this Act.

(b) The commissioner may revoke a license if the application for the license contains a material misstatement, the licensee demonstrates by a course of conduct negligence or incompetence in performing any act for which he is required to be licensed under this Act or the licensee for a second time is responsible for misconduct which warrants suspension under subsection (a) of this section.

(c) For a licensee other than an individual, it shall be sufficient cause for the suspension or revocation of the license that any officer, director or member of the licensed corporation, partnership, association or other organization has so acted as would be cause for suspension or revocation of a license to such party as an individual.

(d) Orders for suspension or revocation shall be made only pursuant to chapter 6C, Revised Laws of Hawaii 1955, as amended.

SECTION 6. Power to investigate and enjoin. (a) If the commissioner has reason to believe that a licensee or any person has violated this Act, or the rules and regulations adopted pursuant thereto, or that any license issued under this Act may be subject to suspension or revocation, the commissioner may make such investigation as he shall deem necessary and is hereby granted the power to examine books, records, accounts and files of any licensee or person. If the commissioner finds from satisfactory evidence that any licensee or person has violated any of the provisions of this Act, he may bring an action in the name of the people of the State in any court of competent jurisdiction against any such licensee or person to enjoin the licensee or person from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.

(b) Any person having reason to believe that this Act or the rules and regulations adopted pursuant thereto, have been violated or that a license issued under this Act is subject to suspension or revocation, may file with the commissioner a written complaint setting forth the details of the alleged violation or grounds for suspension or revocation.

SECTION 7. Power of commissioner. The commissioner may promulgate such rules and regulations pursuant to chapter 6C, Revised Laws of Hawaii 1955, as amended, as he may deem necessary for the administration of this Act. The rules and regulations shall include, but not be limited to the following:

- (a) Advertising;
- (b) Solicitation;
- (c) Specifications as to the forms and procedures to be used in the making of any mortgage loan.

SECTION 8. Fees, commissions and charges. The commissioner may also promulgate rules and regulations concerning maximum fees, commissions and charges on mortgage loan transactions. The maximum fees, commissions and charges shall be related to the actual amount of money made available to the borrower, over and above the indebtedness of prior mortgages. The commissioner may also promulgate rules and regulations concerning the full disclosure of the fees, commissions and charges.

SECTION 9. Penalty, contracts void. Violation of this Act shall be punishable by a fine of not more than \$1,000 or imprisonment of not more than one year, or both fine and imprisonment. Any contract entered into by any person with any unlicensed mortgage broker or solicitor shall be void and unenforceable.

SECTION 10. There is hereby appropriated out of the general revenues of the State, not otherwise appropriated, the sum of \$10,000, or so much thereof as may be necessary, to be expended by the department of regulatory agencies for the purposes of this Act.

SECTION 11. Effective date. This Act shall take effect January 2, 1968.

(Approved June 6, 1967.)

ACT 229

H. B. 82.

A Bill for an Act Relating to Income Taxation and Amending Chapter 121, Revised Laws of Hawaii 1955.

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

SECTION 1. Subsection (a) of section 121-12.1, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(a) **Tax credits against individual net income taxes.** Each resident taxpayer who files an individual net income tax return for a taxable year and who is not claimed or is not otherwise eligible to be claimed as a dependent by another taxpayer for federal or Hawaii state individual net income tax purposes may claim tax credits against his individual net income tax liability or as otherwise provided below for the taxable year for which the individual net income tax return is being filed; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credit to which they would have been entitled had a joint return been filed; and provided that a resident individual who has no income or no income taxable under the provisions of this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual net income tax purposes may also claim tax credits as set forth in this section.”

SECTION 2. Subsection (b) of section 121-12.1, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(b) **Modified adjusted gross income.** Each resident taxpayer who claims tax credits as set forth in this section shall declare in addition to his income taxable under this chapter, the following income presently exempt from income taxation: social security benefits, unemployment compensation benefits, workmen’s compensation benefits, interest on tax-free securities, public assistance payments, pensions and annuities, cost of living allowances paid to federal employees and proceeds from life insurance. The modified gross income of a resident taxpayer for the purposes of this section shall be the sum of his adjusted gross income for income tax purposes, if any, and the income exempt from income taxation, if any, declared pursuant to the provisions of this subsection.”

SECTION 3. Subsection (e) of section 121-12.1, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(e) **Tax credits to be deducted from income tax liability, if any; refunds.** The tax credits by a resident taxpayer pursuant to the provisions of this section shall be deductible from the resident taxpayer’s individual net income tax liability, if any, for the tax year in which they are properly

claimed. In the event the tax credits claimed by a resident taxpayer, and allowed, exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer, provided that tax credits properly claimed by a resident individual who has no income tax liability, and allowed, shall be paid to such resident individual; and further provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.00."

SECTION 4. Subsection (c) of section 121-12.1, Revised Laws of Hawaii 1955, is hereby amended by amending the schedule therein to read as follows:

"Modified Adjusted Gross Income Brackets	Tax Credits per Qualified Exemption
"Under \$1,000	\$20
"\$1,000 to \$1,999	15
" 2,000 to 2,999	10
" 3,000 to 3,999	5
" 4,000 to 4,999	3
" 5,000 to 6,999	1"

SECTION 5. Section 121-12.1, Revised Laws of Hawaii 1955, is hereby amended by adding a new subsection (h) to read as follows:

"(h) **Time for filing.** Claims for tax credits under this section, including any amended claims thereof, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Tax credits allowable under this section for taxable years 1965 and 1966 must be claimed by proper application or amended application on or before December 31, 1967. Failure to comply with the foregoing provisions shall constitute and be deemed a waiver of the right to claim or recover the credit hereunder."

SECTION 6. Section 121-12.2, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Section 121-12.2. Tax credits for students attending institutions of higher education and for dependent children attending school in grades kindergarten to twelve. (a) For purposes of this section, an institution of higher education is defined to include technical schools, institutes, junior colleges, colleges, universities, and like institutions offering a formal educational program of a professional, academic or occupational nature beyond the high school level.

"(b) For each person, constituting a personal exemption allowed a taxpayer under the Internal Revenue Code and section 121-11, who was duly registered and in attendance as a student in an institution of higher education for not less than one-half of the course work of a full-time student at such institution and for not less than four months of the taxable year for which an individual net income tax return was filed, or who was enrolled and in attend-

ance as a student at school in grades kindergarten through twelve for not less than four months of the taxable year for which an individual net income tax return was filed, there shall be allowed to such resident taxpayer claiming such exemption, tax credits in the amount indicated for each adjusted gross income tax bracket as shown in the table below; provided, that no person who is claimed, or is eligible to be claimed as a dependent, for federal or Hawaii state individual net income tax purposes by another shall be allowed to claim the tax credit as provided in this section.

Adjusted Gross Income Brackets	Tax Credits Per Exemption Attending:	
	K-12	An Institution of Higher Education
Under \$3,000	\$20	\$50
\$3,000 to \$3,999	15	30
4,000 to 4,999	10	20
5,000 to 5,999	5	10
6,000 to 6,999	2	5

“(c) The tax credits claimed by a resident taxpayer pursuant to the provisions of this section shall be deductible from the taxpayer’s individual net income tax liability, if any, for the tax year in which they are properly claimed, provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credits to which they would have been entitled had a joint return been filed. In the event the tax credits claimed by a resident taxpayer, and allowed, exceed the amount of the income tax payments due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer; provided that tax credits properly claimed by a resident individual who has no income tax liability, and allowed, shall be paid to the resident individual; and further provided that no refunds or payments on account of the tax credits allowed by this section shall be made for amounts less than \$1.00.

“(d) Time for filing. Claims for tax credits under this section, including any amended claims thereof, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Tax credits allowable under this section for taxable years 1965 and 1966 must be claimed by proper application or amended application on or before December 31, 1967. Failure to comply with the foregoing provisions shall constitute a waiver of the right to claim or recover the credits hereunder.

“(e) The director of taxation shall prepare and prescribe the appropriate form or forms to be used by taxpayers in filing claims for tax credits hereunder. He may also require that the taxpayer furnish reasonable information in order that he may ascertain the validity of the claims for tax credits made pursuant to the provisions of this section and promulgate any other rules and regulations as may be necessary to effectuate the purposes of this section pursuant to chapter 6C.

“(f) All of the provisions relating to assessments and refunds under this chapter and under section 115-28(c) shall be made applicable hereto and shall apply with equal force to the tax credits hereunder.”

SECTION 7. This Act, upon its approval, shall apply with respect to the individual net income tax return filed in the year 1968 on account of income earned during the calendar year 1967 and thereafter.

(Approved June 6, 1967.)

ACT 230

H. B. 229.

A Bill for an Act Relating to Exchange Teachers and Educational Officers of the Department of Education.

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

SECTION 1. Section 38-11, Revised Laws of Hawaii 1955, as amended, relating to exchange teachers of the department of education is hereby amended to read as follows:

“**Section 38-11. Exchange teachers and educational officers; terms of contract.** The superintendent of education may contract for the exchange of teachers and educational officers of the State with teachers and educational officers of any other state, country or territory. Teachers and educational officers of the State so exchanged shall be paid their regular salaries. The qualifications of all teachers and educational officers from any such state, country, or territory so exchanged shall be equal to those of the teachers and educational officers exchanged by the State. In the selection of teachers and educational officers to be exchanged, preference shall be given in the following order: teachers over educational officers; principals and vice principals over other educational officers.

“All teachers and educational officers so exchanged by the State shall be furnished transportation to and from the state, country or territory with which exchanged.

“No compensation shall be paid by the State to teachers and educational officers exchanged from any other state, country or territory; provided that in any case where the exchanged teacher or educational officer sent from Hawaii becomes incapacitated or, for any reason, leaves the exchange position permanently, the department may pay the visiting exchange teacher or educational officer an amount not to exceed the salary rating of the teacher or educational officer on exchange from Hawaii, such an arrangement to continue until the end of the current school year or until such time as some satisfactory adjustment has been made.”

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

(Approved June 6, 1967.)

A Bill for an Act Relating to the Tax Appeal Court and Amending Chapters 34 and 116, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 116-4 (f), Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“(f) Each board and each member thereof in addition to all other powers shall also have the power to subpoena witnesses, administer oaths, examine books and records and hear and take evidence in relation to any subject pending before the board. The tax appeal court shall have the power, upon request of the boards, to enforce by proper proceedings the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the boards.”

SECTION 2. Section 116-5, Revised Laws of Hawaii 1955, is hereby deleted in its entirety with the following being substituted therefor, to read as follows:

“§ 116-5. **Designation of judges of the tax appeal court.** (a) There shall be a tax appeal court with a judge of the circuit court of the first circuit to be designated by the chief justice to act as first judge of the tax appeal court until his successor is similarly designated.

“(b) A judge of the circuit court of the first circuit shall be designated by the chief justice as second judge of the tax appeal court, who shall thereupon be authorized to act as judge of the tax appeal court in case of the disqualification, disability or absence from the city and county of Honolulu of the first judge of the tax appeal court.

“(c) In case of the disqualification, disability or absence from the city and county of Honolulu of both such judges, the chief justice may designate some other circuit judge to perform the duties of judge of the tax appeal court during such disqualification, disability, or absence.”

SECTION 3. Section 116-7, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 116-7. **Sessions held where, when.** The tax appeal court shall commence to hold meetings to hear and determine appeals not later than July 1 in each year and at such place as shall be determined by the court, and the court may adjourn from time to time and may hold hearings at such other time or times and at such place or places as the court may determine. Notice shall be given to all persons in interest of the time and place set for hearings.”

SECTION 4. Section 116-8, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 116-8. **Court of record; general duties, powers, seal.** The tax appeal court shall hear and determine appeals as provided in sections 116-13 or 116-14. It shall be a court of record; have jurisdiction throughout the State

with respect to matters within its jurisdiction; and shall have the power and authority in the manner provided in section 116-10, to decide all questions of fact and all questions of law, including constitutional questions, involved in any such matters, without the intervention of a jury. The court may meet at such times during the year and at such places from time to time as shall be deemed advisable to carry out its work. The court, with the approval of the supreme court, shall adopt and use, and with such approval may change from time to time, an official seal.”

SECTION 5. Section 116-9, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“§ 116-9. Powers when hearing appeals. The tax appeal court when hearing appeals, shall, in respect to the summoning and examination of witnesses and the production of papers and documents and punishment for contempts and otherwise carrying out its duties and functions, have all the powers and authority of a circuit judge at chambers.”

SECTION 6. A new section is hereby added to chapter 116, Revised Laws of Hawaii 1955, as amended, to be appropriately designated, and to read in its entirety as follows:

“Section 116-..... Small claims. The tax appeal court shall establish by rule a small claims procedure which, to the greatest extent practicable, shall be informal. Any protesting taxpayer who would incur a total tax liability, not including penalties and interest, of less than \$1,000.00 by reason of the protested assessment or payment in question, may elect to employ such procedure upon:

“(a) payment of a \$3.00 filing fee; and

“(b) filing with the tax appeal court a written statement of the facts in the case, together with a waiver of the right to appeal to the supreme court.

“The tax appeal court shall cause a notice of the appeal and a copy of such statement to be served on the director of taxation.”

SECTION 7. Section 34-24, Revised Laws of Hawaii 1955, as amended, is hereby further amended by changing the second full paragraph thereof to read as follows:

“Action to recover the money so paid, 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 such period of thirty days, and in default of bringing such suit or proceedings within such period, the money so paid shall be by such accountant deposited in the treasury of the State, and the same shall thereupon become a government realization, provided, however, that any action to recover payment of taxes under protest shall be commenced in the tax appeal court.”

SECTION 8. Transition. In order to permit effective transition and continuity of the functions of the tax appeal court, the tax appeal court as presently constituted shall continue to have jurisdiction over all matters as to which trial has been commenced before the effective date of this Act and

until their disposition. Jurisdiction over such matters upon remand by the supreme court for new trial or further proceedings shall rest with the judge of the tax appeal court designated under this Act, and not with such court as presently constituted.

SECTION 9. 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 1967, whether enacted before or after the passage of this Act shall be amended to conform to this Act, unless such acts specifically provide to the contrary.

SECTION 10. Separability. Any portion of this Act judicially declared to be invalid shall not affect the remaining portion.

SECTION 11. This Act shall take effect on July 1, 1968.
(Approved June 6, 1967.)

ACT 232

H. B. 292.

A Bill for an Act Relating to the State Tort Liability Act and Amending Section 245-11, Revised Laws of Hawaii 1955, (1965 Supplement).

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

SECTION 1. Section 245A-11, Revised Laws of Hawaii 1955 (1965 Supplement), is hereby amended to read as follows:

“**Section 245A-11. Compromise.** The attorney general, with the approval of the court, may arbitrate, compromise, or settle any claim cognizable under this chapter, after commencement of an action thereon; provided that the attorney general may arbitrate, compromise or settle claims for \$2,000 or less without the necessity of court approval or the commencement of an action. The attorney general shall prepare, for each fiscal year, a report of all claims arbitrated, compromised or settled for \$2,000 or less. The report shall be submitted to the legislature twenty days prior to the commencement of the regular session next succeeding the year for which the report is made.”

SECTION 2. This Act shall take effect on July 1, 1967.
(Approved June 6, 1967.)

ACT 233

H. B. 294.

A Bill for an Act Relating to Education and Amending Chapter 37, Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. The purpose of this Act is to authorize the department of education to provide suitable transportation for all school children in grades kindergarten to 12 and in special education classes and to

promulgate rules and regulations relating thereto with a view to providing equal opportunity for education to the school children of the State.

SECTION 2. Chapter 37, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto two new sections to be appropriately numbered and to read as follows:

“Section 37-..... Transportation of school children. The department may provide suitable transportation to and from school for all children in grades kindergarten to 12 and in special education classes. The department shall adopt the 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 6C, promulgate rules and regulations governing the supervision and administration of the transportation of school children under this Act.

“Section 37-..... Approval by the chief executive and the police department of the county. No carrier or motor vehicle shall be used for the transportation of students eligible for benefits hereunder, unless specifically approved by the executive officer of the county or his authorized representative and by the police department of the county, as being safe for the transporting of such students. The owner or operator of such carrier or motor vehicle used in violation of this section shall be guilty of a misdemeanor and subject to a fine of not more than \$500 or imprisonment of not more than six months, or both.”

SECTION 3. Section 37-23, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Section 37-23. Regulation of school busses; misconduct of state personnel or contractor. As used in this section, ‘school bus’ means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.

“The department shall adopt regulations to govern the design, equipment and operation of all school busses used for the transportation of school children in the State, and such regulations shall, by reference, be made a part of any contract, if any, executed by the State. Every state officer and employee and every person who transports school children by school busses shall be subject to such regulations.

“Any officer or employee of the State who violates any regulations or fails to include the obligation to comply with the regulations in any contract

executed by him on behalf of the State, shall be subject to removal from office or employment. Any person operating a school bus who fails to comply with any regulation shall be in violation of this Act and be guilty of a misdemeanor and subject to a fine of not more than \$500 or imprisonment of not more than six months, or both, and if under contract, he shall be deemed to have breached the contract which shall be canceled after notice and hearing pursuant to chapter 6C.

“The executive officer of each county or his authorized representative shall be responsible for enforcement of the regulations adopted by the department of education. The police department of the county shall assist in the enforcement program exercising its authority as established under existing law which shall, wherever appropriate, be applicable to school busses for purposes of this Act.”

SECTION 4. Section 37-19, Revised Laws of Hawaii 1955, as amended, is hereby repealed.

SECTION 5. 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 the general session of 1967, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such acts specifically provide that this Act is being amended.

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

(Approved June 6, 1967.)

ACT 234

H. B. 315.

A Bill for an Act Relating to the Public Lands of the State of Hawaii.

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

SECTION 1. The second paragraph of section 103A-11 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Lands while so set aside for such use or purpose or when acquired for roads and streets shall be managed by the department, agency, city and county, county or other political subdivisions of the State having jurisdiction thereof, unless otherwise provided by law. Such department, agency of the State, the city and county, county or other political subdivisions of the State in managing such lands shall be authorized to exercise all of the powers vested in the board in regard to the issuance of leases, licenses, revocable permits, concessions or rights of entry covering such lands for such use as may be consistent with the purposes for which the lands were set aside on the same terms, conditions and restrictions applicable to the disposition of public lands, all such dispositions being subject to the prior approval of the board. If at the time of the disposition of any such leases the board shall have approved the same, any order withdrawing or setting aside any or all of such lands for any other public purpose shall be made subject to such leases. Sub-

ject to the provisions of section 5(f) of the Act of March 18, 1959 (73 Stat. 6), all proceeds from such lands shall be deposited into the appropriate funds provided by law.”

SECTION 2. Section 103A-16 of the Revised Laws of Hawaii 1955, as amended, is further amended by adding a new paragraph at the end thereof, to be designated and read as follows:

“(d) Exchanges; quitclaim; submerged and reclaimed land; reservations and easements. Whenever it is proposed to exchange public lands for private land pursuant to section 103A-47, quitclaim public land or any interests of the State in private land pursuant to section 103A-48, dispose of submerged or reclaimed public land pursuant to subsections (b) and (d) of section 103A-50, dispose of a land license by negotiation pursuant to section 103A-51, or dispose of reserved rights and easements pursuant to section 103A-54, public notice of such disposition shall be published at least once in each of three successive weeks in a newspaper of general circulation in the State and in addition in a newspaper of general circulation in the appropriate county if the public land is situated in the first, second and fourth districts. Such notice shall state in general terms the size and location of the public lands proposed to be disposed.”

SECTION 3. Chapter 103A of the Revised Laws of Hawaii 1955, as amended, is further amended by deleting the figure “103A-16(c)” which appears in sections 103A-47, 103A-48, 103A-50 and 103A-54 and substituting the figure “103A-16(d).”

SECTION 4. The first sentence of section 103A-16(c) of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Notice of a proposed disposition by negotiation shall be published at least once in each of three successive weeks in a newspaper of general circulation in the State and in addition in a newspaper of general circulation in the appropriate county if the land is situated in the first, second and fourth districts; provided, that such notices are not required for permits, and dispositions of remnants.”

SECTION 5. Section 103A-19(a) is repealed in the entirety, and sections 103A-19(b) to 103A-19(h) are appropriately redesignated to read sections 103A-19(a) to 103A-19(g), respectively.

SECTION 6. The first and second sentences of section 103A-21 of the Revised Laws of Hawaii 1955, as amended, are further amended to read as follows:

“Whenever any notice of breach or default is given to any party under the provisions of section 103A-20, or under the terms of any lease, patent, license, agreement or other instrument heretofore issued or hereafter to be issued under the provisions of this chapter, a copy of such notice shall be delivered by the board to all holders of record of any security interest in the land or interest covered by the lease, patent, license, agreement or other instrument whose

security interest has been recorded with the board. Should the board seek to forfeit the interest or estate created by the lease, license, agreement, patent or other instrument, each holder may, at its option, cure or remedy the breach or default, if the same can be cured or remedied, by the payment of money or, if such is not the case, by performing or undertake in writing to perform all the terms, covenants, restrictions or conditions of any lease, patent, license, agreement or other instrument capable of performance by the holder, as determined by the board, within sixty days from the date of receipt of the notice, or within such additional period as the board may allow for good cause and add the cost thereof to the mortgage debt and the lien of the mortgage.”

SECTION 7. Section 103A-27 of the Revised Laws of Hawaii 1955 is amended by deleting the word “ninety” appearing in line 13 of said section and substituting the word “sixty” in its place.

SECTION 8. Section 103A-29 of the Revised Laws of Hawaii 1955 is amended to read as follows:

“Section 103A-29. Report to legislature on all dispositions. (a) The board shall submit a written report annually to the legislature within ten days of the convening of each regular session, of all land dispositions made in the preceding year, including sales, leases, leases with options to purchase, licenses, concessions, permits, exchanges and setting aside of lands by executive orders, the persons to whom made, the size of each disposition, the purpose for which made, the land classification of each, the tax map key number, the per unit price paid or set, and whether the disposition was by auction, by drawing or by negotiation.

(b) Whenever in this chapter any sale, lease, easement, license, executive order, quitclaim, exchange or other disposition is made subject to disapproval of the legislature, a written report thereof containing the information required in subsection (a) of this section shall be submitted to said legislature in the session next following the date of such disposition within ten days of the convening of said session.”

SECTION 9. Section 103A-51 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Land license. The board may issue land licenses affecting public lands for a period not exceeding twenty years. No land license shall be disposed of except at public auction as provided in this chapter; provided, that the board may, after publication of notice in accordance with section 103A-16(d), dispose of a land license by negotiation, without recourse to public auction, if it shall determine that the public interest will best be served thereby. The disposition of a land license by negotiation shall be upon such terms and conditions as the board determines shall best serve the public interest.”

SECTION 10. Section 103A-51.1 of the Revised Laws of Hawaii 1955, as amended, is repealed in the entirety.

SECTION 11. Section 103A-52 of the Revised Laws of Hawaii 1955, as

amended, is further amended by deleting the second sentence thereof and by substituting the following in its place:

“Such permit on a month to month basis may continue for a period not to exceed one year from the date of its issuance; provided, that the board may allow such permit to continue on a month to month basis for additional one year periods.”

SECTION 12. The second paragraph of section 103A-57 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Whenever land or a portion thereof under lease can be re-leased or sold for a higher and better use, or for the existing use to a greater economic benefit to the State, and there is a bona fide applicant interested in such re-lease or sale, the board, subject to the consent of the lessee, his successors or assigns, and each holder of record having a security interest, may cancel the lease without compensation to the lessee or withdraw a portion of the land from the lease and re-lease or sell the same; provided, however that in the event of withdrawal of a portion, the board may in its discretion allow a proportionate reduction in rent; and provided, further, that in the event buildings and improvements have been erected by the lessee, as permitted under the lease, on the land or portion thereof under lease affected by the cancellation or withdrawal, the board shall pay to the lessee a sum not to exceed the replacement value, less depreciation at the rates used for real property tax purposes.”

SECTION 13. Section 103A-59(a) of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Upon application by the owner and consent therefor having been given by each holder of record having a security interest, and after a finding that the public interest will be served thereby, the board may amend or waive the conditions restricting the use of land contained in any agreement of sale, deed or patent upon the condition that the grantee or patentee pay to the board the difference between the fair market value of the land based upon its restricted use and the fair market value with the restrictive condition amended or waived. Except for residential lots, the foregoing authority granted to the board shall not be construed to authorize the board to waive the condition contained in any agreement of sale, deed or patent which provides that upon change in use or breach of a condition, the title automatically reverts to the State, or the State shall have the power of termination.”

SECTION 14. Section 103A-36(b), Revised Laws of Hawaii 1955, is amended to read as follows:

“(b) No lease shall be for a longer term than sixty-five years, except in the case of a residential leasehold which may provide for an initial term of fifty-five years with the privilege of extension to meet Federal Housing Administration, Federal National Mortgage Association or Veterans Administration requirements, provided, that the aggregate of the initial term and extension shall in no event exceed seventy-five years; and except in the case of a

macadamia nut orchard lease the term of which shall not be in excess of forty-five years.”

SECTION 15. Subsections (a) and (b) of section 103A-37, Revised Laws of Hawaii 1955, are amended to read as follows:

“(a) The lease term shall not exceed twenty-five years, except that if the type of disposition requires the lessee to occupy the premises as his own personal residence, it may be longer than twenty-five years, but not in excess of seventy-five years, and except in the case of a macadamia nut orchard lease the term of which shall not be in excess of forty-five years.

(b) If the land being leased is not immediately productive and requires extensive expenditures for clearing, conditioning of the soil, the securing of water, the planting of grasses, or the construction of improvements, as the result of which a longer term is necessary to amortize the lessee’s investment, then the lease term may be longer than twenty-five years, but not in excess of thirty-five years, except that in the case of a macadamia nut orchard lease the lease term shall not be in excess of forty-five years.”

SECTION 16. Severability. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 17. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 235

H. B. 419.

A Bill for an Act to Amend Chapter 143A, Revised Laws of Hawaii 1955, Relating to County Charters.

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

SECTION 1. Chapter 143A, Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(1) Section 143A-3 is hereby amended by adding thereto a new sentence to read as follows:

“The chairman of each county may appoint successive charter commissions with the approval of the legislative body of the county.”

(2) Section 143A-8 is hereby amended to read as follows:

“Sec. 143A-8. Submission of proposed charter to legislative body of the county. Within one year of its appointment, the commission shall submit a report in writing on its activities, findings and recommendations to the legislative body of the county together with a draft of the proposed charter. The legislative body of the county may in turn propose one or more sections as alternative, or alternatives to any section of the proposed charter; provided, however, that there shall not be more than a single proposition under any alternative proposal. Within thirty days after the receipt of the

proposed charter from the commission, the legislative body shall return the proposed charter with the alternatives to the commission for its study.”

(3) Section 143A-9 is hereby amended to read as follows:

“Sec. 143A-9. Submission of proposed charter to county clerk.

If the legislative body of the county proposes no alternative sections to the charter, the commission shall submit a draft of the proposed charter to the county clerk within thirty days after it has received the charter from the legislative body. If, however, alternatives are submitted by the legislative body of the county to the commission, then the commission shall accept or reject the alternatives within thirty days after the charter has been returned to it and shall report to the legislative body of the county of any rejection. The legislative body of the county may within ten days after receiving such notification recall any or all of the alternative proposals rejected by the commission. Upon the expiration of the time for recall by the legislative body as provided herein or sooner with the consent of the legislative body the commission shall submit to the county clerk the proposed charter together with any alternatives proposed by the legislative body of the county which have not been accepted by the commission and incorporated in its draft.”

(4) Section 143A-10 is hereby amended to read as follows:

“Sec. 143A-10. Publication and submission to electors.

The county clerk shall provide for the submission of the proposed charter with any alternatives, as provided by section 143A-9, to the qualified electors of the county for approval at a general election or special election to be held on such date determined by the commission; provided, however, such special election shall not be held within thirty days before the closing of the date for filing nominations for regular county elections. The commission shall provide for the publication of the proposed charter with any alternatives twenty-one days before such election, in a newspaper of general circulation within the county.

The form of ballot shall be prepared for the county clerk by the commission. The form of the ballot, including such explanatory material as may be necessary, shall be substantially as follows:

Yes No

Shall the proposed charter of the County of be adopted?		
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In the event alternatives are included in the ballot, the alternatives, including such explanatory material as may be necessary, shall be submitted in substantially the following form:

Yes No

Shall the proposed charter of the County of with alternative No. (here state the substance of the alternative) be adopted?		
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Each elector may vote for the proposed charter and for any proposed

alternative. Blank ballots and spoiled ballots shall not be counted in determining the majority of the votes. Any proposition receiving a majority of the votes cast at the charter election shall be considered approved by the electors. If the proposed charter and any of the proposed alternatives receive a majority of the votes cast at said election, the proposition receiving the larger majority shall supersede the proposition with the smaller majority. The general laws and rules governing elections, so far as applicable and not inconsistent with the provisions of this chapter, shall apply to elections held pursuant to the provisions of this chapter.

Upon adoption, the charter shall become the organic law of the county and shall supersede any existing charter and all laws affecting the organization and government of the county which are in conflict therewith."

SECTION 2. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act.

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

(Approved June 6, 1967.)

ACT 236

H. B. 581.

A Bill for an Act to Amend Section 130-8, Revised Laws of Hawaii 1955, Relating to Duplicates for Lost or Damaged Plates, Tags or Emblems.

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

SECTION 1. Section 130-8 of the Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

1. Amend the heading by substituting the word "Replacements" for the word "Duplicates."

2. Amend the last sentence to read:

"Upon the filing of such form, the treasurer shall issue a new number plate or plates, tag or emblem and shall charge the owner a fee to be fixed by the treasurer equal to the costs of the number plate, tag or emblem, plus the administrative cost of furnishing such plate, tag or emblem and effecting such replacement."

SECTION 2. This Act shall take effect on January 1, 1968.

(Approved June 6, 1967.)

ACT 237

H. B. 627.

A Bill for an Act Relating to the Planting or Cultivation of Certain Narcotic Drugs, and Amending Sections 52-14 and 52-24 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 52-14 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Sec. 52-14. No person shall knowingly plant, cultivate, produce, manufacture, possess, have under his control, prescribe, administer or compound any narcotic drug as defined by section 52-10, except as provided in this part. Any person found guilty of any of the foregoing acts shall be imprisoned at hard labor not more than five years for the first offense and imprisoned at hard labor not more than ten years for any subsequent offense.”

SECTION 2. Section 52-24 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Sec. 52-24. Nothing in this part shall apply to the planting, cultivation, production, manufacture, possession, control and sale for medicinal and scientific purposes, by producers, manufacturers, wholesalers and apothecaries, or to the administering, dispensing, prescribing, compounding and use, for medicinal and scientific purposes, by physicians, dentists, podiatrists, veterinarians and practitioners; and provided, further, that this part shall not apply to preparations produced, manufactured, possessed, controlled, sold, prescribed, administered, dispensed, compounded, or used in good faith for medicinal and scientific purposes, which do not contain more than one-half grain of the extract of cannabis sativa, marihuana or of any other derivative or preparation of cannabis sativa or marihuana, of any greater pharmacologic potency, in one fluid ounce, or, if a solid or semi-solid preparation, in one avoirdupois ounce, or to liniments, ointments or other preparations containing cannabis sativa, marihuana or derivatives thereof, which are prepared for external use and susceptible of such use alone. Nothing in this part shall apply to any person in valid possession of a valid license issued by the department of health, to traffic in marihuana.”

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 238

H. B. 833.

A Bill for an Act Relating to Health Insurance, Health Plans and Public Assistance Programs: Providing for Insuring Public Freedom of Choice of Practitioner and Profession when Visual Care Coverage is Included in Insurance Policies, Medical, Hospital and Health Service Plans and Public Assistance Programs.

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

SECTION 1. Notwithstanding any provision of any individual or group policy, contract, plan or agreement of accident and/or health insurance or any provisions of a policy, contract, plan or agreement for medical, hospital or health service or indemnity, whenever such policy, contract, plan or agreement provides for reimbursement for any visual or optometric service which is within the lawful scope of practice of a duly licensed optometrist, the person entitled to benefits, or a person performing services, under such policy, contract, plan or agreement shall be entitled to reimbursement whether said

service is performed by a licensed physician or by licensed optometrist. Visual or optometric services shall include eye and/or visual examination or a correction of any visual or muscular anomaly and the supplying of ophthalmic materials, including contact lenses, and subnormal vision aids. Unless such policy, contract, plan or agreement shall otherwise provide, there shall be no reimbursement for ophthalmic materials, lenses, contact lenses, spectacles, eye-glasses, and/or appurtenances thereto.

SECTION 2. Whenever visual or optometric services within the lawful scope of practice of a duly licensed optometrist are included in any program, financed with public funds or administered by any public agency, for aid to the indigent, the aged, the legally blind, or any other group or class, the recipient of such aid shall be entitled to choose whether such services are to be performed by a duly licensed physician or by a duly licensed optometrist. Visual or optometric services as used herein shall include eye and/or visual examination or a correction of any vision or muscular anomaly and the supplying of ophthalmic materials, including contact lenses and subnormal vision aids.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 239

H. B. 842.

A Bill for an Act Authorizing Suit Against the State of Hawaii by James Tamura for Claimed Damages Caused by the Granting to Him of Land to be Used for Residential Purposes which Land was Zoned for Agricultural Purposes by the Land Use Commission.

WHEREAS, James Jitsuo Tamura purchased Lot 63, Panaewa House Lots, consisting of 1.96 acres at Waiakea, South Hilo, Hawaii, designated as tax key number 2-2-52-8, by transfer from P. W. Pereira in March, 1962; and

WHEREAS, James Jitsuo Tamura was issued Grant No. S-14,183 for such land by the department of land and natural resources on April 24, 1964; and

WHEREAS, James Jitsuo Tamura in taking such land may have been misled by the State, its officers, employees, or agents into believing that the subject land could be subdivided into houselots; and

WHEREAS, Grant No. S-14,183 requires the subject land to be used for residential purposes for a period of ten years from the date of issuance of the grant; and

WHEREAS, the land in question was temporarily zoned for agricultural purposes on April 21, 1962 and permanently so zoned on August 23, 1964 and is presently so zoned by the land use commission; and

WHEREAS, misrepresentations concerning the use to which the land could be put may have been made by state officers, employees, or agents and the grant to James Jitsuo Tamura may have been inconsistent with the

zoning for the property whereby he may have suffered damages; now, therefore,

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

SECTION 1. James Jitsuo Tamura is hereby authorized to sue the State of Hawaii in an appropriate state court to recover damages which are allegedly due to misrepresentations or a contract inconsistent with zoning made or given by the State or its officers, employees or agents or due to the requirements of Grant No. S-14,183 that the land comprised of 1.96 acres and designated as tax key number 2-2-52-8 be used for residential purposes notwithstanding the fact that the subject land is zoned for agricultural purposes by the land use commission. For the purpose of this Act and the adjudication of any such claim, the immunity of the State to suit is hereby waived, and said James Jitsuo Tamura may proceed against the State as in the case of any other defendant, subject to the same procedures and defenses, except for the defense of immunity from suit or of the statute of limitations, the provisions of which are hereby expressly waived; provided that nothing contained herein shall be construed as an admission of liability on the part of the State.

SECTION 2. The claimant James Jitsuo Tamura shall commence the action authorized by this Act in an appropriate state court within two years from the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 240

H. B. 867.

A Bill for an Act Relating to Acquisition of Human Bodies for Medical Science and Education.

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

SECTION 1. The Revised Laws of Hawaii 1955 is amended by adding thereto a new chapter to be designated and to read as follows:

"CHAPTER 50G MEDICAL USE OF UNCLAIMED BODIES

Sec. 50G-1. Medical, etc., use of unclaimed bodies authorized. A university, hospital, or institution within the State authorized to teach and conduct research in medicine, anatomy, or surgery or having a medical preparatory or medical graduate course of instruction may receive from the department of health the unclaimed body of any person required to be buried at public expense and to use any such body for medical education and research purposes.

Sec. 50G-2. Administration; duties of health officers, etc. (a) The department of health shall administer the provisions of this chapter and

may provide by rules and regulations, promulgated pursuant to chapter 6C, for the distribution and use of unclaimed bodies as authorized in section 50G-1.

(b) The department of health upon receipt of notice of an unclaimed body shall deliver the body to a university, hospital, or institution for the purposes authorized in section 50G-1.

(c) Every head officer of a hospital, nursing home, correctional facility, funeral parlor or mortuary and every county medical examiner or coroner and every state or county officer, and every other person who has possession, charge, or control of any unclaimed dead human body required to be buried at public expense shall: (1) exercise due diligence to notify the relatives of the decedent; (2) in the absence of any known relative or friend of the deceased or any representative of a fraternal society of which the deceased was a member, who desires to direct the disposition of the remains in a manner other than in this chapter provided, notify the department of health not later than immediately after the end of twenty-four hours following the death, stating, whenever possible, the name, age, sex, and cause of death of the decedent.

(d) Every head officer of a hospital, nursing home or correctional facility in which a decedent was a patient or inmate at the time of death and whose body is unclaimed and required to be buried at public expense shall transmit to the department of health a medical history of the decedent for the purpose of identification and permanent record, which records shall be open to inspection by any state or county public official or prosecuting attorney.

Sec. 50G-3. Duties of university, etc., receiving bodies. Every university, hospital, or institution which receives an unclaimed body as provided in this chapter shall:

(a) Bear all reasonable expenses incurred in the transportation and preservation of the body.

(b) Keep a permanent record of every body received, giving an identification number, source, and disposition of the body and, if possible, the name, age, sex, nationality, race, and place of last residence of the decedent, which records shall be open to inspection by the department of health.

(c) Report annually, and at such other times as the department of health may specify, to the department concerning the receipt, preservation, retention, use, surrender, refusal, and disposition of dead bodies as provided in this chapter.

(d) Retain every body received in a receiving vault for a period of not less than thirty days before allowing its use for medical education and research purposes.

(e) Be deemed the "person in charge of interment" as to each body received for the purposes of chapter 57, part I, and comply with the requirements pertaining to the filing of death certificates.

Sec. 50G-4. Claimants; surrender. Any person may claim a body held by a university, hospital, or institution, as provided in this chapter,

upon payment of the expenses incurred in obtaining, preparing, and handling the body. Upon receipt of such claim and payment, the university, hospital, or institution shall surrender the body to the claimant.

Sec. 50G-5. Refusal of university, etc. (a) A university, hospital, or institution authorized to receive unclaimed bodies as provided in this chapter may refuse to accept any such body for the following reasons:

(1) Death occurs outside the island on which the university, hospital, or institution is located;

(2) The body is autopsied or embalmed;

(3) The body is not intact;

(4) The university, hospital, or institution has insufficient facilities to handle, store, and use the body; or

(5) Medical or health reasons endanger or threaten to endanger the public health and safety.

(b) In case of such refusal, the university, hospital, or institution shall notify the appropriate public agency which shall provide for the final disposition of such body pursuant to law.

Sec. 50G-6. Final disposition of bodies retained for medical education and research purposes. A university, hospital, or institution which holds an unclaimed body as provided in this chapter shall when the body is deemed of no further value to medical education and research purposes dispose of the remains by cremation, except as otherwise provided in section 50G-4.

Sec. 50G-7. Exceptions. No dead body shall be subject to the provisions of this chapter if:

(a) Death appears to have occurred under any of the circumstances set forth in section 260-3, in which case the provisions of chapter 260 shall apply;

(b) The decedent was an honorably discharged member of the United States armed forces, in which case the decedent shall be buried in accordance with law; or

(c) Any person claims the body for burial at his own expense.

Sec. 50G-8. Prohibitions; penalty. (a) No person shall give, offer, or promise any money or other things of value to any other person in consideration of receiving a dead human body.

(b) No university, hospital, or institution shall use a body received under the provisions of this chapter for any purpose except medical education and research.

Any person who violates any provision of this section shall be fined not more than \$1,000.00 or imprisoned not more than one year, or both.

Sec. 50G-9. Immunity from liability. A person or public or private agency shall not be liable for any damage or subject to criminal prosecution for any act done pursuant to and in compliance with the provisions of this chapter."

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

(Approved June 6, 1967.)

ACT 241

S. B. 394.

A Bill for an Act Amending Section 231-21 of the Revised Laws of Hawaii 1955, as Amended, Relating to Argument to the Jury.

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

SECTION 1. Section 231-21 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a second paragraph thereto to read as follows:

“In all actions for damages for personal injuries or death the parties or their counsel shall be entitled to argue the extent of damages claimed or disputed in terms of suggested formulas for the computation of damages or by way of other illustration, and shall be entitled to state in argument the amount of damages the party believes appropriate.”

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

(Approved June 6, 1967.)

ACT 242

S. B. 404.

A Bill for an Act Relating to Wages and Hours of Employees on Public Works and Amending Chapter 9A, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 9A, Revised Laws of Hawaii 1955, is amended by adding thereto the following section:

“**Section 9A-10. Submission of collective bargaining agreement to director.** Parties to a collective bargaining agreement covering classes of laborers or mechanics which are included in the prevailing wage determinations made pursuant to this chapter shall submit a copy of the agreement to the director within five days after execution of the agreement. The terms of the agreement shall be kept confidential by the director upon the request of the parties to the collective bargaining agreement and shall be used only pursuant to this chapter.”

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

(Approved June 6, 1967.)

ACT 243

S. B. 577.

A Bill for an Act Relating to Assaults, Battery and Affray and Amending Chapter 264 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 264 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) By deleting from section 264-5, Revised Laws of Hawaii 1955, as

amended, subsections (b) and (c) thereof, and by redesignating subsection (d) thereof as subsection (b).

(b) By adding to said chapter 264 of the Revised Laws of Hawaii 1955, as amended, a new section to be numbered and to read as follows:

“Sec. 264-5A. Other aggravated offenses. Whoever, under circumstances not amounting to a crime specified in sections 264-3 or 264-4, commits an assault and battery—

(a) By intentionally wounding or inflicting grievous bodily harm upon another, either with or without a weapon, or

(b) By attempting to injure another by use of a weapon or other instrument or thing likely to produce grievous bodily harm, shall, unless a greater penalty is otherwise provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both.”

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

(Approved June 6, 1967.)

ACT 244

S. B. 695.

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 170A-2, Revised Laws of Hawaii 1955, as amended, is amended in the following respects:

(a) By amending paragraph (j) to read:

“(j) ‘Project’ means a real estate condominium project; a plan or project whereby a condominium of two or more apartments located within the horizontal property regime are offered or proposed to be offered for sale.”

(b) By adding a new paragraph to read:

“(u) ‘Completion of construction’ means the issuance by the appropriate county official of a certificate of completion.”

SECTION 2. Section 170A-10, Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

“Sec. 170A-10. Common profits and expenses. The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners in proportion to the common interests appurtenant to their respective apartments; provided, that in the case of limited common elements all costs and expenses of every description pertaining thereto including but not limited to the cost of the maintenance, repair and replacement of, and the making of any additions and improvements to, any limited common element may be charged to the owners of the apartments for the use of which such limited common element is reserved in any equitable manner as set forth in the declaration.”

SECTION 3. A new section to be appropriately numbered is hereby

inserted next preceding section 170A-14, Revised Laws of Hawaii 1955, as amended, to read as follows:

“Sec. 170A-13..... Issuance of final reports prior to completion of construction. No final public report may be issued prior to completion of construction of the project unless there is filed with the commission:

(a) A verified statement showing all costs involved in completing the project, including land payments or lease payments, real property taxes, construction costs, architect, engineering and attorneys’ fees, financing costs, provisions for contingency, etc., which must be paid on or before the completion of construction of the building;

(b) A verified estimate of the time of completion of construction of the total project;

(c) Satisfactory evidence of sufficient funds to cover the total project cost from purchasers’ funds, equity funds, interim or permanent loan commitments, or other sources;

(d) A copy of the executed construction contract;

(e) Satisfactory evidence of a performance bond of not less than 100 per cent of the cost of construction;

(f) If purchasers’ funds are to be used for construction, an executed copy of the escrow agreement for the trust fund required under section 170A-13.5 for financing construction, which shall expressly provide for:

(1) No disbursements by the escrow agent for payment of construction costs unless bills are submitted with the request for such disbursements which have been approved or certified for payment by the mortgagee or a financially disinterested person; and

(2) No disbursements from the balance of the trust fund after payment of construction costs pursuant to the preceding paragraph until the escrow agent receives satisfactory evidence that all mechanics’ and materialmen’s liens have been cleared, unless sufficient funds are set aside for any bona fide dispute.”

SECTION 4. Section 170A-32, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Sec. 170A-32. Public reports. When the commission makes an examination of any project, it shall make a public report of its findings, which shall contain all material facts reasonably available. A public report shall neither be construed to be an approval nor disapproval of a project. No final public report for a condominium project will be issued until execution and recordation of the deed or master lease, the declaration with a true copy of the by-laws annexed thereto, and floor plans as approved by the county officer having jurisdiction over the issuance of permits for the construction of buildings, as provided by sections 170A-3, 170A-13 and 170A-17.”

SECTION 5. Section 170A-33, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“Sec. 170A-33. Preliminary public report. A preliminary public report may be issued by the commission upon receipt of a notice of intention

filing [of] which is complete except for some particular requirement, or requirements, which is, or are, at the time not fulfilled, but which may reasonably be expected to be completed. No preliminary report shall be issued unless the commission is satisfied that the report adequately discloses all material facts which a prospective purchaser should consider and that adequate protection for purchaser's funds has been provided.

"Sec. 170A-33.1. Filing with commission required. Preliminary public reports may not be used for selling under a contract for the sale of a condominium unit unless the developer of the project has filed with the commission those documents and exhibits required to be submitted with the notification of intention required by sections 170A-27 and 170A-28, a specimen copy of the proposed contract of sale, and an executed copy of an escrow agreement with a third party depository for retention and disposition of purchasers' funds in accordance with section 170A-33.5 hereof.

"Sec. 170A-33.2. Changes in building plans. Purchasers' funds obtained prior to issuance of final reports shall be refunded if there is any change in the condominium building plans subsequent to execution of the contract requiring approval of a county officer having jurisdiction over issuance of permits for construction of buildings, unless purchaser's written approval or acceptance of the specific change is obtained.

"Sec. 170A-33.3. Enforceability of sales. Rights under contracts of sale of condominium units under a preliminary public report shall not become enforceable against purchasers until purchasers have had a full opportunity to read the commission's final public report on the project, and to obtain refund of any moneys paid as well as release from all obligations if the final report differs in any material respect from the preliminary report.

"Sec. 170A-33.4. One year limit. If the final public report is not issued within one year from the date of issuance of the preliminary report, purchasers shall be entitled to refund of all moneys paid by the purchasers thereunder without further obligation.

"Sec. 170A-33.5. Escrow requirement. All moneys paid by purchasers prior to issuance of final reports shall be deposited in trust under escrow arrangement with instructions that no disbursements shall be made from such trust funds on behalf of the seller until the contract has become effective, and the requirements of sections 170A-33.1 through -33.4 have been met."

SECTION 6. Section 170A-34, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 170A-34. Copy of public report to be given to prospective purchaser. The developer or any other person offering any unit in a condominium project prior to completion of its construction shall not enter into a binding contract or agreement for the sale or resale thereof until:

(a) A true copy of the commission's final public report thereon with all supplementary public reports, if any has been issued, has been given to the prospective purchaser,

(b) The prospective purchaser has been given an opportunity to read the reports, and,

(c) The prospective purchaser executes his receipt for the reports.

Receipts taken for any public report shall be kept on file in possession of the developer subject to inspection at a reasonable time by the commission or its deputies, for a period of three years from the date the receipt was taken."

SECTION 7. Section 170A-35, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"Sec. 170A-35. Supplementary public report. If after a final public report has been issued, any circumstance occurs which would render the final public report misleading as to purchasers, or if the developer proposes to materially change the project, the developer shall stop all sales and immediately submit sufficient information to the commission to enable it to issue a supplementary public report describing the changes. Sales shall not resume until the supplementary report has been issued."

SECTION 8. Section 170A-37, Revised Laws of Hawaii 1955, as amended, is hereby deleted.

SECTION 9. Section 170A-39, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 170A-39. Misleading statements and omissions. No officer, agent or employee of any company, and no other person may knowingly authorize, direct or aid in the publication, advertisement, distribution or circularization of any false statement or representation concerning any project offered for sale or lease, and no person may issue, circulate, publish or distribute any advertisement, pamphlet, prospectus or letter concerning any project which contains any written statement that is false or which contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein made in the light of the circumstances under which they are made not misleading."

SECTION 10. The following new sections, to be numbered 170A-39.1 and 170A-39.2, are hereby inserted next following section 170A-39, Revised Laws of Hawaii 1955, as amended, to read as follows:

"Sec. 170A-39.1. Penalties. Any person who, in any respect, violates or fails to comply with any of the provisions set forth in sections 170A-27 to 170A-44 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 commission under sections 170A-27 to 170A-44 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.

"Sec. 170A-39.2. Remedies; sales voidable when and by whom. Every sale made in violation of section 170A-39 shall be voidable at the election of the purchaser; and the person making such sale and every director, officer or agent of or for such seller, if such director, officer or agent shall

have personally participated or aided in any way in making such sale, shall be jointly and severally liable to such purchaser in an action at law in any court of competent jurisdiction upon tender of the units sold or of the contract made, for the full amount paid by such purchaser, with interest, together with all taxable court costs and reasonable attorney's fees; provided, that no action shall be brought for the recovery of the purchase price after two years from the date of such sale and provided further, that no purchaser otherwise entitled shall claim or have the benefit of this section who shall have refused or failed to accept within thirty days an offer in writing of the seller to take back the unit in question and to refund the full amount paid by such purchaser, together with interest at 6 per cent on such amount for the period from the date of payment by such purchaser down to the date of repayment."

SECTION 11. A new section, to be numbered 170A-40.1, is hereby inserted next following section 170A-40, Revised Laws of Hawaii 1955, as amended, to read as follows:

"Sec. 170A-40.1 Cease and desist orders. In addition to its authority under section 170A-41, whenever the commission has reason to believe that any person is violating or has violated any of the provisions of this chapter, it shall issue and serve upon such person a complaint stating its charges in that respect, containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. The person so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person to cease and desist from the violation of the law so charged in the complaint. If upon such hearing the commission is of the opinion that any of the provisions of said sections have been or are being violated, it shall make a report in writing, in which it shall state its findings as to the facts, and shall issue and cause to be served on such person an order requiring such person to cease and desist from such violations. The person complained of may, within thirty days after service upon him of said report or order, obtain a review thereof in the appropriate circuit court."

SECTION 12. Section 170A-45 is hereby added to chapter 170A, to read as follows:

"Sec. 170A-45. Limitation of action. No civil or criminal actions shall be brought by the State pursuant to this chapter more than one year after the discovery of the facts upon which such actions are based or ten years after completion of the sales transaction involved, whichever shall have first occurred."

SECTION 13. Section 170A-46 is hereby added to chapter 170A, to read as follows:

"Sec. 170A-46. Automatic expiration of public reports. A public report shall expire thirteen months after the date of issuance, unless a supplementary report has been issued or the commission, upon review of the registration issues an order extending the effective period of the report."

SECTION 14. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 245

S. B. 802.

A Bill for an Act Relating to the Revocation of Wills and Amending Chapter 322, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 322, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 322-..... Revocation by divorce or annulment. If, after executing a will, the testator or testatrix is divorced or such testator’s or testatrix’s marriage is dissolved, the divorce, annulment, declaration of nullity, or dissolution revokes any disposition or appointment of property made by the will to the former spouse and any provision therein naming the former spouse as executor, executrix or trustee, unless the will expressly provides otherwise.”

SECTION 2. This Act shall take effect upon its approval; provided that the provisions of this Act shall apply to the will of a testator who dies on or after its effective date, notwithstanding that the will was executed and the divorce, annulment, declaration of nullity, or dissolution was procured prior thereto.

(Approved June 6, 1967.)

ACT 246

S. B. 829.

A Bill for an Act Relating to Sales of Motor Vehicles to Members of the Armed Forces of the United States and the Removal of Such Items from the State of Hawaii, and Amending Chapter 201A, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 201A, Revised Laws of Hawaii 1955, is hereby amended by adding a new section to be appropriately numbered to read as follows:

“Notwithstanding the provisions of section 201A-29, a member of the Armed Forces of the United States on active duty who is a buyer of a motor vehicle under a contract may, without the consent of the seller, remove the motor vehicle from the island in which the motor vehicle was first kept for use by such buyer after sale if such buyer was a member of the Armed Forces of the United States on active duty at the time of execution of the contract and if such buyer has been reassigned to a different county, state or country by competent government orders, unless the seller and buyer execute an agreement, separate and apart from the contract in respect of which it

applies, stating that the motor vehicle may not be so removed or stating the terms and conditions under which it may be so removed.”

SECTION 2. This Act shall take effect upon its approval, and shall apply only to documents executed on or after said date.

(Approved June 6, 1967.)

ACT 247

S. B. 837.

A Bill for an Act Relating to the Ordinary Death Benefit for Public Officers and Employees.

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

SECTION 1. Section 6-51 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the period after the word “compensation” at the end of the first paragraph, and substituting a semi-colon therefor and adding the following thereafter:

“provided, that if the member had at least one year of creditable service, the amount, together with his accumulated contributions, shall not be less than the equivalent of 100 per cent of such compensation.”

SECTION 2. If S. B. 863 is passed during this general session of 1967, whether before or after the effective date of this Act, the corresponding provision of S. B. 863 shall be amended to conform with this Act.

SECTION 3. This Act shall take effect on July 1, 1967.

(Approved June 6, 1967.)

ACT 248

S. B. 842.

A Bill for an Act Amending Chapter 155 Relating to County Business Licenses.

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

SECTION 1. Section 155-3, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the following sentence from said section:

“Any license which authorizes the licensee to do business throughout the Territory shall be signed by the treasurer of the county in which the principal office of the license is situated.”

SECTION 2. Section 155-7, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new sentence to read as follows:

“The place of business is where business transactions are made within an established place of business.”

SECTION 3. Section 155-15, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the entire paragraph and substituting the following paragraph in lieu thereof:

“155-15. Limits of license. Except as otherwise in this chapter provided, a license granted thereunder shall authorize the carrying on of the business licensed only at the place indicated in the license. A license granted to carry on a business from place to place shall be limited to within the county in which the business is to be conducted.”

SECTION 4. Section 155-17, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“155-17. Penalty, unless otherwise prescribed. Any person who engages in or carries on any business, or does any act enumerated in this chapter, the engaging in or doing of which is therein required to be licensed, without first obtaining a license issued in conformity with the provisions thereof; or who sells any goods, wares, merchandise, produce or thing of value, contrary to the terms of this chapter; or who violates or fails to observe any of the provisions of this chapter, shall, unless otherwise in this chapter provided, be fined not less than twice the annual fee nor more than four times the annual fee in this chapter prescribed for the carrying on of such business or the doing of such act.”

SECTION 5. This Act shall take effect July 1, 1967.

(Approved June 6, 1967.)

ACT 249

S. B. 926.

A Bill for an Act Relating to Real Property Taxes.

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

SECTION 1. The purpose of this bill is to prescribe certain accounting procedures for the assessment year 1967.

SECTION 2. Act 2, Session Laws of Hawaii 1967, is hereby amended by adding a new section to read:

“Section 7. For purposes of county accounting practice all real property tax collections made during the month of July, 1967 pursuant to the provision of this Act may be considered as revenues for the fiscal year ending June 30, 1967.”

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

(Approved June 6, 1967.)

ACT 250

S. B. 944.

A Bill for an Act Amending Chapter 121, Revised Laws of Hawaii 1955, as Amended, Providing for a “Single Head of Household” Category.

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

SECTION 1. Amend chapter 121-8 of the Revised Laws of Hawaii 1955, as amended, by:

a. Redesignating subsection (b) as subsection (c), and adding a new subsection (b) to read as follows:

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

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

b. Amending the redesignated subsection (c) to include reference to the rates provided by subsection (b) wherever reference is made to the rates provided by subsection (a).

SECTION 2. Amend chapter 121-1 of the Revised Laws of Hawaii 1955, as amended, by adding the following: “‘Head of Household’ means any individual who qualifies as a head of household under the Internal Revenue Code.”

SECTION 3. This Act, upon its approval, shall apply with respect to the individual income tax return filed in the year 1968 on account of income earned during the calendar year 1967 and thereafter.

(Approved June 6, 1967.)

A Bill for an Act Relating to Payment to the State of Hawaii Under Protest and Amending Chapter 34, Revised Laws of Hawaii 1955.

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

SECTION 1. Section 34-24, Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Sec. 34-24. 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 such determination the public accountant shall deposit the amounts not deemed in dispute by the director of finance 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 such 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.

“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 of finance to be the disputed portion of a claim shall be transmitted by the public accountant to the director of finance, 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 of finance 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 of finance 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 general fund of the State shall be liable for the deficiency. Interest at the rate of two per cent per annum from

the date of each payment under protest shall also be paid out of the general fund of the State on the amount of the payment under protest adjudged to be payable to the claimant. The amount to be paid shall be ascertained by the director of finance from a certified copy of the judgment which shall be his authority and warrant for payment to the claimant.”

SECTION 2. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 252

S. B. 983.

A Bill for an Act Relating to Real Property Taxes and Amending Chapter 128, Revised Laws of Hawaii 1955.

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

SECTION 1. That part of subsection 128-13(a), Revised Laws of Hawaii 1955, relating to the schedule for home exemptions from real property taxes is amended to read as follows:

“(1) Totally exempt where the value of the property is not in excess of \$4,700;

(2) Where the value of such property is in excess of \$4,700, according to the following schedule:

Value of Property	Exemption
Over \$4,700 to \$4,899	\$4,700
4,900 to 5,099	4,850
5,100 to 5,299	5,000
5,300 to 5,499	5,100
5,500 to 5,699	5,200
5,700 to 5,849	5,300
5,850 to 5,999	5,400
6,000 and over	5,500.”

SECTION 2. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 253

S. B. 989.

A Bill for an Act Relating to Hawaii Employment Relations Act and Amending Section 90-2, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The purpose of this Act is to clarify the coverage of nurses within the Hawaii Employment Relations Act.

SECTION 2. Section 90-2, subsection (m), Revised Laws of Hawaii 1955, is hereby amended by deleting the period at the end thereof and sub-

stituting a semicolon therefor and adding the following phrase: "but shall not mean registered nurses whose compensation is determined on an hourly basis or who are subject to supervision by any person other than the person in charge of all registered nurses at the employer's premises."

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 254

S. B. 1024.

A Bill for an Act Relating to the Establishment of a State Program of Historic Preservation and Restoration.

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

SECTION 1. Purpose. There is increasing recognition by federal, state, and local governments and by private groups of the educational and cultural value in preserving significant portions of our historic and cultural past. There are numerous public and private agencies currently engaged in historic research, preservation, and restoration in the State of Hawaii, whose interests and functions often overlap. In order to establish a coordinated program of preservation and restoration of historic areas, buildings, structures, objects and sites, and bring together the efforts of public and private agencies into one concerted program, the legislature of the State of Hawaii declares it to be a public policy that:

(a) historic areas, historic buildings, historic structures, and historic sites which form significant parts of Hawaii's history shall be preserved for public study, use, and enjoyment;

(b) encouragement and assistance be given to public and private agencies engaged in historic preservation and restoration in the way of tax incentives, technical advice, or state grants in order to recognize the vital role such agencies have played in retaining these cultural assets and to assist these agencies in the part they will play in the future;

(c) the knowledge and interest of the numerous public and private agencies engaged in the field of historic preservation be coordinated in developing a statewide program.

SECTION 2. The department of land and natural resources in cooperation with the department of planning and economic development, is authorized to establish a comprehensive program for historic preservation, restoration and presentation, which shall include but not be limited to the following:

(a) plans to acquire, restore, and preserve historic areas, buildings, and sites significant to Hawaii's past;

(b) establish and maintain a register of such areas;

(c) establish regulations on the uses of such areas;

(d) develop, in cooperation with the department of planning and economic development, a statewide survey of historic areas, buildings, and sites

with a phased preservation and restoration development plan and accompanying budget and land use recommendations;

(e) provide for matching grants-in-aid to political subdivisions and private agencies for projects which will fulfill the purposes of this Act;

(f) seek assistance for the state historic preservation and restoration program by applying for technical assistance and funds from the federal government and private agencies and foundations for the purposes of this Act;

(g) employ sufficient professional and technical staff for the purposes of this Act without regard to the provisions of chapters 3, 4, and 5;

(h) advise and cooperate with other public and private agencies engaged in similar work;

(i) submit an annual report and budget to the governor and the legislature by February 1 of each year, with recommendations for programs of historic preservation and restoration.

SECTION 3. The department of land and natural resources is authorized to receive gifts and grants from public and private sources to be used for the purposes of this Act.

SECTION 4. All state historic areas and buildings presently under the department of accounting and general services for maintenance purposes shall be transferred to the department of land and natural resources July 1, 1968. All state projects and programs planned or currently in progress relating to historic preservation and restoration shall come under the authority of the department of land and natural resources. The department of land and natural resources and the department of accounting and general services shall submit a joint report to the Fourth Legislature by February 1, 1968, on the historic areas and buildings being transferred and the personnel necessary to accomplish the transfer.

SECTION 5. Section 44-21 of the Revised Laws of Hawaii 1955 is repealed.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary, for the purposes of this Act.

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

(Approved June 6, 1967.)

ACT 255

S. B. 1059.

A Bill for an Act Relating to Real Property Tax Payment.

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

PART I

SECTION 1. Purpose. The purpose of this Act is to provide a longer period for the filing of appeals from real property tax assessments and to

correlate the schedule of functions related to real property tax payments so that they will be performed on a fiscal year basis thereby fully coinciding with the fiscal year operations of the counties.

SECTION 2. Section 128-3 of the Revised Laws of Hawaii 1955 is amended to read as follows:

“Sec. 128-3. Tax year; time as of which levy and assessment made. For real property tax purposes, “tax year” shall mean the fiscal year beginning July 1 of each calendar year and ending June 30 of the following calendar year. Real property shall be assessed, and taxes shall be levied thereon, as of January 1 preceding each tax year upon the basis of valuations determined in the manner and at the time provided in this chapter.”

SECTION 3. Section 128-4 of the Revised Laws of Hawaii 1955 is amended by deleting the words “January 1 of the assessment year” appearing in the first paragraph therein and substituting in lieu thereof the words “January 1 preceding the applicable tax year”.

SECTION 4. Section 128-7 of the Revised Laws of Hawaii 1955 is amended by deleting the words “January 1 of the tax year for which such assessment is made, or some of whom did not have record title thereto on January 1 of such tax year” appearing therein and substituting in lieu thereof the words “January 1 preceding the applicable tax year, or some of whom did not have record title thereto on January 1 preceding the applicable tax year”.

SECTION 5. Section 128-12 of the Revised Laws of Hawaii 1955 is amended by deleting the words “January 15 of the year” appearing therein and substituting in lieu thereof the words “December 31 preceding the tax year”.

SECTION 6. Section 128-14 of the Revised Laws of Hawaii 1955 is amended by deleting the words “January 1 of the year” wherever they may appear therein and substituting in lieu thereof the words “January 1 preceding the tax year”.

SECTION 7. Section 128-14.5 of the Revised Laws of Hawaii 1955 is amended by deleting the words “January 15 of the year” appearing in paragraph (b) and substituting in lieu thereof the words “December 31 preceding the tax year”.

SECTION 8. Section 128-15 of the Revised Laws of Hawaii 1955 is amended by deleting the words “January 1 of the year” appearing therein and substituting in lieu thereof the words “January 1 preceding the tax year”.

SECTION 9. Section 128-22 of the Revised Laws of Hawaii 1955 is amended in the following respects:

- (a) By deleting the words “January 1 of any tax year” wherever they

may appear in subsection (a) and substituting in lieu thereof the words "January 1 preceding any tax year".

(b) By deleting the words "January 15 of the year" wherever they may appear in subsections (c) and (d) and substituting in lieu thereof the words "December 31 preceding the tax year" and

(c) By deleting the words "January 1 and 15" appearing in subsection (e) and substituting in lieu thereof the words "December 15 and December 31 preceding the applicable tax year".

SECTION 10. Section 128-27 of the Revised Laws of Hawaii 1955 is amended by deleting the words "Each year, on or before March 10, the director of taxation shall give notice of the assessments for such year" and "March 20 of such year" appearing in the first and second paragraphs respectively, and respectively substituting in lieu thereof the words "On or before March 5 preceding each tax year, the director of taxation shall give notice of the assessment for such tax year", and "March 20 preceding the tax year".

SECTION 11. Section 128-22.1 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of any tax year" wherever they may appear therein and substituting in lieu thereof the words "January 1 preceding any tax year".

SECTION 12. Section 128-28 of the Revised Laws of Hawaii 1955 is amended by deleting the words "March 31 of each year" appearing therein and substituting in lieu thereof the words "April 10 preceding each tax year".

SECTION 13. Section 128-30 of the Revised Laws of Hawaii 1955 is amended by deleting the words "March 20 of the assessment year" wherever they may appear in the first and second paragraphs and substituting in lieu thereof the words "March 31 preceding the tax year".

SECTION 14. Section 128-32 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 in each year" appearing therein and substituting in lieu thereof the words "July 1 of each tax year".

SECTION 15. Section 128-33.5 of the Revised Laws of Hawaii 1955 is amended by deleting the words "for the preceding year", "for the current year" and "January 31 of the current tax year" as the same respectively appear in section 128-33.5 and respectively substituting in lieu thereof the words "for the preceding tax year", "for the current tax year" and "July 31 of the current tax year".

SECTION 16. Section 128-35 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of the tax year" appearing therein and substituting in lieu thereof the words "January 1 preceding the applicable tax year".

SECTION 17. Section 116-2.2 of the Revised Laws of Hawaii 1955 is amended by deleting the words "March 20 of the assessment year" appearing therein and substituting in lieu thereof "March 31 preceding the tax year".

SECTION 18. Section 116-4 of the Revised Laws of Hawaii 1955 is amended by deleting the date "March 20" appearing in subsection (b) and substituting in lieu thereof the date "March 31".

SECTION 19. Subsection 129-2(b) of the Revised Laws of Hawaii 1955 is amended by deleting the words "calendar year" and "May 10 of the year" appearing therein and substituting in lieu thereof the words "tax year" and "June 15 preceding the tax year" respectively.

SECTION 20. Subsection 129-2(f) of the Revised Laws of Hawaii 1955 is amended by deleting the words "April 10 of each year" appearing therein and substituting in lieu thereof the words "April 20 preceding the tax year".

SECTION 21. Section 128-32 of the Revised Laws of Hawaii 1955 is further amended by deleting the schedule appearing after the word "follows:" in the second paragraph and substituting in lieu thereof the following new schedule:

	Fiscal Year Schedule		
	(Billing Date)	(1st Payment)	(2nd Payment)
Group I	October 10	November 10	June 10
Group II	October 25	November 25	June 25

SECTION 22. This part shall take effect on July 1, 1968; provided that for the tax year beginning July 1, 1968 and ending June 30, 1969 the amendments herein made shall take effect on December 10, 1967.

PART II

SECTION 23. Chapter 128 of the Revised Laws of Hawaii 1955 is amended by adding a new section to be numbered 128-31.5 and to read as follows:

"Sec. 128-31.5. Taxes; assessed when; due when; installment payments; billing and delinquent dates for period from January 1, 1968 to June 30, 1968. All laws to the contrary notwithstanding, all real property taxes for the transition period from January 1, 1968 to June 30, 1968 shall be assessed and levied as of, and be due and payable on and after, January 1, 1968 and the payment thereof shall be determined in the following manner:

The director of taxation shall, for the period from January 1, 1968 to June 30, 1968, arrange the total parcels of real property in each taxation division into two groups designated as Groups I and II. He shall then assign each parcel to one of these groups in such a manner as to insure (1) that the real property taxes due on the payment date for those parcels assigned to Group I shall amount to not less than fifty per cent of the estimated real property taxes for the taxable period. All known persons assessed for real property taxes shall be billed not later than the billing date designated in the schedule listed herein subject, however, to the limitations heretofore provided in section 128-31. Each taxpayer shall pay the real property taxes due

him, for the period in which the taxes are assessed, on or before the dates designated for the group to which his parcel is assigned in accordance with said schedule as follows:

	(Billing Date)	(Payment)
Group I	May 30, 1968	June 10, 1968
Group II	June 10, 1968	June 25, 1968

All such taxes due on the payment date of the transition period from each taxpayer in each respective group, which remain unpaid after the date, shall thereupon become delinquent."

SECTION 24. Section 128-12 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 15 of the year for which exemption is claimed" appearing therein and substituting in lieu thereof the date "December 31, 1967".

SECTION 25. Section 128-14.5 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 15 of the year for which such exemption is claimed" appearing therein and substituting in lieu thereof the date "December 31, 1967".

SECTION 26. Section 128-22 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 15 of the year for which such exemption is claimed" wherever they may appear in subsection (c) and (d) and substituting in lieu thereof the date "December 31, 1967".

SECTION 27. Section 128-22 of the Revised Laws of Hawaii 1955 is further amended by deleting the words "annually file between January 1 and 15" and substituting in lieu thereof the words "file between December 15 and December 31, 1967".

SECTION 28. Section 128-3 of the Revised Laws of Hawaii 1955 is amended by deleting the words "thereon, each year as of January 1 of such year" and substituting in lieu thereof the words "on January 1, 1968".

SECTION 29. Section 128-4 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of the assessment year" appearing in the first paragraph and substituting in lieu thereof the date "January 1, 1968".

SECTION 30. Section 128-7 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of the tax year for which such assessment is made, or some of whom did not have record title thereto on January 1 of such year" and substituting in lieu thereof the words "January 1, 1968, or some of whom did not have record title thereto on January 1, 1968".

SECTION 31. Section 128-14 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of the year for which the exemption is claimed" wherever they may appear and substituting in lieu thereof the date "January 1, 1968".

SECTION 32. Section 128-15 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of the year of which exemption is claimed" and substituting in lieu thereof the date "January 1, 1968".

SECTION 33. Section 128-22 is amended by deleting the words "January 1 of any tax year" wherever they may appear in subsection (a) and substituting in lieu thereof the date "January 1, 1968".

SECTION 34. Section 128-22.1 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of any tax year" wherever they may appear and substituting in lieu thereof the date "January 1, 1968".

SECTION 35. Section 128-32 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 in each year" and substituting in lieu thereof the date "January 1, 1968".

SECTION 36. Section 128-33.5 is amended by deleting the words "current year" and "January 31 of the current tax year" respectively appearing therein and respectively substituting in lieu thereof the words "period between January 1, 1968 and June 30, 1968" and the date "January 31, 1968".

SECTION 37. Section 128-35 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 of the tax year for which such assessment is made" and substituting in lieu thereof the date "January 1, 1968".

SECTION 38. Section 128-38 of the Revised Laws of Hawaii 1955 is amended by deleting the words "January 1 in each tax year" and substituting in lieu thereof the date "January 1, 1968".

SECTION 39. Section 128-27 of the Revised Laws of Hawaii 1955 is amended by deleting the words "Each year, on or before March 10, the director of taxation shall give notice of the assessments for such year" and "March 20 of such year" appearing in the first and second paragraphs respectively and respectively substituting in lieu thereof the words "For the real property tax applicable for the period between January 1, 1968 and June 30, 1968, the director of taxation shall give notice of the assessments for such period" and the date "March 31, 1968".

SECTION 40. Section 116-2.2 of the Revised Laws of Hawaii 1955 is amended by deleting the words "March 20 of the assessment year of the record appeal" and substituting in lieu thereof the date "March 31, 1968".

SECTION 41. Section 116-4 of the Revised Laws of Hawaii 1955 is amended by deleting the date "March 20" appearing in subsection (b) and substituting in lieu thereof the date "March 31, 1968".

SECTION 42. Section 128-20 of the Revised Laws of Hawaii 1955 is amended by deleting the words "March 20 of the assessment year" and substituting in lieu thereof the date "March 31, 1968".

SECTION 43. Section 128-28 of the Revised Laws of Hawaii 1955 is

amended by deleting the words "March 31 of each year" appearing therein and substituting in lieu thereof the date "April 10, 1968".

SECTION 44. Section 129-2 is amended by deleting the words "calendar year" and "May 10th of the year for which property tax revenues are to be raised" respectively appearing in subsection (b) and respectively substituting in lieu thereof the words "the period between January 1, 1968 and June 30, 1968" and the date "May 15, 1968".

SECTION 45. Section 129-2 of the Revised Laws of Hawaii 1955 is further amended by deleting the words "April 10th of each year" appearing in subsection (f) and substituting in lieu thereof the date "April 20, 1968".

SECTION 46. This part shall take effect on December 10, 1967 and is repealed on June 29, 1968, except that notwithstanding the amendments contained in sections 24 through 45 of this Act the existing provisions prior to such amendments are hereby re-enacted to take effect on June 29, 1968.

PART III

SECTION 47. Notwithstanding sections 128-9.2 and 128-21.5 to the contrary, the petition for dedication as set forth therein, for the assessment year 1967 only, shall be filed with the director of taxation by (a) April 30, 1967 and shall be approved or disapproved by August 15, 1967 or (b) the twentieth day after the approval of this Act and shall be approved or disapproved by the one-hundred fifth day after the approval of this Act; whichever dates of (a) or (b) shall be the later. If approved, the assessment and the exemption based upon the use requested in the dedication shall be effective as of January 1, 1967.

SECTION 48. This part shall take effect upon its approval.

SECTION 49. Subject to the foregoing, this Act shall take effect upon its approval.

(Approved June 6, 1967.)

ACT 256

S. B. 1070.

A Bill for an Act Relating to Recordation in the Bureau of Conveyances.

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

SECTION 1. The last sentence of section 336-5 of the Revised Laws of Hawaii 1955 is hereby amended as follows:

"The affidavit and copy of the notice shall be recorded and indexed by the registrar, in the manner provided in chapter 343."

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

* Edited accordingly.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 257

S. B. 1114.

A Bill for an Act Relating to Workmen's Compensation and Amending Chapter 97, Revised Laws of Hawaii 1955.

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

SECTION 1. The first paragraph following the colon in subsection (a) of section 97-41, Revised Laws of Hawaii 1955, is amended to read:

"A child who is (1) unmarried and under eighteen years, or (2) unmarried and under twenty years if he is a full-time student at a high school, business school, technical school or college, or (3) unmarried and incapable of self-support, or (4) married and under eighteen years, if actually dependent upon deceased."

SECTION 2. The third paragraph following the colon in subsection (a) of section 97-42, Revised Laws of Hawaii 1955, is amended to read:

"To or for a child, (1) so long as unmarried, until attainment of the age of eighteen, or (2) so long as unmarried, until attainment of the age of twenty if he is a full-time student at a high school, business school, technical school or college, or (3) so long as unmarried, until termination of his incapability of self-support, or (4) until marriage, except that in the case of a married child under eighteen weekly benefits shall continue during the period of actual dependency until attainment of the age of eighteen."

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1967.)

ACT 258

S. B. 1127.

A Bill for an Act Relating to Actions to Quiet Title.

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

SECTION 1. Section 242-1 of the Revised Laws of Hawaii 1955 is amended to read as follows:

"**Sec. 242-1. Object of action.** (a) Action shall be brought in the circuit court in which the property is situated by any person against another person who claims, or who may claim adversely to the plaintiff, an estate or interest in real property, for the purpose of determining such adverse claim.

(b) Action for the purpose of establishing title to real property shall be brought in the circuit court in which the property is situated by any person who has been in adverse possession of such real property for not less than ten years."

SECTION 2. Any pending case which does not meet the requirements of this Act shall, if actual trial of the case has not commenced by the effective date of this Act, be transferred to the appropriate circuit court.

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

(Approved June 6, 1967.)

ACT 259

H. B. 212.

A Bill for an Act Relating to Mental Health, Mental Illness, Drug Addiction and Alcoholism.

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

SECTION 1. **Enactment of mental health chapter.** Chapter 81, Revised Laws of Hawaii 1955, is repealed, and a new Chapter 81 enacted to read:

**“CHAPTER 81. MENTAL HEALTH, MENTAL ILLNESS,
DRUG ADDICTION AND ALCOHOLISM**

PART I. GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 81-1. Definitions. As used in this chapter unless otherwise indicated by the context:

‘Department’ means the department of health.

‘Director’ means the director of health.

‘Psychiatric facility’ means a public or private hospital or other type of facility or part thereof which is licensed by the State or operated by the United States to provide inpatient or outpatient care, custody, diagnosis, treatment or rehabilitation services for mentally ill persons or persons habituated to the excessive use of drugs or alcohol.

‘Community mental health center’ means one or more facilities which alone or in conjunction with other facilities, public or private, are part of a coordinated program providing a variety of mental health services principally for persons residing in a community or communities in or near which the center is located.

‘Administrator’ means the person in charge of a public or private hospital.

‘Licensed physician’ means a physician and surgeon licensed by the State to practice medicine, including a physician and surgeon granted a limited and temporary license under section 64-2.5 (a), (b) and (c) or a resident physician and surgeon granted a limited and temporary license under subsection (d) thereof, or a medical officer of the United States while in this State in the performance of his official duties.

‘Mentally ill person’ means a person having psychiatric disorder or other disease which substantially impairs his mental health.

‘Person habituated to the excessive use of drugs or alcohol’ means a person who repeatedly and compulsively uses narcotic, stimulant, depressant

or hallucinogenic drugs or alcohol to an extent which interferes with his personal, social, family or economic life.

'Patient' means a person under observation, care or treatment at a psychiatric facility.

'Admission procedures' mean the various methods for admission of mentally ill persons or of persons habituated to the excessive use of drugs or alcohol to public and private psychiatric facilities.

'Authorized absence' means absence of a patient from a psychiatric facility for any period of time with permission.

'Unauthorized absence' means absence of a patient from a psychiatric facility for any period of time without permission.

'Discharge' means the formal termination on the records of a psychiatric facility of a patient's period of treatment at the facility.

Sec. 81-2. Mental health program. The department shall foster and coordinate a mental health program in the State and shall administer such mental health services and facilities as may be provided by the State to promote, protect, preserve, care for and improve the mental health of the people.

Sec. 81-3. Functions of department in mental health. (a) The department is authorized to promote and provide for the establishment and operation of community mental health programs which shall include but not be limited to the following:

(1) informational and educational services to the general public and to lay and professional groups;

(2) collaborative and cooperative services with public and private agencies and groups for prevention of mental illness, drug addiction and alcoholism;

(3) consultation services to the judiciary, to educational institutions, and to health and welfare agencies;

(4) clinical, hospital and rehabilitation services and facilities for children, adolescents and adults with mental illness, drug addiction or alcoholism.

(b) The department shall:

(1) establish standards and regulations for and license psychiatric facilities;

(2) evaluate preventive and treatment services in the field of mental health within the State;

(3) promote and conduct research, demonstration projects and studies concerned with the nature, treatment and consequences of mental illness, drug addiction and alcoholism within the State;

(4) cooperate with public and private groups, agencies and institutions in establishing coordinated services to meet the mental health needs of the people;

(5) keep records, statistical data and other information as may be necessary in carrying out the functions of the mental health program and the provisions of this chapter.

Sec. 81-4. Personnel for mental health program. The director

shall appoint such professional and nonprofessional staff as he deems necessary to carry out the state mental health program and for which appropriations are available. Positions for psychiatrists are exempted from the provisions of chapters 3 and 4. The director may employ such psychiatrists as may be needed by the department on a contractual basis, the contract being subject to the approval of the governor.

Sec. 81-5. Confidentiality of records. All certificates, applications, records and reports made for the purposes of this chapter and directly or indirectly identifying a person subject hereto shall be kept confidential and shall not be disclosed by any person except so far (1) as the person identified, or his legal guardian, consents, or (2) as disclosure may be deemed necessary by the director or by the administrator of a private psychiatric facility to carry out any of the provisions of this chapter, or (3) as a court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make the disclosure would be contrary to the public interest. Nothing in this section shall preclude disclosure, upon proper inquiry, of any information relating to a particular patient and not apparently adverse to the interests of the patient, to the patient's family, legal guardian or relatives, nor, except as provided above, affect the application of any other rule or statute of confidentiality. The use of the information disclosed shall be limited to the purposes for which the information was furnished.

Sec. 81-6. Fees; payment of expenses of patients. (a) The director may make reasonable charges for outpatient professional and other personal services rendered to patients. In making such charges, the director shall take into consideration the financial circumstances of the patient, and no charges shall be made where, in the judgment of the director, the same might tend to make the patient a public charge or to deprive the patient's dependents of necessary support.

(b) Every person not indigent or medically indigent hospitalized at a psychiatric facility under the jurisdiction of the State or a county, or at a psychiatric facility which derives more than fifty per cent of its revenues from the general fund of the State, shall be liable for the expenses attending his reception, maintenance and treatment at the facility, and any property not exempt from execution belonging to such person shall be subject to sequestration for the payment of such expenses. The director may adjust the amount of the liability, taking into consideration the financial circumstances of the patient, so that the charges imposed will not tend to make the patient a public charge or deprive the patient's dependents of necessary support.

(c) The director may defray the hospital expenses of indigent or medically indigent persons needing hospital treatment for mental illness, drug addiction or alcoholism.

(d) The director may furnish medicines and other supplies with or without charge to any medically indigent patient as deemed appropriate by him.

(e) The director may pay the expenses of transportation of a medically

indigent person who is mentally ill or who is habituated to the excessive use of drugs or alcohol, and of the accompanying attendant, from anywhere within and without the State to and from any psychiatric facility within or without the State.

Sec. 81-7. Donations or grants to department. The department is authorized to accept donations or grants from individuals and other agencies, public and private, to further the purposes of the mental health program. Any such donations or grants shall in fact be used for the mental health program and for the intended purpose, if specified.

Sec. 81-8. Grants-in-aid. In carrying out his duties under this chapter: (a) The director is authorized to enter into agreements with the United States and with other state departments, agencies and political subdivisions and to enter into assistance agreements with private nonprofit groups, institutions or corporations and to allocate and expend any fund appropriated for the purposes of such agreements and to do all things necessary to accomplish the purposes and provisions thereof.

(b) The director may require the recipient of any state grant-in-aid to contribute money, facilities or services to the program or project for which the grant is made.

(c) The director shall establish standards and review procedures to assure that recipients of state grants-in-aid provide the services and facilities necessary to accomplish the purposes for which the grants are made.

Sec. 81-9. Rules and regulations. The director may make rules and regulations in accordance with the provisions of the Hawaii Administrative Procedure Act to carry out the provisions of this chapter.

PART II. OPERATION OF PSYCHIATRIC FACILITIES

Sec. 81-20. Licensing of psychiatric facilities. No person, association or corporation shall establish, maintain or operate a psychiatric facility for compensation or hire without first obtaining a license therefor from the department. Such license may be for a definite period and shall be subject to revocation as hereinafter provided. The issuance of a license shall be based upon an application which shall be in such form and shall contain such information as the department may require. The facility must be able to provide adequate care and treatment in conformance with standards established by the department. The department may, at any and all times, examine and ascertain whether a licensed facility is being conducted in compliance with the license and applicable rules and regulations. Subject to the provisions of the Hawaii Administrative Procedure Act, the department may, if the interests of the public or of the patients of a facility so demand, for just and reasonable cause then appearing and to be stated in its order, amend or revoke a license by an order to take effect within such time as the department shall determine.

Sec. 81-21. Penalty. Any person who and any association or corporation which establishes, maintains or operates a psychiatric facility for compensation or hire without holding a valid license issued under this part,

and any officer of any association or corporation who participates in such violation, shall be fined not more than \$1,000 or, in the case of an individual, imprisoned not more than six months, or both.

Sec. 81-22. Money belonging to patients. Whenever small amounts of cash come into the hands of the administrator of a psychiatric facility, he may, without seeking the appointment of a guardian, deposit the money in a bank or other financial institution and from time to time as he may determine apply the same or any part thereof for the benefit of the patient, provided that so long as a guardian is not appointed, the administrator shall not apply any part of such cash for the maintenance of the patient in the facility.

Sec. 81-23. Admission and discharge of patients generally. No person shall be admitted to, detained at, or discharged from any psychiatric facility except as provided in this chapter and in chapters 249, 258 and 333.

PART III. STATE HOSPITAL

Sec. 81-30. Establishment of state hospital. There shall be, in the city and county of Honolulu, under the department of health, a suitable hospital for the care, custody, diagnosis, treatment and rehabilitation of mentally ill persons and of persons habituated to the excessive use of drugs or alcohol, for the training of mental health personnel, and for research in mental illness, drug addiction and alcoholism.

Sec. 81-31. Special wards. There may be special or separate wards of the state hospital, of such number and at such locations, either at the main hospital or elsewhere, as the director shall order, including wards for the reception and care of persons whose recovery or improvement would, in the judgment of the administrator, be facilitated by hospitalization separate and apart from other patients of the state hospital.

Sec. 81-32. Qualifications of administrator. The administrator of the state hospital shall be a licensed physician and a specialist in psychiatry and certified in psychiatry by the American Board of Psychiatry and Neurology. He shall have had at least five years' experience as a psychiatrist since conclusion of his residency training, including experience in mental hospital administration. He may be required to obtain an approved diploma in hospital administration.

Sec. 81-33. Custody of patients. The director shall be responsible for the safekeeping of all patients who may be admitted to the state hospital and for the enforcement of proper order among and concerning such patients. Any patient of the state hospital, other than a voluntary patient, who leaves or remains away from the hospital, without permission, may be apprehended and returned to the hospital by any employee of the hospital or by any police officer without any warrant or further proceeding.

Sec. 81-34. Examination and treatment of patients; medical records. The director shall (1) see that every patient receives care and treatment commensurate with his needs and the means available for such

treatment, (2) make periodic re-examination of each patient and review his records, (3) in suitable cases, discharge patients or place them on authorized absence, and (4) keep a medical record of every patient.

Sec. 81-35. Private physician. A patient in a psychiatric facility operated by the State or a county who desires treatment by a private physician may have this privilege upon his request or upon the request of his relatives on his behalf if approved by the administrator. Such treatment shall be subject to the continuing approval of the administrator, shall not put the facility to unnecessary expense or inconvenience or hazard, shall conform to its established practices and regulations, and shall be without cost to the facility for the services of the private physician. If such private treatment is discontinued, the administrator shall be notified immediately by the private physician.

Sec. 81-36. Voluntary contributions to patients. The administrator of a psychiatric facility operated by the State or a county may accept voluntary contributions for and on behalf of any patient. A detailed account shall be kept of all expenditures from each such contribution, which account shall be open to inspection by the donor at any time. A donor may at any time demand the unexpended balance of his contribution, which balance shall be paid to such donor immediately. If a patient in whose behalf a contribution has been made is discharged or dies and no demand for any unexpended balance is made by the donor within one year thereafter, such unexpended balance shall then be deposited in the general fund of the State or county, as the case may be.

Sec. 81-37. Disposition of proceeds of agricultural and industrial pursuits. All moneys arising from agricultural and industrial pursuits or activities at the state hospital, and all moneys arising from the sale of produce from any public lands of the State which have been duly set apart by executive order for use by the state hospital or from the sale of produce of animal husbandry conducted by the state hospital, upon receipt thereof, shall be deposited in the general fund of the State.

PART IV. ADMISSION TO PSYCHIATRIC FACILITY

Sec. 81-40. Admission generally. (a) Any person may be admitted to and detained at a psychiatric facility as a patient by compliance with any one of the following admission procedures:

- (1) on voluntary application as provided in section 81-41;
 - (2) on certificates of two physicians as provided in section 81-42;
 - (3) on certificate of one physician or application of a police officer as provided in section 81-43;
 - (4) on court order as provided in chapters 249, 258 and 333;
 - (5) by transfer as provided in part V.
- (b) The director shall prescribe and furnish forms for use in admission procedures.

Sec. 81-41. Voluntary admission. (a) The administrator of a psychiatric facility or his deputy may admit to the facility for observation, care

and treatment as a voluntary patient any person with a psychiatric disorder or habituated to the excessive use of drugs or alcohol, to an extent requiring hospitalization, who voluntarily makes application therefor.

(b) By making the application, the applicant agrees that, while remaining in the facility, he will be subject to and abide by all the rules of the facility and such regulations applicable to or concerning his conduct, care and treatment as shall from time to time be prescribed by the administrator of the facility, and that he may be subject to discharge from the facility for any failure therein.

(c) The admitting facility may require as a condition of admission of any person habituated to the excessive use of drugs or alcohol that such person shall agree to remain for not less than 90 days.

(d) A voluntary patient other than one habituated to the excessive use of drugs or alcohol shall not be required to be detained at the facility more than five days after he makes written request for his discharge unless continued hospitalization is authorized by law, including but not limited to sections 81-42 and 81-43.

(e) If the patient is a minor, such application, agreement and request for discharge shall be made by the parent or legal guardian.

Sec. 81-42. Admission on certificates of two physicians. (a) The administrator of a psychiatric facility or his deputy may admit to and detain at the facility for observation, care and treatment as a patient any person mentally ill or habituated to the excessive use of drugs or alcohol, to an extent requiring hospitalization, upon the certificates of two licensed physicians accompanied by an application. The certificates and application must have been executed within ten days prior to admission. The application may be made by any one of the following: either of the certifying physicians, the patient's spouse or guardian, any relative or friend of the patient, or any responsible person.

(b) Completion of the application and the certificates of two physicians and approval of the admission by the administrator or his deputy shall constitute legal authority to transport the patient to the facility by any available means, to detain the patient at the facility as long as hospitalization is needed, and to return the patient to the facility if he is absent therefrom with or without permission.

A valid approved application under this section shall authorize the immediate apprehension of the patient, without a warrant or further proceeding, by a police officer or by any employee of a psychiatric facility or ambulance service or by either of the certifying physicians. The police shall assist in transporting the patient to the facility for admission or in returning him to the facility if he is absent therefrom after admission, at the request of the administrator of a public psychiatric facility or at the request of either of the certifying physicians or at the request of the physician assuming medical responsibility for the patient.

(c) The administrator or his deputy shall cause written notice of the application for admission to be given to the patient upon admission. The

notice shall set forth the patient's rights under this chapter. A copy of the application shall be delivered personally or by mail to the spouse, relative or friend identified in the application. If there is no such person named in the application, or if the person named is not residing in the State, a copy of the application shall be filed with the family court of the circuit in which the psychiatric facility is located, and the family court shall review the circumstances of the admission and take appropriate action.

Sec. 81-43. Emergency admission on certificate of one physician.

(a) The administrator of a psychiatric facility or his deputy may admit to and detain at the facility for examination, observation, care and treatment as a patient any person whose condition or actions are such that it is necessary that he receive an immediate examination or immediate care and treatment at a psychiatric facility, upon the certificate of any licensed physician or upon the application of any police officer acting pursuant to subsection (c). The certificate or application must have been executed within five days prior to admission.

(b) Completion of the certificate by a licensed physician shall constitute legal authority to transport the patient to the facility by any available means, to detain the patient at the facility for a period not to exceed 48 hours, and to return the patient to the facility if he is absent therefrom with or without permission during the authorized period of detention. A valid certificate under this section shall authorize the immediate apprehension of the patient, without a warrant or further proceeding, by a police officer or by any employee of a psychiatric facility or ambulance service or by the certifying physician. The police shall assist in transporting the patient to the facility for admission or in returning him to the facility if he is absent therefrom after admission, at the request of the administrator of a public psychiatric facility or at the request of the certifying physician or at the request of the physician assuming medical responsibility for the patient.

(c) Any police officer may take into custody and transport to a public psychiatric facility, any person apparently mentally ill and conducting himself in a manner which in a mentally well person would be disorderly, and make application for the examination, observation, diagnosis, and, if appropriate, certification of the person. The application shall state or shall be accompanied by a statement of the circumstances under which the person was taken into custody and the reasons therefor. Acceptance of the person as a patient by the psychiatric facility shall terminate the responsibility of the police officer for the person taken into custody.

(d) The administrator or his deputy shall make every effort to notify immediately the spouse, parents, legal guardian, or other nearest known relative or friend of the patient that the patient has been admitted to the facility under this section. The patient shall be given reasonable opportunity to communicate with any person.

(e) A patient admitted under this section shall be examined as soon as practicable at the facility by a licensed physician who practices in the specialty of psychiatry, other than the certifying physician. In the event

this examining psychiatrist fails to certify that continued hospital treatment is necessary, the patient shall be discharged forthwith, except as otherwise provided in subsection (f).

(f) Admission under this section may be converted into a voluntary admission under section 81-41 if the patient voluntarily makes application therefor in accordance with the procedures set forth in that section, or may be converted into an admission under section 81-42 if an application and certificates of two physicians are executed in accordance with the procedures set forth in that section. The certificate executed by a licensed physician under this section may be used as one of the two certificates required under section 81-42 if the certificate meets the requirements of section 81-45 (a) and was executed within ten days prior to the new admission.

Sec. 81-44. Applications. An application for the admission to a psychiatric facility of any person mentally ill or habituated to the excessive use of drugs or alcohol shall be made to the administrator of the facility. The administrator or his deputy may approve the application. The application shall set forth sufficient facts to identify the person to be admitted, the type of admission, the certifying physicians, if any, and the applicant, and shall set forth the name and address, if known, of a responsible spouse, relative or friend of the patient other than the applicant. The director may require additional information to be contained in the application. The application shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

Sec. 81-45. Certificates. (a) Certificates required to be made under section 81-42 shall show:

- (1) the physician made an examination of the person to be admitted;
 - (2) the person is mentally ill or is habituated to the excessive use of drugs or alcohol, to an extent requiring hospitalization;
 - (3) the facts and circumstances upon which the determination is based;
 - (4) such other information as the director may require.
- (b) Certificates required to be made under section 81-43 shall show:
- (1) whether or not the physician made an examination of the person to be admitted and if not the reasons why an examination was not made;
 - (2) the person is or may be mentally ill or habituated to the excessive use of drugs or alcohol, to an extent requiring psychiatric examination or hospitalization;
 - (3) the condition or actions of the person are such that it is necessary that he receive an immediate examination or immediate care and treatment at a psychiatric facility;
 - (4) the facts and circumstances upon which the determination is based, and if no examination was made, the source of the information and the reasons why the information is considered to be reliable;
 - (5) such other information as the director may require.
- (c) Certificates shall be executed subject to the penalties of perjury but need not be sworn to before a notary public.

Sec. 81-46. Presumption; civil rights. No presumption of insanity

or legal incompetency shall exist with respect to any patient by reason of his admission to a psychiatric facility under the provisions of this chapter. The fact of such admission shall not in itself modify or vary any civil right of any such person, including but not limited to civil service status or rights relating to the granting, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, or the right to dispose of property, execute instruments, make purchases, enter into contractual relationships, and vote. If the administrator of a psychiatric facility or his deputy is of the opinion that a patient should not exercise any civil right, he may from time to time temporarily suspend that right whereupon he shall immediately notify the patient's attorney, legal guardian, spouse, parent, or other nearest known relative, of that fact.

Sec. 81-47. Service of process and papers upon patients. Neither the administrator nor anyone connected with a psychiatric facility shall accept service of process or papers on behalf of a patient. A legal process or paper served on a patient in a facility shall be filed with the records of the patient, and the administrator or his deputy shall immediately inform the court or other agency out of which the processor paper issued, in writing, of the date of service and of the mental and physical condition of the patient. In the event service of process or papers is made upon a patient on authorized absence, service thereof shall also be made upon the administrator of the psychiatric facility from which the patient is on authorized absence; otherwise, the service upon the patient shall be incomplete and shall not give the issuing court or agency jurisdiction over the person of the patient. Upon being served, the administrator or his deputy shall immediately inform the court or other agency out of which the process or paper issued, in writing, of the mental and physical condition of the patient.

PART V. TRANSFER, LEAVE AND DISCHARGE

Sec. 81-50. Transfer of patients between facilities. (a) A patient at a psychiatric facility, admitted on the certificates of two physicians, may be transferred to another psychiatric facility when the administrator of the sending facility determines that it would be in the best interests of the patient that the patient be transferred and the administrator of the receiving facility agrees to accept the patient.

(b) The director may negotiate with the governing bodies of hospitals which derive more than fifty per cent of their revenues from the general fund of the State for the transfer of patients at the state hospital to such other hospitals. Upon consummation of negotiations and after consent by such hospitals to transfers of such patients is obtained, the director may make such transfers.

(c) Transfers made in accordance with this section shall not require recertification, and the receiving facility after the transfer shall have the same authority to admit and detain the patient as the sending facility had prior to the transfer. The administrator of the sending facility or his deputy shall make reasonable efforts to notify the spouse, parents, legal guardian,

or other nearest known relative or friend of the patient, or if there is no such person readily available the family court of the circuit in which the receiving facility is located, that a transfer has been made.

Sec. 81-51. Transfer of veterans. (a) Upon receipt of a certificate of the Veterans Administration or other agency of the United States that facilities are available for the care and treatment of a person previously admitted to a psychiatric facility and that the person is eligible for such care and treatment, the administrator of the psychiatric facility or his deputy may transfer the person to the Veterans Administration or other agency of the United States for care and treatment, except a person admitted or committed on court order or transferred under section 81-53. The administrator of the sending facility or his deputy shall make reasonable efforts to notify the spouse, parent, legal guardian, or other nearest known relative or friend of the patient, or if there is no such person readily available the family court of the circuit in which the sending facility is located, that such a transfer has been effected. A person transferred under this section shall be deemed to be admitted for hospitalization to any facility of the Veterans Administration or other agency of the United States pursuant to the provisions of section 81-42. Such person, when admitted to a facility operated by or contracting with the Veterans Administration or other agency of the United States, within or without this State, shall be subject to the rules and regulations of the Veterans Administration or other agency of the United States. The chief officer of the Veterans Administration or of the institution operated by any other agency of the United States to which the person is so admitted shall with respect to such person be vested with the same powers as administrators of licensed psychiatric facilities within this State with regard to detention, transfer, authorized absence or discharge. Jurisdiction is retained in this State and specifically in the family court of the circuit in which the sending facility was located to inquire at any time into the mental and physical condition of the person so admitted and to determine the necessity for his continued hospitalization, and all transfers under this section are so conditioned.

(b) The judgment or order of hospitalization by a court of competent jurisdiction of another state, the District of Columbia, Guam or Puerto Rico, hospitalizing a person with the Veterans Administration or other agency of the United States for care and treatment shall have the same force and effect with respect to the hospitalized person while in this State with the Veterans Administration or other agency of the United States as in the state or district in which the judgment or order was made, and the court making the judgment or order shall be deemed to have retained jurisdiction of the person so hospitalized for the purpose of inquiring into the mental and physical condition of such person and of determining the necessity for his continued hospitalization. Consent is hereby given to the application of the law of such state or district with respect to the authority of the chief officer of the Veterans Administration or of the institution operated by any other agency of the United States in which the person is hospitalized to de-

tain, transfer, place on authorized absence or discharge the hospitalized person.

(c) Nothing in this section shall be construed as conferring upon the department of health or any other agency or officer of this State any power of licensing, supervision, inspection, or control over hospitals or other institutions operated by the Veterans Administration or other agency of the United States or over any officers or employees thereof.

Sec. 81-52. Patients from without the State. (a) A lawful admission or commitment of a person to a psychiatric facility without the State made in accordance with the laws of the place where the person was admitted or committed and by virtue of which such person is still subject to hospital treatment shall constitute sufficient legal authority for the apprehension, transportation and detention of such person to the same extent as if such person is being admitted under section 81-43 whenever such person arrives or is found in this State.

(b) A person transferred pursuant to law from a psychiatric facility without the State to a psychiatric facility within the State for continuing hospital treatment may be apprehended, transported, admitted and detained to the same extent as if admitted thereto under section 81-42.

Sec. 81-53. Transfer of residents of correctional facilities and county jails. If any resident of a state correctional facility or of a county jail is in need of hospital treatment for mental illness or for habituation to the excessive use of drugs or alcohol, the director of social services or the officer in charge of a county jail may file with the director of health an application for the transfer of the resident to the state hospital, together with the certificate of a psychiatrist employed by the department of health showing the need for such hospital treatment, and, upon approval of the application by the director of health, the official having custody of the resident shall transfer the resident to the state hospital for care and treatment. The official effecting the transfer of the resident shall keep the administrator of the state hospital informed of the maximum period of commitment of the resident to the director of social services or of confinement in a county jail, and, if the continued hospitalization of the resident beyond the expiration of such period is deemed necessary, the administrator of the state hospital shall institute the admission procedures required to detain the resident as a patient notwithstanding the resident's release from the state correctional facility or county jail. In the event that discharge from the hospital occurs before the expiration of such maximum period of commitment or confinement, the resident shall be returned to the appropriate state correctional facility or county jail. As used in this section, 'resident' means any person serving a sentence in a county jail or state correctional facility or any child or minor detained in a state correctional facility.

Sec. 81-54. Authorized absence. The administrator of a psychiatric facility or his deputy may grant authorized absence from the facility to any patient upon such terms and conditions as the administrator or his deputy may deem advisable, and, as to a patient admitted or committed on

court order, with the prior approval of the court, or, as to a patient transferred under section 81-53, with the prior approval of the official effecting the transfer.

Sec. 81-55. Discharge. Subject to any special requirements of law with respect to patients admitted or committed on court order, the administrator of a psychiatric facility or his deputy or the physician assuming medical responsibility for the patient:

(1) shall discharge a patient when, in the judgment of the administrator, deputy or physician, the patient is no longer mentally ill or habituated to the excessive use of drugs or alcohol; and

(2) may discharge a patient when, in the judgment of the administrator, deputy or physician (a) the patient has received maximum benefit from hospitalization, and (b) the patient's discharge will not be detrimental to the public welfare or injurious to himself.

PART VI. APPEAL AND REVIEW

Sec. 81-60. Request for hearing. At any time after the admission of a patient to a psychiatric facility under section 81-42 or after the transfer of a patient to another psychiatric facility under section 81-50, he or, on his behalf, any member of his family, relative, friend, or responsible person, may obtain a judicial determination of the regularity of his admission or of the need for his continued hospitalization by filing a written request therefor in the family court of the circuit in which the psychiatric facility is located. The form of the request shall be prescribed and supplied free of charge by the court, and the proceedings in connection therewith shall be styled 'In the Interests of (the named patient).' The administrator of the psychiatric facility shall assist the patient to forward such a request to the court if the patient objects to his admission or continued hospitalization.

Sec. 81-61. Order to show cause; guardian ad litem. Immediately upon receipt of a request, the court shall issue an order to show cause directed to the administrator of the facility and commanding him to show cause at a date and time certain not later than five days thereafter why the patient should not be discharged forthwith. A copy of the request shall be attached to the order to show cause. The form of the order to show cause shall be prescribed and supplied free of charge by the court. The order to show cause shall issue without cost and may be served as any other civil process or by any responsible person appointed by the court for that purpose. At any stage of the proceedings, the court may appoint a guardian ad litem for the patient. The guardian ad litem may be a member of the bar of the court or any other responsible person. Service on the administrator may be effected by leaving certified copies of the order to show cause and request at the facility with any person exercising authority.

Sec. 81-62. Hearing. The court may take testimony and may examine the patient at any place within the circuit, and after a full and complete hearing shall render a decision in writing setting forth its findings of fact and conclusions of law. The court may award a fee to the guardian ad

litem to be paid out of any property of the patient or funds of the court available therefor.

Sec. 81-63. Order. If it is determined that the admission of the patient is regular and that the patient needs continued hospitalization, the court shall issue an order authorizing the detention of the patient at the facility. If it is determined that the admission of the patient is not regular or that the patient does not need continued hospitalization, the court shall issue an order requiring the immediate discharge of the patient from the facility.

Sec. 81-64. Further hearings. A judicial determination under this part regarding the detention of a patient at the same psychiatric facility may not be demanded as of right more often than once in a period of six months.

Sec. 81-66. Status of patient pending hearing. Unless otherwise ordered by the court, the authority of the psychiatric facility to detain a patient shall not be diminished by the institution of proceedings under this part until a final order requiring the discharge of the patient.”

SECTION 2. Repeal and other amendments. Upon the effective date of this Act, all laws or parts of laws which are inconsistent with or included in the provisions of this Act are repealed or amended to conform herewith. Without limiting the generality of the foregoing: (a) the following statutes in the Revised Laws of Hawaii 1955 are repealed: sections 46-25 to 46-25.4, part IV* of chapter 46, part III of chapter 52, section 56-2, section 80-34, sections 83-18 and 83-19;

(b) section 56-1, Revised Laws of Hawaii 1955, is amended (1) by deleting the words “persons with mental disorders, or of mental defectives” in the first paragraph thereof and inserting in lieu thereof the words “mental retardates” and (2) by deleting the third paragraph thereof;

(c) section 56A-1 is amended by deleting the terms “mental health” and “mental illness” wherever they appear therein.

SECTION 3. Preservation of rights and liabilities. The repeal of any Act or part of an Act affected by this Act shall not affect any act done, ratified or confirmed, or any right accruing or accrued or established, or any action, suit or proceeding had or commenced in any civil cause, prior to said repeal, but all rights and liabilities under any statute embraced in chapter 81 as enacted by this Act or so repealed shall continue and may be enforced in the same manner and with the same effect as if said repeal had not been effected; nor shall said repeal in any manner affect the right to any office or change the tenure or term thereof.

SECTION 4. Severability. The provisions of chapter 81 as enacted by this Act are declared to be severable, and if any portion of said chapter 81 or the application thereof to any person, circumstances or property is held invalid for any reason, the validity of the remainder of the chapter or

* So in original. Should probably read “part VI”.

the application thereof to any other person, circumstance or property shall not be affected.

SECTION 5. Effective date. This Act shall take effect on January 1, 1968, and the provisions of chapter 81 as enacted hereby with respect to observation, care and treatment of mentally ill persons or persons habituated to the excessive use of drugs or alcohol shall apply to all admissions on and after January 1, 1968, and to the continued observation, care and treatment on and after January 1, 1968 of patients lawfully admitted to a psychiatric facility prior to January 1, 1968, under the provisions of law then in effect.

(Approved June 7, 1967.)

ACT 260

S. B. 761.

A Bill for an Act Relating to Milk Control.

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

PART I. GENERAL PROVISIONS

SECTION 1. Short title. This Act shall be known and may be cited as the "Milk Control Act."

SECTION 2. Findings and declaration of necessity. It is hereby declared that the dairy industry is a paramount agricultural industry of this State and the production and marketing of milk is an enterprise that is of significant importance to the economy of the State and to the health of the consuming public, which ought to be safeguarded and protected in the public interest. Milk cannot be stored for a substantial period of time without additional processing. Moreover, during periods of excess or shortage of milk, production cannot be automatically increased or decreased to respond to demand. In order to increase production, dairy farmers must be given sufficient time to increase the size of their herds. During times of surplus milk, production cannot be automatically cut; cows must go through a drying process. Cows must be milked or else they will be damaged. Also, cows' production of milk varies with the season. Additionally, the industry supplies the military, and the fluctuations in troop strength affect demand. The insularity and distance of Hawaii from other states also contributes to inflexibility of response to demand. Thus, the perishability of milk, the inflexibility of response to changes in demand, and the fluctuations in demand tend to make the industry highly unstable. This tends to lead to unfair, destructive and demoralizing trade practices in the production, sale, processing and distribution of milk, which jeopardize the health of the dairy industry and the availability of an adequate supply of wholesome milk for the people. Moreover, a substantial number of milk producers have in the past found and now find themselves in financial distress so as to jeopardize a continuous adequate supply of wholesome milk to the inhabitants of the State. Accordingly, the State of Hawaii deems it to be in the interest of public health and

welfare to take such steps as are necessary and advisable to stabilize the dairy industry and insure an adequate supply of milk for the inhabitants of this State.

SECTION 3. Definitions.

“Board” means the board of agriculture, department of agriculture.

“Commissioner” means the commissioner of the division of milk control.

“Consumer” means any person who purchases milk for consumption.

“Distributor” means any person not producing milk who buys, processes and containerizes milk for sale to consumers, stores, or others.

“Division” means the division of milk control created by this Act.

“Licensee” means a licensed producer, licensed producer-distributor, or licensed distributor.

“Milk” is any product, containing milk solids, normally produced and marketed through the channels of fluid milk trade and includes raw milk, pasteurized milk, cream, buttermilk, flavored milk, recombined milk, and reconstituted milk. “Milk” shall not include butter, cheese, ice cream or condensed or evaporated milk contained in hermetically sealed cans. When quantity of milk is referred to, the intention is to designate a standard whole milk equivalent.

“Milk shed” means any county in the State having a population of 100,000 or more.

“Producer” means any person producing milk or any agricultural cooperative that markets milk for sale to distributors or producer-distributors.

“Producer-distributor” means any person who produces milk, or who produces and buys milk, and processes and containerizes such milk for sale to consumers, stores, or others.

PART II. ADMINISTRATION, POWERS AND DUTIES

SECTION 4. Division of milk control. There shall be in the department of agriculture a division to be known as the division of milk control, which shall administer the provisions of this Act subject to the supervision of the board. The head of the division shall be a commissioner appointed by the board to serve at its pleasure. The board may delegate any of its powers hereunder to, or direct any of its duties to be performed by, the commissioner. The commissioner shall be compensated in a sum to be set by the board with the approval of the governor.

SECTION 5. Assistants and employees; appointment, duties, and compensation. The commissioner may, with the approval of the board, employ, by special contract or otherwise, and remove such assistants and employees as may be necessary to carry out the provisions of this Act, prescribe their powers and duties, and fix their compensation. They shall not be subject to the provisions of chapters 3 and 4, Revised Laws of Hawaii 1955, as amended.

SECTION 6. General powers. The department of agriculture through its board is hereby vested with the following powers:

(a) To regulate and supervise in a milk shed the production, transportation, processing, storage, distribution, and delivery of milk, the establishment of quotas and the setting of minimum prices to be paid to producers by producer-distributors and distributors; provided that nothing contained in this Act shall be construed to abrogate or affect the status, force or operation of any provision of the laws on public utilities, public health, expenditure of public funds or any local health ordinance or health regulation.

(b) To investigate all matters in a milk shed pertaining to the production, transportation, processing, storage, distribution, and delivery of milk, and the establishment of quotas and the setting of minimum prices to be paid to producers by producer-distributors and distributors; to subpoena producers, producer-distributors and distributors, their records, books and accounts, and any other person from whom information may be desired to carry out the purpose and intent of this Act; and to issue commissions to take depositions of witnesses absent from the State. Any authorized employee may sign and issue subpoenas and may administer oaths to witnesses and conduct hearings and investigations. In case of failure of any person to comply with any subpoena issued under authority of this Act, or the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the magistrate of the district court of the district in which such person resides or of the district in which such person may be personally served, on application of the board or its authorized representative, shall compel obedience, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(c) To make and enforce all rules and regulations and all orders necessary to carry out this Act.

The operation and effect of any provision of this Act conferring a general power shall not be impaired or qualified by the granting of a specific power or powers.

SECTION 7. Inspection and investigation. For the purpose of enforcing this Act, including but not limited to the provisions on licensing, setting of minimum prices and quotas, the board or any of its authorized employees may enter at all reasonable hours all places within the State where milk is being produced, sold, stored, processed or containerized, or where the books, papers, records or documents relating to such transactions are kept, and shall have power to inspect and copy the same. It may administer oaths and take testimony for the purpose of ascertaining facts which in its judgment are necessary to administer this Act.

SECTION 8. Audit of books and accounts. The board may examine and audit the books and accounts of licensed producers, producer-distributors and distributors for the purpose of determining how payments to producers and producer-distributors are computed, whether the amounts of such payments are fair, or whether any provisions of this Act affecting such payments, directly or indirectly, have been or are being violated. The board may also examine and audit the costs of the production, handling, processing, dis-

tribution and marketing of milk as they may affect such payments, directly or indirectly.

SECTION 9. Divulging of information. No person obtaining any information pursuant to sections 7 and 8 shall divulge such information, except as may be necessary or proper to administer and enforce this Act or as the public interest may require.

SECTION 10. Accounting of licensees. Every producer-distributor, distributor and agricultural cooperative subject to license or regulation under this Act, in making payments to producers for milk sold or delivered to such producer-distributor, distributor or cooperative, shall clearly set forth the unit price for such milk, whether determined pursuant to federal or state authority or pursuant to agreement, together with the amount of all premiums, subsidies, differentials, deductions, service fees, hauling charges, supply expenses, costs or adjustments of any nature whatsoever, in such a manner as to fully disclose to the producer the rate, basis and manner of computing such payments.

SECTION 11. Report to governor. At the end of each license year, the board shall submit to the governor a report relating to the activities of the milk control division.

PART III. LICENSING

SECTION 12. Licensing. It shall be unlawful for any producer, producer-distributor, or distributor to produce, sell, process, or distribute milk in a milk shed unless such person is duly licensed as provided by this Act. It shall be unlawful for any such person to sell, buy, process, or distribute milk which he knows or has reason to believe has been produced or handled in violation of this Act.

SECTION 13. Application for license. An applicant for an original or renewal license to operate as a producer, producer-distributor, or distributor shall file an application upon a form prepared by the board, containing such information which the board deems necessary for the administration of this Act.

The license year shall be from July 1 to the following June 30. All applications for renewal of licenses must be duly made at least thirty days before the commencement of the license year.

SECTION 14. License fees. In order to meet the expenditures necessary to administer this Act, the board shall establish license fees to be paid by producers, producer-distributors and distributors. In determining these fees, the board shall, at least 30 days before the new license year begins:

(a) Project the reasonable expenditures necessary to administer the Act for the license year;

(b) Estimate the total volume of milk to be produced and processed for the license year;

(c) Using (a) and (b) above, establish a reasonable rate per hundred weight or other unit as determined by the board; and

(d) Collect such fees monthly, or at such other intervals as may be determined by the board, during the license year based on actual milk produced and processed.

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

SECTION 15. Granting, suspending and revoking licenses. (a) No license shall be denied unless the board finds, after due notice and opportunity of hearing to the applicant or licensee, one or more of the following:

- (1) That the applicant is not qualified or does not possess equipment to conduct the business properly.
- (2) That the issuance of the license will tend to promote destructive or demoralizing competition in a market already adequately served.
- (3) That the issuance of the license is otherwise not in the public interest.

(b) The board may refuse to renew a license or may suspend or revoke a license, upon due notice and opportunity of hearing to the licensee, when it finds any of the following:

- (1) That any licensee has, without reasonable cause, refused to accept milk delivered or failed to deliver milk as agreed, except where a contract has been terminated.
- (2) That any licensee has failed to account or make payment, without reasonable cause, for any milk purchased.
- (3) That any licensee has been adjudged a bankrupt.
- (4) That any licensee has continued in a course of dealing of such a nature as to indicate his inability or unwillingness to properly conduct the business of producing, processing, delivering, receiving or selling milk or of his intent to deceive or defraud producers, producer-distributors, distributors or consumers.
- (5) That any licensee has violated the state antitrust law, chapter 205A, Revised Laws of Hawaii 1955, as amended.
- (6) That any licensee has failed to keep records or to furnish the statements or information required by the board.
- (7) That any licensee has intentionally made a false or misleading statement upon which the license was issued.
- (8) That the licensee has violated or failed to comply with any of the provisions of this Act.
- (9) That the licensee has ceased to operate the milk business for which the license was issued.

(c) The board may conditionally renew a license or may conditionally

decline to suspend or revoke a license, but such condition shall have appropriate relation to the administration of this Act.

SECTION 16. Proceedings to review. The action of the board in refusing to grant or renew a license, or in revoking or suspending a license, or in conditioning or limiting the granting or renewal of a license, may be reviewed in the manner provided by the Hawaii Administrative Procedure Act, chapter 6C, Revised Laws of Hawaii 1955, as amended.

SECTION 17. Records of licensees. The board may require licensees to keep such records and information as it deems necessary for the proper enforcement of this Act.

SECTION 18. Reports of licensees. Each licensee shall as required by rule or order of the board, file a verified report on forms prescribed by the board of matters on account of which a record is required to be kept, together with such other information or facts as may be pertinent and material within the scope of this Act.

SECTION 19. Disposition of license fees. All moneys received by the board as fees for licenses or otherwise shall be deposited in the general fund.

PART IV. SETTING MINIMUM PRICES AND QUOTAS

SECTION 20. Petition to establish, revise or terminate minimum prices and quotas. Upon petition by the producers and producer-distributors who produce 55 percent of the milk in a milk shed, or by 55 percent of all producers and producer-distributors in a milk shed, or by 55 percent of all producers in a milk shed, or upon the board's own motion, the board shall hold a public hearing to establish, revise or terminate the minimum prices for milk to be paid to producers and producer-distributors or the quotas for the production of milk in the milk shed or both. For the purposes of this section, each producer-member of an agricultural cooperative shall be counted as a producer, and an agricultural cooperative shall not be counted as a producer or as a producer-distributor.

SECTION 21. Standards to determine minimum prices. (a) As a guide to determining the minimum prices of milk to be paid to producers and producer-distributors, the board shall take into consideration the following based on the operations of a reasonably efficient producer:

(1) The price to producers necessary to assure the production of an adequate supply of wholesome milk for the market.

(2) The price necessary to return to the producer his cost of production, plus a fair return of his invested capital, for his family labor and for his management skills.

(3) The costs incurred in obtaining, feeding, managing and maintaining dairy animals at optimum production capacity.

(4) The prevailing wages and perquisites of employees.

(5) The ordinary fixed charges and operating expenses incident to the ownership, operation and management of the dairy.

(b) In establishing minimum prices for milk under this Act, the board shall further consider the effect thereof on the consumer.

SECTION 22. Order fixing minimum price. The board shall establish by order the minimum prices for milk to be paid to producers by producer-distributors and distributors. The minimum prices may vary according to the classes of milk depending on use; provided that each order shall define the various classifications and that the prices for each classification shall be uniform. The order may prescribe how producers shall be paid for milk sold by them to distributors and producer-distributors.

SECTION 23. Determination of quotas. (a) To promote a proper balance between supply and demand for milk, the board shall provide that the price to be paid to producers shall be based upon quota assigned each producer by the board, which quota shall be determined as follows: upon petition or chairman's motion as set out in section 20, there shall be established an initial quota for each producer and producer-distributor, which shall be the average of the amount of milk that he produced and delivered during the three-year period prior to January 1, 1967; provided that if a producer or producer-distributor had not been in business for such period, the board may set his initial quota by taking into account his contract and his investment thereunder for the delivery of milk with a producer-distributor or distributor. The board shall set the initial quota of a newly licensed producer or producer-distributor entering the market by taking into account all relevant market conditions and the capabilities of the licensee. The board may adjust the initial quotas on a pro rata basis to meet changes in market requirements. All milk received by a distributor or producer-distributor, during any period in which quota control is in effect, from any source except from producers licensed hereunder to sell in the milk shed shall constitute surplus milk, unless the supply of milk produced by licensed producers and producer-distributors within the milk shed is inadequate to meet the demand. If such an event occurs, milk from any source, except from licensed producers, may be used as milk to be resold for human consumption as fluid milk and be paid for according to its use. All milk received from a producer or producer-distributor which is in excess of his assigned quota shall constitute surplus milk.

(b) For each milk shed in which quota control or price control or both is to be effected, producers or producer-distributors whose dairies are located outside the milk shed shall participate in such quota control or price control or both for milk regularly supplied within the affected milk shed. However, in setting the minimum price for such milk the board shall consider only those costs incurred by producers located within the affected milk shed. Such producers or producer-distributors whose dairies are located outside the milk shed shall be licensed and subject to all the provisions applicable to licensees for that part of their milk supplied and sold within the affected milk shed.

(c) When the amount of milk resold for human consumption as fluid

milk does not exceed the sum of the quotas to be regularly supplied a distributor or producer-distributor, such fluid consumption milk shall be deemed taken ratably from the quotas actually supplied, and payment shall be made accordingly. The board shall determine which producers, not under written contract with a distributor or producer-distributor, are regular suppliers of milk. The remaining milk not used for human fluid consumption shall be paid for according to its use. However, when the producer-distributor or distributor resells milk, other than recombined or reconstituted milk, for fluid consumption in an amount in excess of all quotas assigned producers or producer-distributors regularly supplying him milk, then the fluid consumption prices shall apply pro rata to surplus milk, in the ratio that a producer's quota bears to the sum of the quotas. However, whenever there is quota milk available for purchase within the milk shed, surplus milk may not be used as milk to be resold for human consumption as fluid milk.

(d) From time to time the board may alter, revise or amend any quotas when required to meet changes in conditions, such as change in demand or inability of certain producers or producer-distributors to meet their assigned quotas.

(e) The board may promulgate rules and regulations governing the transfer of quotas.

(f) Anything to the contrary notwithstanding, no producer or producer-distributor shall have a quota exceeding 20 percent of the entire quota in the milk shed.

SECTION 24. Compensatory payment. Whenever any distributor or producer-distributor sells recombined or reconstituted milk for fluid human consumption in a milk shed, such distributor or producer-distributor shall pay the board a compensatory payment to be distributed to all producers who supply milk to such distributor or producer-distributor.

In determining the compensatory payment, the board shall hold a public hearing whenever it deems it necessary to establish the loss of quota suffered by the producers from the sale of recombined or reconstituted milk, the reasonable rate of return the producers would have received if recombined or reconstituted milk were not sold to the public, and the pro-rata share each producer should receive from the compensatory fund. The board may, at the request of a distributor or producer-distributor or on its own, suspend the operation of this section during periods when the production of milk by producers is inadequate to meet consumer requirements.

PART V. REMEDIES, VIOLATIONS, COMPACTS, CONSTRUCTION

SECTION 25. Remedies; penalties. The board may institute such action as may be necessary to enforce compliance with any provision of this Act.

Any person convicted of violating the provisions of this Act shall be fined not less than \$25 nor more than \$500 or imprisoned not more than six months, or both.

Lawful compliance with this Act shall not be deemed a violation of the

Hawaii Antitrust Act, Chapter 205A, Revised Laws of Hawaii 1955, as amended.

SECTION 26. Interstate and federal compacts. The board is hereby authorized to confer with authorities of other states and of the United States with respect to uniform milk control with states or as between states, and with the federal government in its control of prices of milk handled in interstate commerce, and may exercise its powers hereunder to effect uniform milk control. It may join with such other authorities, federal and state, in conducting joint investigations, holding joint hearings and issue joint or concurrent orders, or orders supplementary to those of the federal government, and shall have the power to employ or designate a joint agent or joint agencies to carry out and enforce such joint, concurrent or supplementary orders.

SECTION 27. Construction. The license required by this Act shall be in addition to any other license required by law. This Act shall not be construed to affect in any manner the relations between any cooperative marketing association and its members organized pursuant to the laws of Hawaii or the United States.

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 28. Transition. Any provision in this Act to the contrary notwithstanding, the provisions of this Act requiring licenses shall be applicable ninety days after the effective date of this Act. The initial license year shall commence as of said date and terminate June 30, 1968.

SECTION 29. Effective date. This Act shall take effect upon its approval.

(Approved June 7, 1967.)

ACT 261

H. B. 28.

A Bill for an Act to Provide for Mandatory Reporting of Child Abuse with Immunity from Liability for Failure to Report.

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

SECTION 1. Purpose. The purpose of this Act is to protect minors whose health and welfare are adversely affected by abuse or neglect by providing for the mandatory reporting of such cases to the appropriate public agency. It is intended that as a result of such reports, the protective services of the State shall be brought to bear on the situation in an effort to prevent further abuses, safeguard and enhance the welfare of such minors, and preserve family life wherever possible.

SECTION 2. Reports. Any doctor, which for the purposes of this Act shall mean any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect, shall promptly report the matter orally to the department of social services, provided that when examination, attendance, or treatment with respect to such minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, such staff member shall immediately notify the person in charge of the medical facility, or his designated delegate, who shall report or cause reports to be made in accordance with the provisions of this Act.

The initial oral report shall be followed as soon thereafter as possible by a report in writing. The report shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

SECTION 3. Action on reporting. The department of social services, upon receiving such report, shall immediately take necessary action toward preventing further abuses, safeguarding and enhancing the welfare of such minor, and preserving family life wherever possible. If the injury or abuse to such minor is so serious that criminal prosecution is indicated, the department shall, in addition to taking such action under this section as it deems necessary, report its findings to the police or the office of the prosecuting attorney. The department shall maintain a central registry of reported cases and may adopt such rules and regulations as may be necessary in carrying out the provisions of this section.

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

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

SECTION 6. Admissibility of evidence. Neither the doctor-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding a minor's injuries, or the cause thereof, in any judicial proceeding resulting from a report pursuant to this Act.

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

(Approved June 7, 1967.)

ACT 262

S. B. 1018.

A Bill for an Act Relating to the Franchises Granted for the Purpose of Manufacturing and Supplying Gas on the Island of Oahu and the District of South Hilo, County of Hawaii, and the Extension of the Franchises to the Entire State of Hawaii.

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

SECTION 1. The franchises for the purpose of the manufacture and supply of gas in Honolulu (L. 1903, c. 30, as modified by 33 Stat. 231, c. 1406; am. L. 1915, cc. 24, 225; as am. L. 1915, c. 24, ratified, etc., June 16, 1916, 39 Stat. 231, c. 156, s. 3; 39 Stat. 232, c. 158; R. L. 1925, Vol. II, p. 2050. Expressly made subject to L. 1913, c. 89, see 39 Stat. 38, c. 53, confirmed and amended L. 1961, c. 134) and South Hilo (L. 1913, c. 152; am. and as am., ratified, etc., Aug. 21, 1916, 39 Stat. 524, c. 370; R.L. 1925, Vol. II, p. 2054, confirmed and amended L. 1961, c. 134) are combined and amended to read as follows:

Section 1. Manufacture and supply of gas; laying pipes, etc., in streets. Honolulu Gas Company, Limited, a Hawaii corporation, and its successors and assigns, is hereby authorized and empowered to manufacture and supply gas for use as a fuel, illuminating purposes and otherwise, throughout the State of Hawaii and to erect and maintain at such places within the State of Hawaii such buildings, machinery and appurtenances as may be necessary for the production, manufacture and storage of gas and its various by-products. The corporation, its successors and assigns, shall have the right to place, construct, erect, or otherwise build pipes, mains, conduits, tunnels, meters, manholes and other appurtenances, in, on, above, along or under public rights-of-way throughout the State of Hawaii, provided that the proposed installation meets standards prescribed by the public utilities commission governing such installations.

Section 2. Meters, rates. The corporation shall have the right to install, maintain and use gas meters or other means for measuring the amount of gas used from time to time and in such places as may be deemed necessary, and to operate the same for all purposes connected with the use of such gas, and shall also have the right to charge, receive and collect from all consumers of gas such reasonable prices as it may from time to time fix and determine in conformity with the laws of this State regulating public utilities, and the regulations of the public utilities commission made pursuant thereto; and the corporation shall also have the right to charge consumers or intended consumers of gas for the cost and expense of making connections between the mains and premises where such gas is to be used,

and may also include the price for all connection pipes, gas fixtures, and other material necessary.

Section 3. Cutting off service. The corporation shall also have the right to cut off the supply of gas from any consumer who shall refuse or fail to pay amounts due for gas so supplied by the corporation within such reasonable time as may be fixed for payment of the same; but such cutting off shall not prevent the corporation from using any remedies now or which may hereafter be authorized by law for collecting debts.

Section 4. Rules, regulations. The rights and powers hereby granted shall be exercised in such manner as to cause the least inconvenience to the public; and the corporation shall provide gas of the best quality obtainable, which quality shall be subject to the control of such reasonable rules and regulations as the public utilities commission shall from time to time deem necessary, and the buildings and machinery, with all appurtenances to be erected, and general plant to be maintained in connection therewith, together with the offices, books and accounts of the corporation, shall be open to examination and inspection at all times by the public utilities commission or someone duly authorized by them for that purpose.

Section 5. Mortgages, bonds. The corporation shall have power to mortgage the franchise hereby conferred to secure the payment of bonds or other monetary obligations incurred in the construction of buildings, machinery, pipes, conduits, and appurtenances and the manufacturing and supplying of gas as provided by this Act.

Section 6. Annual payments to counties. The said corporation shall, within one month after the expiration of each calendar year, file with the public utilities commission a statement showing the gross receipts of the corporation from the sale of gas furnished through mains or conduits in public rights-of-way in each county under the terms of this Act, and shall at the same time pay to the treasurer of each county, two and one-half per centum of the gross receipts of the corporation from the sale of gas furnished through such mains or conduits in that county under the terms of this Act during the preceding calendar year.

Section 7. Acquisition of property. The corporation shall have the right to acquire, hold or take over either by purchase or lease, property, real, personal or mixed, as may be necessary for the proper conduct of its business, but said corporation shall not have power or right to acquire the franchise or property of any other public utility company, except with the approval of the public utilities commission.

Section 8. Eminent domain. The corporation may continue to exercise the power of eminent domain under section 8-4, Revised Laws of Hawaii 1955, or any amendment thereof, provided, that prior to the exercise of the power,

(a) the corporation submits to the public utilities commission its intention to exercise the power, with a description of the property to be condemned; and

(b) the public utilities commission finds that the proposed condemnation is necessary, and that the corporation will use the property, for its operations as a public utility.

Section 9. Repeal or amendment; construction. The legislature may at any time hereafter alter, amend or repeal this franchise. This franchise shall not be construed to grant any exclusive right or privilege or to limit the power of the legislature to grant additional franchises for the operation of competitive or other public utilities. This franchise shall not be construed to limit the power of the public utilities commission of the State of Hawaii or any other officer or agency of the State of Hawaii under chapter 104 of the Revised Laws of Hawaii 1955, or any amendments thereto, or under any laws of the State of Hawaii. In case of any conflict between this franchise and statutes concerning the public utilities commission, the latter shall prevail.

SECTION 2. Nothing contained in this Act shall affect the validity of all actions performed by Honolulu Gas Company, Limited, or its predecessors, under either of the franchises for the manufacture and supply of gas in Honolulu and South Hilo in effect prior to the effective date of this Act.

SECTION 3. This act shall take effect upon its approval.
(Approved June 7, 1967.)

ACT 263

H. B. 6.

A Bill for an Act Relating to Standards of Conduct for State Legislators and Employees.

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

SECTION 1. Purposes. The purposes of this Act are (1) to prescribe standards of conduct for the guidance of state legislators and employees; (2) to prohibit certain conduct involving state legislators and employees; (3) to establish a state ethics commission; (4) to provide for advisory opinions by the state ethics commission for the interpretation of laws and rules relating to the ethics of state legislators and employees; and (5) to provide a method whereby state legislators and employees unjustly accused of improper conduct can obtain vindication.

PART I. CONSTRUCTION; APPLICABILITY; DEFINITIONS

SECTION 2. **Construction.** This Act shall be liberally construed to promote high standards of ethical conduct in state government.

SECTION 3. **Applicability.** This Act shall apply to every nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and persons under contract to the State, and excluding justices, judges, and magistrates.

SECTION 4. Definitions.

(1) "Business" includes a corporation, a partnership, a sole proprietorship, or any other individual or organization carrying on a business.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Controlling interest" means an interest which is sufficient in fact to control, whether the interest be greater or less than fifty per cent.

(4) "Employee" means any person who has been elected to, appointed to, or nominated for, state office, board, commission or committee, but excluding legislators, justices, judges, and magistrates.

(5) "Employment" means any rendering of services for compensation.

(6) "Financial interest" means an interest held by an individual, his spouse, or minor children which is:

(A) An ownership interest in a business,

(B) A creditor interest in an insolvent business,

(C) An employment, or prospective employment for which negotiations have begun, or

(D) An ownership interest in real or personal property.

(7) "Official act" or "official action" means a decision, recommendation, approval, disapproval, or other action which involves the use of discretionary authority.

(8) "State agency" includes the State; the legislature and its committees; all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

PART II. STANDARDS OF CONDUCT

SECTION 5. Gifts. No legislator or employee shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can reasonably be inferred that the gift is intended to influence him in the performance of his official duties or is intended as a reward for any official action on his part.

SECTION 6. Confidential information. No legislator or employee shall disclose information which by law or practice is not available to the public and which he acquires in the course of his official duties, or use such information for his personal gain or for the benefit of anyone.

SECTION 7. Fair treatment. No legislator or employee shall use or attempt to use his official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for himself or others.

SECTION 8. Conflicts of interests. No employee shall:

(a) Participate, as an agent or representative of a state agency, in any official action directly affecting a business or matter in which (1) he has a substantial financial interest; or (2) by or for which a firm of which he is a member or an associate has been engaged as a legal counsel in a matter directly related to such action.

(b) Acquire financial interest in business enterprises which he has

reason to believe may be directly involved in official action to be taken by him.

SECTION 9. Transactions involving the State. No employee shall appear in behalf of private interests before any state agency for compensation that is contingent upon action by a state agency.

SECTION 10. Contracts. (a) A state agency shall not enter into any contract with a legislator or employee or with a business in which a legislator or employee has a controlling interest, involving services or property of a value in excess of \$1,000 unless the contract is made after public notice and competitive bidding.

(b) A state agency shall not enter into a contract with any person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in state office or employment in the matter with which the contract is directly concerned.

(c) This section shall not apply to a personal contract of employment with the State.

SECTION 11. Contracts voidable. In addition to any other penalty provided by law, any contract entered into by the State in violation of this Act is voidable on behalf of the State; provided that in any action to avoid a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the transaction is initiated within sixty days after the matter is referred to the civil service commission or authority.

SECTION 12. Requirement of disclosures. (a) Whenever an employee or legislator has a controlling interest in any matter or a substantial financial interest which he believes may be affected by a state agency, the nature and extent of the interest shall be disclosed to the commission (1) by the employee employed by such agency, or (2) by the legislator affected by actions of such state agency.

(b) The information on the disclosures shall be confidential, and the commission shall not release the contents of the disclosures except as may be permitted pursuant to this Act.

(c) Except for legislators, or employees removable only by impeachment, the filing of disclosures pursuant to this section shall be a condition of entering upon and continuing in public employment.

PART III. STATE ETHICS COMMISSION

SECTION 13. State ethics commission established; composition. There is created within the office of the legislative auditor for administrative purposes only a commission to be known as the state ethics commission. The commission shall consist of five members to be appointed by the governor from a panel of ten persons who shall be nominated by the judicial council. Each member shall have been a citizen of the United States and a resident of the State of Hawaii at least five years next preceding his

appointment. Members of the commission shall hold no other public office for which they receive compensation.

The chairman of the commission shall be elected by the majority of the commission. The term of each member shall be four years, provided that of the five members initially appointed two members shall hold office for two years, two members shall hold office for three years and one member shall hold office for four years. No person shall be appointed consecutively to more than two terms as a member of the commission. Vacancies shall be filled for the remainder of any unexpired term in the same manner as original appointments except that the judicial council shall nominate for gubernatorial appointment two persons for any vacancy. The governor may remove or suspend any member of the commission, upon the filing of a written finding with the commission, and upon service of a copy of the written finding on the member removed or suspended.

PART IV. ADMINISTRATION AND ENFORCEMENT

SECTION 14. Duties of commission; complaint, hearing, determination. (a) The commission shall have the following powers and duties:

(1) It shall prescribe a form for the disclosures required by section 12 of this Act and shall establish an orderly procedure for implementing the requirements of that section.

(2) It shall render advisory opinions upon the request of any legislator or employee as to whether the facts and circumstances of a particular case constitute or will constitute a violation or probable violation of the standards. 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. Such opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the legislator or employee who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by the legislator or employee in the request for an advisory opinion.

(3) It shall initiate, receive and consider charges concerning alleged violation of this Act, initiate or make investigation and hold hearings.

(4) It may subpoena witnesses, administer oaths and take testimony relating to matters before the commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission. Before the commission shall exercise any of the powers authorized herein with respect to any investigation or hearings it shall by formal resolution, supported by a vote of three or more members of the commission, define the nature and scope of its inquiry.

(5) It may, from time to time make, amend and repeal such rules and regulations, not inconsistent with this Act, as in the judgment of the commission seem appropriate for the carrying out of the provisions of this Act 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 approved, promulgated and filed as provided in chapter 6C of the Revised Laws of Hawaii 1955 shall have the force and effect of law.

(b) Charges concerning the legislator or employee must be in writing, signed by the person making the charge under oath, except that any charge initiated by the commission must be signed by at least two members of the commission. The commission may notify in writing every legislator or employee against whom a charge is received and afford him an opportunity to explain the conduct alleged to be in violation of this Act. The commission may investigate, after compliance with this section, such charges and render an informal advisory opinion to the alleged violator. The commission shall investigate all charges on a confidential basis, having available all the powers herein provided, and proceedings at this stage shall not be public. If the informal advisory opinion indicates a probable violation, the legislator or employee shall request a formal opinion or within a reasonable time comply with the informal advisory opinion. If the legislator or employee fails to comply with such informal advisory opinion or if a majority of the members of the commission determine that there is probable cause for belief that a violation of this Act might have occurred, a copy of the charge and a further statement of the alleged violation shall be personally served upon the alleged violator. He shall have twenty days after service thereof to respond in writing to the charge and statement.

(c) Any commission member or individual, including the individual making the charge, who divulges information concerning the charge prior to the issuance of the complaint by the commission, or if the investigation discloses that the complaint should not be issued by the commission, at any time divulges any information concerning the original charge, or divulges the contents or disclosures except as permitted by this Act, shall be guilty of a felony which shall be punishable by a fine of not more than \$5,000.00 or imprisonment of not more than five years, or both, or in the case of a legislator be subject to discipline pursuant to article III, section 13, of the Hawaii constitution, as the case may be.

(d) If after twenty days following personal service, a majority of the members of the commission conclude that there is reason to believe that a violation of this Act has been committed, then the commission shall set a time and place for a hearing, giving notice to the complainant and the alleged violator. All parties shall have an opportunity (1) to be heard, (2) to subpoena witnesses and require the production of any books or papers relative to the proceedings, (3) to be represented by counsel, and (4) to have the right of cross-examination. All witnesses shall testify under oath and the hearings shall be closed to the public unless the party complained against requests an open hearing. The commission shall not be bound by the strict rules of evidence but the commission's findings must be based upon competent and substantial evidence. All testimony and other evidence taken at

the hearing shall be recorded. Copies of transcripts of such record shall be available only to the complainant and the alleged violator at their own expense, and the fees therefor shall be deposited in the state's general fund.

(e) A decision of the commission pertaining to the conduct of any legislator or employee shall be in writing and signed by three or more of the members of such commission.

(f) The commission shall cause to be published yearly summaries of decisions on questions raised by complaints or by requests for advisory opinions. The commission shall make sufficient deletions in the summaries to prevent disclosing the identity of persons involved in the decisions or opinions.

SECTION 15. Procedure. (a) With respect to legislators and employees removable only by impeachment: When the commission after due hearing 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 neither formally declared that the charges contained in the complaint are not substantial nor instituted hearings on the complaint, the commission shall make public the nature of the charges, but it shall make clear that the merits of the charges have never been formally determined. 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 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 issue a complaint and refer the matter to the civil service commission, or, if the civil service commission does not have jurisdiction, with the authority having the power to discipline the employee. The complaint must contain a statement of the facts alleged to constitute the violation. Hearings shall be in accordance with chapter 6C, Revised Laws of Hawaii 1955, except that every hearing shall be private, and no record of the proceedings shall be released to the public prior to its conclusion. Judicial review of decisions, orders and rulings adverse to such employee shall be in accordance with chapter 6C.

If it is found that no violation has occurred, the civil service commission or authority shall not make the record of the proceedings public. If it is found that a violation has occurred, the civil service commission or authority may make its findings and the record of the proceedings 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 14(f) of this Act.

SECTION 16. Penalties. In addition to any other powers the civil

service commission or other authority may have to discipline employees, the civil service commission or authority may reprimand, put on probation, demote, suspend, or discharge an employee found to have violated the standards of this Act.

SECTION 17. No compensation. The members of the commission shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

SECTION 18. Staff. The commission may employ and at pleasure remove such persons as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available by appropriation therefor. The employees of the commission shall be exempt from the provisions of chapters 3 and 4 of the Revised Laws of Hawaii 1955.

SECTION 19. Cooperation. The commission may request and shall receive from every department, division, board, bureau, commission or other agency of the state cooperation and assistance in the performance of its duties.

PART VI. SEVERABILITY

SECTION 20. Severability. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 21. Appropriation. There is appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$25,000 or so much thereof as may be necessary, for the purpose of this Act to be expended by the commission.

SECTION 22. This Act shall take effect on January 1, 1968.
(Approved June 7, 1967.)

ACT 264

H. B. 255.

A Bill for an Act Amending Section 258-52 of the Revised Laws of Hawaii 1955, as Amended, to Permit the Board of Paroles and Pardons to Refix Minimum Sentences and Repealing Certain Statutes Relating to Commutation of Punishment.

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

SECTION 1. Section 258-52 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the first sentence of paragraph 2 to read as follows:

“Minimum; procedure. As soon as practicable and not later than six months after any person sentenced to imprisonment for life or for any term of years has been committed to the director of the department of social

services, the board of paroles and pardons shall make an order fixing the minimum term of imprisonment to be served before he shall become eligible for parole except when the sentence is for life not subject to parole. The board may, by subsequent order, reduce the minimum term, in every case, with the governor's approval when it determines that the same is warranted and conducive to the rehabilitation of the prisoner. The governor may delegate his authority to approve or disapprove a sentence refixed by the board of directors* of social services in any particular case, class of cases or all cases."

SECTION 2. Sections 83-39, 83-44, 83-45 and 83-46 of the Revised Laws of Hawaii 1955 are hereby repealed as to those prisoners whose minimum sentences are set after the effective date hereof only.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 7, 1967.)

ACT 265

H. B. 305.

A Bill for an Act Relating to Fish and Game and Amending Chapter 21, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Chapter 21, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the following new sections:

"Section 21-4.1. Arrest. Except when authorized or directed by law to immediately take a person arrested for violation of any fish and game law or regulation before a magistrate, any fish and game officer, and his agents and subordinates, upon arresting any person for violation of the fish and game laws or regulations shall take the name, address, and fishing or hunting license number, if any, of such person and shall issue to him a summons or citation, printed in the form hereinafter described, warning him to appear and answer to the charge against him at a certain place and at a time within 7 days after such arrest.

Section 21-4.2. Summons or citation. There shall be a form of summons or citation for use in citing violators of the fish and game laws or regulations which do not mandate the physical arrest of such violators. Said summons or citation shall be printed in a form commensurate with the form of other summons or citation used in modern methods of arrest and shall be so designed to include all necessary information to make the same valid and legal within the laws and regulations of the State of Hawaii. The form and content of such summons or citation shall be as adopted or prescribed by the district courts.

In every case when a summons or citation is issued the original of the same shall be given to the violator; provided that the district courts may

* So in original. "of directors" should probably read "to the director".

prescribe the issuance to the violator of a carbon copy of the summons or citation and provide for the disposition of the original and any other copies.

Every summons or citation shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

Section 21-4.3. Failure to obey summons. Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by said officers, their agents and subordinates, upon his arrest for violation of the fish and game laws or regulations, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$500 or be imprisoned not more than six months, or both.

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

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

(Approved June 7, 1967.)

ACT 266

S. B. 1140.

A Bill for an Act Relating to Motor Vehicle Registration.

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

SECTION 1. Part I of chapter 160, Revised Laws of Hawaii 1955, as amended, is amended by adding the following section, to be appropriately numbered and to read as follows:

"Section 160-..... Registration of vehicles under two or more names. Unless otherwise specifically stated by a written form provided by the treasurer, any vehicle registered in the names of two or more persons shall be presumed to be owned in joint tenancy."

SECTION 2. This Act shall take effect on May 1, 1968.

(Approved June 7, 1967.)

ACT 267

H. B. 583.

A Bill for an Act Relating to the Disposition of Abandoned Vehicles by the Counties and Amending Section 138-32 of the Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 138-32 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"Sec. 138-32. Disposition by counties of certain abandoned vehicles. The counties of Hawaii, Kauai and Maui and the city and county of Honolulu may cause to be taken into custody, and to dispose of the same,

vehicles which have been left unattended for a continuous period of more than twenty-four hours and which are unlawfully on any public highway or other public property, or which have been left on private property without authorization of the owner or occupant of such property. The chairman of the board of supervisors of the counties of Hawaii, Kauai and Maui and the mayor of the city and county of Honolulu are authorized and empowered to designate an agency within their counties to carry out the functions and requirements of this section. The term "agency" shall mean any office, department or other governmental unit of the county.

Upon taking custody of any such vehicle, a written notice shall immediately be sent by registered or certified mail, with a return receipt, to the legal and registered owner of such 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 such vehicle if not repossessed within 20 days after the mailing of such notice. A notice need not be sent to a legal and/or registered owner or any person with an unrecorded interest in such vehicle whose name or address cannot be determined.

If the vehicle is not repossessed within the time limits hereinabove provided, the vehicle 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.

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

The requirements of public auction may be waived when the appraised value of any vehicle is less than \$100.00 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 such vehicle may, after public advertisement has been made once in a newspaper of general circulation, be disposed of in the same manner for which the vehicle is put up for public auction and no bid is received.

The transfer of title and interest by sale hereunder 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 authorized county officer shall be satisfactory evidence authorizing the transfer of such title or interest.

All proceeds from the sale of vehicles shall be deposited into the general fund of the county. The legal or registered owner shall be entitled to recover

the excess of the proceeds from the sale over expenses, if a claim is filed with the county within one year from the execution of the sales agreement. The registered owner shall receive priority of payment to the extent of his lien on the vehicle. The county 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.”

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

(Approved June 7, 1967.)

ACT 268

H. B. 734.

A Bill for an Act Relating to Fisheries Development Program.

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

SECTION 1. Fishery development. There is appropriated out of the general revenues of the State of Hawaii the sum of \$91,500 or so much thereof as may be necessary to the department of land and natural resources to conduct studies and programs to develop and improve commercial and sport fisheries in the State. These studies and programs shall include appropriate fishery census taking. The studies and programs shall give priority to the aku fishery, the nehu bait fishery, the akule fishery, bottom and coastal fisheries and shall focus upon methods of efficiently and economically locating and developing fisheries, harvesting, conservation of fisheries, processing of fish products, and market development; provided that the sum of \$10,000 of the monies appropriated shall be allotted and be expended for studies in the processing of fish products on a matching basis with monies expended for such purpose by private persons; and provided further that no part of the state or private funds which constitute the matched funds shall be expended for such studies except as authorized by the department of land and natural resources pursuant to this Act.

SECTION 2. Power and duty of department. The department of land and natural resources is authorized to receive state, federal and private funds and assistance for the purposes of this Act and to cooperate fully with other state agencies, the federal government and private interests, to the extent permitted by law, to carry out the purposes of this Act. The department may contract, without regard to chapters 3 and 4, Revised Laws of Hawaii 1955, for the assistance of such experts whose services are necessary to conduct any studies herein called for.

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

(Approved June 7, 1967.)

ACT 269

H. B. 981.

A Bill for an Act Relating to Dedicated Lands.

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

SECTION 1. Subsection (d), section 128-9.2 Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the following sentence at the end thereof:

Any other provisions to the contrary notwithstanding, when a portion of the dedicated land is subsequently applied to a use other than the use set forth in the original petition, only such portion as is withdrawn from the dedicated use and applied to a use other than ranching or other agricultural use shall be taxed as provided by this subsection.

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

(Approved June 7, 1967.)

ACT 270

S. B. 635.

A Bill for an Act Relating to Venue of Certain Actions Involving Insurance Contracts.

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

SECTION 1. Chapter 181 of the Revised Laws of Hawaii 1955 is amended by adding a new section to be appropriately numbered and to read as follows:

“Sec. 181-..... Venue in certain actions. An insured may bring a civil action against his insurer in the state judicial circuit in which he resides or has his principal place of business if he purchased the policy within the State of Hawaii.”

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

(Approved June 7, 1967.)

ACT 271

S. B. 868.

A Bill for an Act Relating to Taxation to Use Post Office Cancellation Dates as the Dates of Satisfaction of all Required Remittances and Documents.

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

SECTION 1. Chapter 115 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding thereto new sections to be designated and to read as follows:

“Section 115-..... Timely mailing treated as timely filing and paying.

(A) **General rule**—Any report, claim, tax return, statement or other document required or authorized to be filed with or any payment made to the State which is:

(1) Transmitted through the United States mail, shall be deemed filed and received by the State on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it;

(2) Mailed but not received by the State or where received and the cancellation mark is illegible, erroneous, or omitted, shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing; and in cases of such nonreceipt of a report, tax return, statement, remittance, or other document required by law to be filed, the sender files with the State a duplicate within 30 days after written notification is given to the sender by the State of its nonreceipt of such report, tax return, statement, remittance, or other document.

(B) **Registered mail, certified mail, certificate of mailing**—If any report, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was delivered to the state officer or state agency to which addressed, and the date of registration, certification or certificate shall be deemed the postmarked date.”

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

(Approved June 7, 1967.)

ACT 272

S. B. 937.

A Bill for an Act Relating to Expenditure of Public Money and Amending Section 9-5.5, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. Section 9-5.5, Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“**Section 9-5.5. Capital improvements; authorizations for; emergency repairs or reconstruction, exception.** All capital improvement projects requiring the use of general funds, special funds, general obligation bonds and revenue bonds of the State, except projects covered by chapter 134, shall require authorization by the legislature and the governor.”

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

(Approved June 7, 1967.)

ACT 273

S. B. 1022.

A Bill for An Act Amending Sections 179-18 and 179-20, Revised Laws of Hawaii 1955, as Amended, Relating to Common Trust Funds.

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

SECTION 1. Section 179-18, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Section 179-18. Investment of common trust funds.** The funds of a common trust fund may be invested and reinvested in those investments in which trust companies are authorized to invest trust funds.”

SECTION 2. Section 179-20, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending subsection (b) thereof to read as follows:

“(b) No funds of any trust shall be invested in a participation in a common trust fund if such investment would cause the interest of such trust at the time of such investment to be in excess of ten per cent of the value of the assets of the common trust fund as determined in accordance with the plan. In applying the limitation stated in the foregoing sentence, if two or more trusts are created by the same settlor or settlors, and as much as one-half of the income or principal, or both, of each trust is payable or applicable to the use of the same person or persons, such trusts shall be considered as one.”

SECTION 3. This Act shall take effect upon approval.

(Approved June 7, 1967.)

ACT 274

S. B. 1030.

A Bill for an Act Relating to the Transfer of the Function of Vocational Rehabilitation from the Department of Education to the Department of Social Services.

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

SECTION 1. In the forthcoming revision of Hawaii statutes, prepared in accordance with Act 29 of the Session Laws of Hawaii 1966, the revisor of statutes shall indicate by an appropriate footnote, or otherwise, that the function of vocational rehabilitation of the department of education has been transferred to the department of social services by Executive Order No. 26, effective January 1, 1967, and, that the powers and duties of the Territorial Board, as delineated in part III, chapter 42, Revised Laws of Hawaii 1955, as amended, were transferred from that body to the director of social services thereby.

SECTION 2. Section 14A-19, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new paragraph thereto, following paragraph three, to read as follows:

“There shall also be within the department a commission 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 seven members, one from each judicial circuit, the directors of health and labor, and the superintendent of education, as ex-officio voting members.”

SECTION 3. This Act shall take effect upon its approval.
(Approved June 7, 1967.)

ACT 275

S. B. 1044.

A Bill for an Act Transferring Bailiffs to the Judiciary Branch.

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

SECTION 1. All employees of the counties who are classified as bailiffs and serving as bailiffs in the several district courts on the effective date of this Act are hereby transferred to the judiciary branch with their respective duties, functions and authority.

No employee who is transferred by this Act shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act, but subsequent changes in status may be made pursuant to chapters 3 and 4 of the Revised Laws of Hawaii 1955, as amended.

The counties shall not be required to transfer funds to cover the vacation credits earned or accumulated by such transferred employees prior to their transfer.

SECTION 2. This Act shall take effect upon its approval.
(Approved June 7, 1967.)

ACT 276

S. B. 1100.

A Bill for an Act Relating to the Regulation of Public Utilities and Amending Section 104-15, Revised Laws of Hawaii 1955, as Amended.

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

SECTION 1. The first paragraph of section 104-15, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Section 104-15. Regulate rates, etc., hearings, notice of hearings, appeals.** All rates, fares, charges, classifications, schedules, rules and practices made, charged or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be filed with the commission and no rate, fare, charge, classification, schedule, rule or practice shall be established, abandoned, modified or departed from except after thirty days’ notice to the commission; provided, however, no rates,

fares or charges shall be increased without the prior approval of the commission. The notice herein provided for shall plainly state the rate, fare, charge, classification, schedule, rule or practice proposed to be established, abandoned, modified or departed from and the proposed effective date thereof and shall be given by filing the notice with the commission and keeping it open for public inspection. The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule or practice to be established, abandoned, modified or departed from upon notice less than that provided for herein. The commission shall not approve any increase in rates without conducting an advertised public hearing or hearings thereon on the island on which the utility is situated. No rates shall be increased nor shall any hearings be held unless notice of the hearing, with the purpose thereof and the date, time and place at which it will open has been advertised not less than once in each of three weeks in a newspaper published in and of general circulation in the State, the first publication being not less than twenty-one days prior to such hearing and the last publication being not more than two days prior to the scheduled hearing. The applicant or applicants will notify their consumers or patrons of the proposed change in rates and of the time and place of the hearing not less than one week prior to the date set, the manner and the fact of notification to be reported to the commission prior to the date of hearing. The commission is authorized to use such additional media as radio or television to advise the public if it finds it necessary to do so. The commission, upon notice to the public utility, may suspend the operation of any proposed rate, fare, charge, classification, schedule, rule or practice or any proposed abandonment or modification thereof or departure therefrom and after a hearing by order regulate, fix and change all such rates, fares, charges, classifications, schedules, rules and practices, so that the same shall be just and reasonable, and prohibit rebates and unreasonable discrimination between localities, or between users or consumers, under substantially similar conditions, regulate the manner in which the property of every public utility is operated with reference to the safety and accommodation of the public, prescribe its form and method of keeping accounts, books and records, and its accounting system, regulate the return upon its public utility property, the incurring of indebtedness relating to its public utility business, and its financial transactions, and do all things in addition which are necessary and in the exercise of such power and jurisdiction, all of which as so ordered, regulated, fixed and changed shall be just and reasonable, and such as shall provide a fair return on the property of the utility actually used or useful for public utility purposes. From every order made by the commission under the provisions of this chapter an appeal shall lie to the supreme court in like manner as an appeal lies from an order or decision of a circuit judge at chambers. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, upon such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a resti-

tution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained in whole or in part.”

SECTION 2. This Act shall take effect upon its approval.
(Approved June 7, 1967.)

ACT 277

S. B. 464.

A Bill for an Act Relating to the Licensing of Persons Dealing in Used Motor Vehicle Parts and Used Motor Vehicle Accessories and Persons Engaged in the Business of Wrecking, Salvaging and Rebuilding Motor Vehicles.

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

SECTION 1. The purpose of this Act is to control traffic in used motor vehicle parts and accessories by requiring the licensing of persons or organizations dealing in such used motor vehicle parts or accessories or engaged in the business of wrecking, salvaging, dismantling or rebuilding motor vehicles. The desirability of the control would be to assist in eliminating traffic in stolen motor vehicle parts and accessories in Hawaii.

SECTION 2. Definitions. As used in this Act:

“Treasurer” means the treasurer or director of finance of each county.

“Motor vehicle” means every vehicle which is self-propelled.

“Used motor vehicle part or accessory” means a motor vehicle part or motor vehicle accessory which has been the subject of prior sale at retail, either individually or attached to a motor vehicle as a component part or accessory thereof.

“Business” includes any activities engaged in by any person or organization or caused to be engaged in by him or it for the object of gain, benefit, or advantage, either direct or indirect.

“Engaged in business”, “engaging in business”, and equivalent expressions mean commencing, conducting or continuing in, holding oneself out by advertising, or any other means of being in a business, as well as liquidating a business when the liquidator thereof holds himself out to be conducting such business. However, making or negotiating a casual or isolated sale or purchase is not engaging in business, but the sale or negotiation for the purchase by any person, during any period of one year, of more than three used motor vehicle parts or accessories (except as an incident to the established business of a licensed seller) shall be presumptive evidence that the person negotiating for, or effecting such sale or purchase is engaging in the business of selling or negotiating the purchase of used motor vehicle parts or accessories and that, if unlicensed pursuant to this Act, the person negotiating for, or effecting such sale or purchase is violating section 3 of this Act.

“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 any interest in, a used motor vehicle part or accessory.

“Retail”, “sale at retail”, “retail sale”, and equivalent expressions, mean the act or attempted act of selling a used motor vehicle part or accessory to a person for use as a consumer.

“Wholesale”, “sale at wholesale”, “wholesale sale”, and equivalent expressions mean any sale other than a retail sale.

SECTION 3. Unlicensed person not to engage in business. It shall be unlawful for any person or organization, not duly licensed under this Act, to engage in the business of:

- (1) Purchasing or selling used motor vehicle parts or accessories; or
- (2) Engaging in the business of wrecking, salvaging, or dismantling motor vehicles for the purpose of reselling the parts or accessories thereof; or
- (3) Rebuilding wrecked or dismantled vehicles for the purpose of resale.

SECTION 4. Application for a license. (a) Any person desiring to engage in any business described in section 3 of this Act shall file an application for a license therefor with the treasurer. The application for a license shall be made on the form prescribed by the treasurer and shall contain the following information:

- (1) Name of applicant and location of principal place of business;
- (2) The kind or nature of the business or businesses enumerated in section 3 of this Act which is to be conducted;
- (3) Name or style under which the business is to be conducted;
- (4) Name and address of each owner or partner, and, if a corporation, the names of the officers and directors;
- (5) Address of each place of business at which the business is to be conducted;
- (6) A statement showing whether or not the applicant has previously applied for a license under this Act and the result of such application, and whether or not the applicant has ever been the holder of such a license which was revoked or suspended;
- (7) If the applicant is a corporation or co-partnership, a statement showing whether or not any of the partners, employees, officers, or directors has been refused such a license, or has been the holder of such a license which was revoked or suspended.

(b) Prior to the expiration of a license issued under this Act, in lieu of an application for any renewal of a license as required herein, the treasurer may accept a verified certificate signed by the licensee showing that there has been no change, or no change with specified exceptions, since the last filing of an application in respect to: (1) personnel of owners, partners, officers, or directors; (2) location of offices, or principal place of business; and (3) that no proceeding is pending for the suspension or revocation of the licensee’s existing license.

(c) A fee of \$10 shall accompany each application for a license.

SECTION 5. The treasurer shall file each application received by him with the required fee and, when satisfied that the applicant, if an individual, or each of the partners or principal officers of the applicant, if a partnership or corporation, is of good moral character and that the applicant, so far as can be ascertained, has complied with and will comply with this Act and the laws of the State of Hawaii relating to registration of motor vehicles, shall issue to the applicant a license permitting him to engage in the business described in his application, at the address or addresses therein specified until June 30 next following the date of issuance of the license unless sooner terminated, suspended, or revoked. All applications for renewal of license shall be filed on or before June 30 of each year together with the applicable fees.

SECTION 6. Suspension and revocation of license. The treasurer shall suspend or revoke a license, upon notice and reasonable opportunity to be heard by the licensee, if he finds:

- (1) The license was fraudulently procured or erroneously issued; or
- (2) The licensee or any partner or principal officer of the licensee, if a partnership or a corporation, has failed to comply with this Act or the laws of the State of Hawaii relating to the registration of motor vehicles; or
- (3) The licensee has been guilty of a fraudulent act in connection with selling or otherwise dealing in a wrecked or rebuilt motor vehicle or in dealing in used motor vehicle parts or accessories; or
- (4) The licensee has been convicted of a felony or misdemeanor involving moral turpitude, and not pardoned; or
- (5) In case the licensee is a corporation, partnership, trust, or other business association, the treasurer may revoke or suspend the license in the event he finds that any officer, director, trustee, employee, or partner of the licensee has been guilty of any act or omission which would be cause for revoking or suspending a license issued to such officer, director, trustee, employee, or partner as an individual; or the treasurer's findings may be based on facts contained in the application, or any other information he may have, or both.

SECTION 7. Records to be kept. Every licensee shall keep a record, and maintain it for three years, in the form the treasurer prescribes, of the purchases, consignments, sales, and exchanges, moneys, commissions, or any other thing of value paid or agreed to be paid to any person for each wrecked, salvaged, or rebuilt motor vehicle, used motor vehicle part or accessory purchased, sold, consigned to be sold, or exchanged, and the records shall be at all times open to the inspection of the treasurer, or his authorized representative, or any police officer. The records shall contain:

- (1) The name, address, and driver's license number of all persons from whom any wrecked, salvaged, or rebuilt motor vehicle, or used motor vehicle part or accessory is purchased or received, the date of their receipt or acquisition, and the consideration given therefor;
- (2) The name and address of any person to whom any wrecked,

salvaged, or rebuilt motor vehicle, or used motor vehicle part or accessory is sold, consigned to be sold, or otherwise exchanged, the consideration received therefor, and its date of disposition;

(3) The name and address of any person who has received any money, commissions, or anything of value, or to whom the same is due and owing, in connection with the sale or purchase of any such motor vehicle, or used motor vehicle part or accessory; and

(4) A description of every such motor vehicle, used motor vehicle part or accessory, including the identifying number or numbers for each such motor vehicle or used motor vehicle part or accessory.

SECTION 8. Treasurer to maintain records. The treasurer shall promulgate, pursuant to chapter 6C, the rules and regulations necessary for the carrying out of this Act and also prescribe the forms for the applications, licenses, and other documents mentioned herein, and shall create and maintain in his office an appropriate filing system to accommodate the records required to be filed with him by this Act.

SECTION 9. Penalties. Whoever violates any of the provisions of this Act or any lawful rule or regulation promulgated by the treasurer under authority of this Act, for the violation of which no penalty is provided by law, shall be fined not less than \$25 nor more than \$500.

SECTION 10. Liberal interpretation. All provisions of this Act relating to the licensing of persons engaged in the business of dealing in used motor vehicle parts and accessories or the wrecking, salvaging, or rebuilding of wrecked automobiles for the purpose of resale, and granting power to the treasurer or his appointees, shall be liberally construed to the end that the traffic in stolen motor vehicles and motor vehicle parts and accessories shall be eliminated.

SECTION 11. This Act shall take effect on January 1, 1968.
(Approved June 8, 1967.)

ACT 278

S. B. 24.

A Bill for an Act Relating to Government Subsidies for Private Development and Low and Moderate-Income Housing Units and Making an Appropriation.

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

**PART I
DECLARATION OF FINDINGS AND PURPOSE**

SECTION 1. Short title. This Act may be cited as the "Omnibus Housing Act of 1967".

SECTION 2. Findings and purpose. The purpose of this Act is to encourage the development of housing units to serve low and moderate-

income families by private developers. Since the survey by the Mid-America Appraisal and Research Corporation in 1965 for the Honolulu redevelopment program reported a need and demand for approximately 10,000 units of moderately priced rental units to replace a portion of the dilapidated, substandard, and overcrowded units currently serving the moderate-income market, this Act is intended to provide safe, sanitary, and decent housing at rental levels that low and moderate-income families can afford as the rapidly expanding population increases the congestion and demand for adequate shelter in urban areas. Private developers can be assisted in meeting this critical state need by providing rent supplements to tenants who cannot otherwise afford privately developed rentals; by providing for low interest loans to certain private developers and individuals; by authorizing the state permanent housing program to make greater use of private developments through sales of such dwellings, to tenants, and by authorizing the better use of residential public lands to certain developers at minimal leases to reduce tenant rentals.

PART II STATE RENT SUPPLEMENTS

SECTION 3. Chapter 77, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 77-..... Rent supplements. (a) The authority is authorized to make, and contract to make, annual payments to a “housing owner” on behalf of “qualified tenants”, as those terms are defined herein, in such amounts and under such circumstances as are prescribed in or pursuant to this part. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years. No payment on behalf of a qualified tenant shall exceed a segregated amount of \$50 per month.

(b) As used in this part, the term “housing owner” means (1) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under sections 202, 207, 213, 221(d)(3), 221(d)(5), or 231 of the National Housing Act or which conforms to the standards of said sections but which is not a mortgagor under said sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project and (2) any other resident owner of a standard housing unit or units deemed qualified by the authority.

(c) As used in this part, the term “qualified tenant” means any individual or family who has, pursuant to criteria and procedures established by the authority, been determined to have an income which would qualify such tenant for occupancy in housing provided by section 221(d)(3) of the National Housing Act or to have a lesser income. The terms “qualified

tenant” and “tenant” include a member of a cooperative who satisfies the foregoing requirements and who, upon resale of his membership to the cooperative, will not be reimbursed for more than fifty per cent of any equity increment accumulated through payments under this part. With respect to members of a cooperative, the terms “rental” and “rental charges” mean the charges under the occupancy agreements between such members and the cooperative.

(d) The amount of the annual payment with respect to any dwelling unit shall not exceed the amount by which the fair market rental for such unit exceeds one-fifth of the tenant’s income as determined by the authority pursuant to procedures and regulations established by it.

(e) (1) For purposes of carrying out this part, the authority shall establish criteria and procedures for determining the eligibility of occupants and rental charges, including criteria and procedures with respect to periodic review of tenant incomes and periodic adjustment of rental charges. The authority shall issue, upon the request of a housing owner, certificates as to the following facts concerning the individuals and families applying for admission to, or residing in, dwellings of such owner:

(A) the income of the individual or family; and

(B) whether the individual or family was displaced from public housing administered under chapter 74 for exceeding the maximum allowable income for continued occupancy.

(2) Procedures adopted by the authority hereunder shall provide for recertification of the incomes of occupants, except the elderly, at intervals of two years, or at shorter intervals, for the purpose of adjusting rental charges and annual payments on the basis of occupants’ incomes, but in no event shall rental charges adjusted under this part for any dwelling exceed the fair market rental of the dwelling.

(3) The authority may enter into agreements, or authorize housing owners to enter into agreements, with public or private agencies for services required in the selection of qualified tenants, including those who may be approved, on the basis of the probability of future increases in their incomes, as lessees under an option to purchase (which will give such approved qualified tenants an exclusive right to purchase at a price established or determined as provided in the option) dwellings, and in the establishment of rentals. The authority is authorized, without limiting its authority under any other law, to delegate to any such public or private agency his authority to issue certificates pursuant to this part or to contract for the administration of this part.

(4) No payments under this part may be made with respect to any property for which the costs of operation, including wages and salaries, are determined by the authority to be greater than similar costs of operation of similar housing in the community where the property is situated.

(5) No payments shall be made under this part except to the extent that tenants selected under this part have been selected according to the following priorities:

(A) first priority shall be given to those (i) who have an income above the maximum amount allowed for continued occupancy in housing provided for in chapter 74 and (ii) who have been tenants of public housing under chapter 74 and (iii) who have recently vacated or are vacating such housing because of exceeding the maximum income allowable for continued occupancy and (iv) who have an urgent housing need;

(B) second priority shall be given to all other eligible persons under this part who have an urgent housing need.

(f) Nothing in this part or any other part of the law shall preclude payments made under this part from supplementing any rental supplements made pursuant to Public Law 89-117 where the need for such additional state supplement is urgent.

(g) There is appropriated to the Hawaii housing authority from general revenues in the treasury of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary, for the purposes of this part, including annual payments for rent supplements, services provided under or pursuant to agreements entered into under subsection (e), and to provide for administrative expenses."

PART III COMMUNITY HOME MORTGAGE PROGRAM

SECTION 4. Definitions. As used herein:

"Director" means the director of finance.

"Community home mortgage" means a mortgage loan made to a resident of the State of Hawaii for the purchase of his first parcel of residential property, or for constructing of his first dwelling to be occupied as his home, or for making repairs, alterations or improvements in property owned by him and occupied as his home, or for refinancing his first home, or to a developer of moderate-income housing.

"Resident" means any person who has an annual gross income which does not exceed the income limitations under section 221(d)(3) of the National Housing Act by twenty per cent and who has resided in Hawaii for more than one year.

"Mortgagee" means any financial institution which is a mortgagee of a community home mortgage and which has been certified by the director as being eligible to sell community home mortgages to the director and adequately equipped to service them.

"Service" of a community home mortgage, or "servicing" a community home mortgage includes the collection of, and the attempting to collect all sums payable on the community home mortgage; the depositing of all such collections in accounts for the State; notification to the director that the mortgaged premises are damaged or vacant; periodic inspection of the mortgaged premises and notification to the director concerning the condition thereof; notification to the director of all community home mortgages that are delinquent for nonpayment of one or more monthly installments; and the using of due diligence to protect the mortgaged property and to prevent the attachment to the mortgaged property of any liens superior thereto.

“Developer” means a developer of moderate-income housing under sections 202, 207, 213, 221(d)(3), 221(d)(5), or 231 of the National Housing Act or a public agency, limited dividend corporation, or a private non-profit corporation as defined in section 221(d)(3) which conforms to the standards of said sections but which is not a mortgagor under said sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project.

SECTION 5. Purchase, servicing and sale of community home mortgages. On or after July 1, 1967, the director may purchase, service, and sell community home mortgages. The director shall not pay more than an amount necessary to pay the unpaid principal balance plus accrued and unpaid interest at the date of the purchase or commitment contract for purchase of a community home mortgage.

SECTION 6. Community home mortgage requirements. No community home mortgage shall be purchased:

(a) If the effective date of the original mortgage was prior to July 1, 1967, or in the case of refinancing of an existing home, if the home was purchased prior to August 21, 1959.

(b) If the dwelling unit is more than one single family residence in the case of a resident, except in the case of cooperative units wherein ninety per cent of the members are eligible under this part.

(c) If, in the case of a resident or developer, the unpaid principal balance of the loan exceeds \$22,500 per unit.

(d) If, in the case of a resident or developer, the unpaid principal balance of the loan exceeds 95 per cent of the appraised market value of the property.

(e) If the interest rate of the community home mortgage exceeds one-half of one per cent per year over the charges on bonds issued for such mortgage; provided that this subsection shall not preclude a resident from refinancing an existing mortgage if he qualifies for refinancing under subsection (a).

(f) If the community home mortgage is not secured by property in the State.

(g) If the community home mortgage is not offered by the original mortgagee prior to any other sale thereof.

(h) If the community home mortgage does not provide for periodic payments thereon to include the pro rata portion of taxes, insurance, ground rent, and assessment, if any.

(i) If the resident has an annual gross income which exceeds the income limitations under section 221(d)(3) of the National Housing Act by twenty per cent.

Prior to the sale of a community home mortgage the mortgagee shall

certify to the effect that no default or defaults exist and that the mortgagee knows of no existing condition affecting the mortgagor or his affairs which in the opinion of the mortgagee will cause the community home mortgage to become delinquent.

The director may, by rule and regulation, establish such other minimum requirements which must be met by community home mortgages to qualify for purchase, as are conducive to carrying out the provisions of this chapter and are not in conflict therewith.

SECTION 7. Servicing community home mortgages. All sales of community home mortgages to the director shall provide for the servicing of each such mortgage by the mortgagee, but the mortgagee shall not be obligated to bear any of the costs of foreclosure.

For servicing the community home mortgage, the mortgagee shall be entitled to receive from the interest collected on the mortgage a service charge in an amount prescribed by the rules of the director and, in addition, the late charges collected, if any. Such charge shall be in addition to any charges for originally making the loan and supervising construction permitted by the director.

The premises or developments mortgaged under any community home mortgage shall be located close enough to the principal or branch office of the mortgagee, or a bona fide agent of the mortgagee, adequately to service the mortgage. The mortgagee and his agent shall be equipped so as to facilitate the servicing of community home mortgages.

SECTION 8. Commitments to purchase community home mortgages. The director may enter into commitment contracts with mortgagees for the purchase of community home mortgages not in existence, or for which full disbursement has not been made, at the time the contract is entered into.

SECTION 9. Default. In the event of default in the payment of any community home mortgage, the director shall take all necessary action to collect the delinquent principal and interest on the loan, including all actions allowed to holders of obligations.

The director shall have power to deal with, rent, repair, renovate, modernize, or sell for cash, with a view to securing a maximum financial return to the State, any property acquired by it as a result of foreclosure proceedings or otherwise.

Nothing in this section shall be construed to preclude any forbearance for the benefit of the resident or developer as may be agreed to by the director and the resident. The director may adopt programs for deferred payments by residents or developers to avoid undue hardship or sacrifice of values of properties mortgaged.

SECTION 10. Rules and regulations. The director may, as he deems necessary, make, alter, amend, and repeal rules and regulations for the administration of this part, and not inconsistent with the provisions thereof,

including, but not limited to, additional minimum requirements to be met by community home mortgages to be eligible for purchase, minimum requirements to be met by mortgagees in order to be eligible to sell community home mortgages to the director and service them, the form in which community home mortgages shall be delivered to the director, the information required to be submitted to show community home mortgages offered for sale comply with this chapter and are eligible for purchase, the covenants of and procedures for entering into purchase mortgage contracts and commitment contracts to purchase community home mortgages, and procedures for foreclosing community home mortgages and the bearing of the expenses thereof.

The director, by rule and regulation, shall prescribe the service charge defined in section 4 but in no event shall it exceed one-half of one per cent per year computed upon the unpaid principal balance of the community home mortgage, and also the full amount of the late charges paid by the mortgagor.

SECTION 11. Direct loans to residents and developers. Whenever the director expressly finds that so few loans are being made to residents and developers and so few community home mortgages are being offered for sale to the director that it is impossible to carry out the intent of this part, the director with the approval of the governor may make direct loans to residents and developers and make mortgages as security therefor. The limitations on the purchase of community home mortgages shall apply to direct loan grants to the effect that mortgages taken therefor shall meet all requirements applicable to community home mortgages except that the loan shall be made directly by and shall be serviced by the director.

In the event that loan grants are made directly by the director, the director shall adopt, and may amend and rescind, such rules and regulations as are necessary for the administration of this section.

SECTION 12. Taxation. All assets of the director acquired in the administration of this part shall be exempt from taxation, except that any real property the mortgage for which is held by the director, and which has not been foreclosed, shall be subject to taxation to the same extent according to its value as other real property not so mortgaged.

SECTION 13. Community home mortgage program. There is created a community home mortgage program which shall be administered by the director in accordance with this part.

SECTION 14. Community home mortgage bonds fund. All repayments of principal on mortgages made under this part and all realizations on foreclosure of such mortgages, as secured, shall be paid into a special fund in the state treasury, to be called the community home mortgage bonds fund and used to pay the principal on bonds issued under this chapter.

SECTION 15. Community home mortgage bonds special fund. All interest received on mortgages made under this part and all fees and charges received under this part shall be paid into a special fund in the state treas-

ury, to be called the community home mortgage bonds special fund, and shall be used first to pay the interest on bonds issued under this part, and then to pay the expenses of the director in administering this part.

SECTION 16. Bonds. The director may, with the approval of the governor, issue from time to time general obligation bonds of the State to an amount not exceeding \$5,000,000 as provided by part I of chapter 137. The proceeds of sale of such bonds shall be used solely for the making of community home mortgages as provided in this part. To the extent that moneys in the community home mortgage bonds fund are inadequate to meet the principal, or moneys in the community home mortgage bonds special fund are inadequate to meet the interest on bonds issued under this part, as the same become due for payment, such moneys in the general fund of the State as are not otherwise appropriated shall be used for such purpose.

SECTION 17. Transferability. No mortgage purchased under this part shall be transferable to another party not qualifying under this part.

SECTION 18. Exceeding income limitations by residents. Residents' income shall be verified every biennium and shall not exceed the limitation imposed under section 6(h) herein except that in the event a resident exceeds such limitation subsequent to participating in the program the director shall renegotiate the mortgage and place additional charges upon the mortgage up to but not to exceed the going market rate for similar mortgages in an amount of one-half of one per cent; provided that no renegotiated mortgage shall result in payments by the resident in excess of twenty per cent of his income.

SECTION 19. Exceeding standards by developers. If the director determines that the developer has violated its limited dividend or nonprofit character the director shall renegotiate the mortgage and place additional charges upon the mortgage up to but not to exceed the going market rate for similar mortgages in an amount of one-half of one per cent; provided that the moderate-income character of the development shall be maintained.

SECTION 20. Priorities and preferences. The director shall purchase mortgages only according to the following priorities:

(a) First priority shall be given to developers for the purchase of land only.

(b) Second priority shall be given to developers and residents for the purchase of land and the smallest portion of improvements to land.

(c) Third priority shall be given to all other purchases.

SECTION 21. Appropriations. All moneys in the community home mortgage bonds fund created by section 14 are appropriated for the payment of principal on bonds issued under this part as the same become due and payable and all moneys in the community home mortgage bonds special fund created by section 15 are appropriated for the payment of interest on bonds issued under this chapter and the payment of service charges to mortgagees,

as the same become due and payable. There is appropriated from the community home mortgage bonds special fund such amounts of money as may be necessary to pay the salaries of employees of the department of budget and finance charged with the administration of this part and the cost of supplies and equipment therefor, and for other expenses in connection therewith.

If there are moneys in general, special, or revolving funds in the State which, in the director's judgment, are in excess of the amounts necessary for the immediate state requirements, and if in his judgment the necessary financial operations of the State will not be impeded or hampered thereby, the director may make temporary loans therefrom for the purposes of this part. Such loans shall in general comply with section 132-13.

PART IV STATE SALES HOUSING PROGRAM

SECTION 22. Chapter 77, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 77-..... State sales housing. Notwithstanding sections 77-8, 9, 38, 60, or any other law to the contrary, but subject to any resolution of issuance under part IV of this chapter, the authority may permit any member of a tenant family of a housing project administered under this chapter, or chapter 74 or any individual meeting the income standards under section 221(d)(3) of the National Housing Act to enter into a contract, including but not limited to contracts entered under and conforming to the provisions of part V of this chapter or under the community home mortgage program (either individually or as a member of a group) for the acquisition of a dwelling unit and lot or the acquisition of a dwelling unit and the lease of its lot, such lease to conform to the provisions of chapter 103A with the exception that such lease shall not require bid, auction, or negotiation, in any project under chapters 74 and 77 which is suitable for sale and for occupancy by such purchaser or a member or members of his family, upon the following terms:

(a) The purchaser shall pay at least (1) a pro rata share cost of any services furnished him by the authority, including but not limited to, administration, maintenance, repairs, utilities, insurance, provision of reserves, and other expenses, (2) taxes on his dwelling unit, and (3) monthly payments of interest and principal sufficient to amortize a sales price, equal to the greater of the unamortized debt or the appraised value (at the time such purchase contract is entered into) of the dwelling unit, in not more than forty years; provided that the authority may, under terms and conditions to be prescribed by it, permit a purchaser to apply toward the purchase price of such unit amounts provided for under part V;

(b) Except in the case of financing under the community home mortgage program the interest rate shall be fixed at not less than the average interest cost of loans outstanding on the project, except that in the case of a project on which bonds are not outstanding the interest rate shall be fixed at not less than the going rate applicable to such project;

(c) The principal payments shall be not less than one-half of one per cent per year of the sales price during the first five years after purchase, one per cent per year during the next five years, one and one-half per cent per year during the third five years, and thereafter not less than the principal payments resulting from a level debt service of interest and principal over the balance of the payment period; and

(d) If at any time (1) a purchaser fails to carry out his contract with the authority and if no member of his family who resides in the dwelling assumes such contract, or (2) the purchaser or a member of his family who assumes the contract does not reside in the dwelling, the authority shall have an option to acquire his interest under such contract upon payment to him or his estate of an amount equal to his aggregate principal payments plus the value to the authority of any improvements made by him, less an amount equal to two and one-half per cent of the sales price."

SECTION 23. Chapter 103A, Revised Laws of Hawaii 1955, is amended by adding a new section to be appropriately designated within part III B and to read as follows:

"Sec. 103A-..... Leases to certain developers of low and moderate-income housing. Sections 103A-69, 103A-70, 103A-71, 103A-72, or any other law to the contrary notwithstanding, residential public lands may be leased on a first priority basis without a drawing or public auction by the board to developers under sections 202, 207, 213, 221(d)(3), 221(d)(5) or 231 of the National Housing Act or to a limited dividend or nonprofit corporation as defined in section 221(d)(3) which conforms to the standards of said sections but which is not a mortgagor under said sections or any other private mortgagor under the National Housing Act for low or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project. The lease under this section shall include terms to meet Federal Housing Administration requirements, if any, and the annual rental of the premises shall not exceed one dollar per year."

SECTION 24. This Act shall take effect upon its approval; provided that Parts II and III shall take effect on July 1, 1967.

(Approved June 8, 1967.)

ACT 279

S. B. 678.

A Bill for an Act Amending Section 3-81, Revised Laws of Hawaii 1955, Relating to Veteran's Preference.

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

SECTION 1. Section 3-81, Revised Laws of Hawaii 1955, is amended to read as follows:

“Veteran’s preference. The extent to which veteran’s preference shall be given to veterans, to disabled veterans, to wives of disabled veterans, and to widows of deceased servicemen who have not remarried shall be provided by rules and regulations.”

SECTION 2. This Act shall take effect upon its approval; provided, that rules and regulations adopted prior to the effective date of this Act shall remain in effect until amended or superseded in the manner provided herein.

(Approved June 8, 1967.)

ACT 280

S. B. 917.

A Bill for an Act Relating to a Fishermen Training Program and Making an Appropriation Therefor.

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

SECTION 1. **Purpose.** The purpose of this Act is to provide a training program for aku, ahi and deep-sea handline fishermen in order that the fishing industry of Hawaii will have the manpower necessary to maintain a high level of efficiency.

SECTION 2. There is established within the department of education a fishermen training program. The training program shall not be restricted to the unemployed, but shall be open to all who wish to become fishermen. Actual training shall be aboard fishing vessels under a course of instruction conducted by the vessel’s captain, but defined by the department of education in cooperation with the various fishing cooperatives and associations. Such instruction shall cover a twelve-month period and shall include: (a) bait catching; (b) preparation of fishing gear; (c) fishing positions and techniques; (d) cooking; and (e) such other duties as are deemed necessary for the effective performance of a fisherman on a vessel.

SECTION 3. The department of education is authorized to enter into contracts for the training of fishermen with the various fishing cooperatives and associations, the captains of fishing vessels presently home based in one of the State’s ports and with fishermen trainees, and to guarantee the trainee a minimum weekly compensation of \$56 per week. The contracts shall include the following provisions: (a) that during the first through the third month, the trainee will receive one-half share of the crew’s distribution of the catch; (b) that during the fourth through the sixth month, the trainee will receive a three-fourths share of the crew’s distribution of the catch; (c) that during the seventh through the twelfth month, the trainee will receive a full share of the crew’s distribution of the catch; (d) that the captain will submit weekly reports to the department of labor and industrial relations indicating the amount of money received by each member of the crew including the trainee; (e) that the State shall be responsible for paying the

trainee, on a weekly basis, the difference, if any, between his share and the sum of \$56.00; (f) that the determination as to whether or not the trainee remains on the ship as a trainee will be dependent upon the recommendation of the captain at the end of the third month and the end of the sixth month; and (g) such other reasonable conditions that may be included by the department of education to assure the success of this training program and the effective utilization of state funds.

SECTION 4. The State shall pay to each person who is enrolled in and is a trainee under the program provided for by this Act a weekly compensation equal to the difference between the trainee's weekly share of the catch and \$56.00.

SECTION 5. The department of labor and industrial relations is authorized to assist in the program and shall, in cooperation with the department of education and the various fishing cooperatives and associations, recruit, select and refer trainees and shall also process the payment of weekly compensation, other than the trainee's share of the catch, as provided by this Act.

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$18,000, or so much thereof as may be necessary, to the department of labor and industrial relations for the purpose of paying weekly compensation as provided by this Act for the period beginning July 1, 1967 to June 30, 1968. The department of labor and industrial relations may include such additional sums as may be necessary in its budget in succeeding fiscal years.

SECTION 7. This Act shall take effect upon its approval.
(Approved June 8, 1967.)

ACT 281

S. B. 964.

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

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

SECTION 1. Chapter 44, Revised Laws of Hawaii 1955, is amended by adding thereto a new section to be appropriately numbered and to read as follows:

"Sec. 44-..... Compensation of laboratory school cafeteria personnel. The compensation of all cafeteria workers and the cafeteria manager at the university laboratory school cafeteria, or any successor organization or unit, shall be paid out of the general fund of the State. In each fiscal quarter, the laboratory school principal or other authorized official of the university shall transfer from the laboratory school cafeteria special fund to the general fund of the State an amount equal to the proportionate share of the salaries of the laboratory school cafeteria workers comparable

to the proportion borne by the department of education school cafeteria special fund for the salaries of cafeteria workers in the department of education.”

SECTION 2. The first sentence of section 132-16, Revised Laws of Hawaii 1955, is amended to read as follows:

“Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the school cafeteria special funds of the department of education and the university laboratory school, five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State.”

SECTION 3. The first sentence of section 132-17, Revised Laws of Hawaii 1955, is amended to read as follows:

“Each special fund, except the school cafeteria special funds of the department of education and the university laboratory school, shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 4. The department of education shall include the university laboratory school cafeteria in the State’s national school lunch program agreement in the same manner as any other public school.

SECTION 5. This Act shall take effect on July 1, 1967.

(Approved June 8, 1967.)

ACT 282

S. B. 1002.

A Bill for an Act to Amend Section 178-39 of the Revised Laws of Hawaii 1955, as Amended, Relating to Branch Banks.

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

SECTION 1. Section 178-39 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“**Sec. 178-39. 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 contained 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.

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 hereinafter 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 Waiialae Road, and thence following easterly on Waiialae 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. Sections 43 and 44 of Act 201, Session Laws of Hawaii 1965, are hereby repealed.

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

(Approved June 8, 1967.)

ACT 283

S. B. 1041.

A Bill for an Act Relating to Publications of the University of Hawaii Press and Amending Chapter 9, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 9, Revised Laws of Hawaii 1955, is amended by adding thereto a new section to be designated and to read as follows:

“**Sec. 9-45.5. Inapplicable to printing, binding, or publishing by the University of Hawaii press.** Sections 9-31 to 9-35 shall not be applicable to contracts of the University of Hawaii for any printing, binding or publishing of publications.”

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

(Approved June 8, 1967.)

ACT 284

S. B. 1091.

A Bill for an Act Relating to Real Property Tax Exemptions.

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

SECTION 1. Section 128-13(a)(2)(v), Revised Laws of Hawaii 1955, is amended to read as follows:

“(v) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to

such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home.”

SECTION 2. Section 128-14, Revised Laws of Hawaii 1955, is amended by:

(a) Deleting clause (2) of section 128-14(3) and redesignating clause (3) as clause (2).

(b) Redesignating subsection (4) of section 128-14 as subsection (6).

(c) Inserting the following subsections (4) and (5) to read as follows:

“(4) An apartment in a multi-unit apartment building which is occupied by the owner of the entire apartment building as his residence, provided that (a) the exemption shall not be allowed in respect to any apartment owner who claims any other home exemption; and (b) a husband or wife owner of the aforementioned type of apartment shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining an apartment or home entitled to an exemption, in which case they shall be entitled to one exemption to be apportioned between each of their respective homes in proportion to the value thereof.

“(5) That portion of a residential duplex and that portion of land appurtenant to the duplex which are occupied by the owner of said duplex and land as his residence, provided that (a) the exemption shall not be allowed in respect to any duplex owner who claims any other home exemption; (b) the portion of the appurtenant land shall not be exempt unless owned in fee by the duplex owner; and (c) a husband or wife owner of said duplex shall not be allowed a full exemption where the husband and wife are living separate and apart and each is maintaining a duplex or home entitled to an exemption, in which case they shall be entitled to one exemption to be apportioned between each of their respective homes in proportion to the value thereof.”

SECTION 3. This Act shall take effect on January 1, 1968.

(Approved June 8, 1967.)

A Bill for an Act Relating to the Retail Installment Sales Act and Amending Chapter 201A of the Revised Laws of Hawaii 1955.

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

SECTION 1. Section 201A-1 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding at the end thereof a new paragraph to read as follows:

“The term ‘house to house sale’ means a sale of goods or services solicited in person and signed by the buyer at a place other than the seller’s business address shown on the contract. It does not include a sale of goods or services incidental to the performance of an existing contract provided the cash sale price of such goods or services does not exceed the cash sale price of

the existing contract and the existing contract was not solicited in person and signed by the buyer at a place other than the seller's place of business."

SECTION 2. Section 201A-2 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding between the third and fourth paragraphs thereof the following paragraph to read as follows:

"If the sale is a house to house sale, the contract shall bear the notice printed or overstamped following the place for the buyer's signature and in a size and style at least equal to the Notice To The Buyer that: 'You are entitled to cancel this contract if Notice of Cancellation is mailed by certified mail, return receipt requested, and postmarked before midnight of the second day following the date of your signature. See Notice of Cancellation accompanying this contract.'"

SECTION 3. Section 201A-5 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding between the first and second paragraphs thereof the following paragraphs to read as follows:

"In any retail installment contract for the sale of a motor vehicle where insurance is contracted for in connection with, or as a part of, the installment sale, and the insurance does not include public liability insurance for bodily injury and property damages, the retail installment contract shall contain, immediately following the statement therein concerning insurance, the following notice printed or overstamped prominently in the form herein indicated in 10-point type or larger and in a different color than the print of the contract itself:

'THIS DOES NOT INCLUDE INSURANCE ON YOUR LIABILITY FOR BODILY INJURY OR PROPERTY DAMAGE. IT DOES NOT MEET THE REQUIREMENTS FOR PROOF OF FINANCIAL RESPONSIBILITY UNDER CHAPTER 160, REVISED LAWS OF HAWAII 1955.'

The retail installment seller of a motor vehicle shall furnish a statement of the insurance coverage provided in the retail installment contract, if any, to the buyer and the buyer shall acknowledge the same in writing. The seller shall attach such statement to the retail installment contract."

SECTION 4. Section 201A-7 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting from the second sentence thereof the words "conclusive proof" and substituting in lieu thereof the words "a rebuttable presumption".

SECTION 5. Section 201A-12 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by placing a period after the word "State" therein, and by deleting the remainder thereof.

SECTION 6. Section 201A-17(d) is amended to read in total as follows:

"No rights of action or defense arising out of a retail installment sale which the buyer has against the seller shall be cut off by assignment, and

in the event the buyer has a good cause of action or defense against the seller the seller's assignee has recourse against the seller for any losses he, the assignee, may incur as a result thereof."

SECTION 7. Section 201A-28, Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the second paragraph of such section and substituting therefor the following:

"A copy of said memorandum shall be furnished to the buyer prior to the due date of the first installment following such purchase."

SECTION 8. A new section is hereby added to chapter 201A of the Revised Laws of Hawaii 1955, as amended, to be appropriately numbered and to read as follows:

"(a) In addition to any other right the buyer may have, the buyer may cancel any house to house sale if notice of cancellation is mailed by certified mail, return receipt requested, to seller at its business address shown on the contract and postmarked before midnight of the second day after the date of signature of such contract by the buyer or the date of receipt of the written notice of buyer's right of cancellation whichever is later.

(b) If the sale is cancelled, the seller (1) may retain or otherwise recover from the buyer a cancellation fee of 5% of the cash sale price, or fifteen dollars (\$15.00) whichever is less, plus the cost of delivery of the goods (if delivery was in fact made) and (2) shall return to the buyer (a) any payments made (less the cancellation fee) and (b) any goods or other property traded in, and (c) any note or other evidence of indebtedness, given by buyer to the seller in connection with the sale.

(c) Upon cancellation of the contract the buyer, upon demand shall make available to the seller at the place of delivery any goods delivered to the buyer in the condition in which such goods were at the time of receipt by the buyer unless the seller by its act has made it impractical for the buyer to comply.

(d) If the seller has performed any services pursuant to a contract prior to its cancellation, the seller is not entitled to any compensation except the cancellation fee provided in this section. If the seller's services result in the alteration of property of the buyer, the seller shall restore the property to substantially as good condition as it was prior to the time the services were rendered.

(e) The seller shall give to the buyer at the time the buyer signs the house to house sale contract a form to be used by the buyer if he elects to cancel the contract. The form shall contain (1) the name and address of the seller to which the notice is to be mailed, (2) the date the buyer signed the contract, and (3) statement of the buyer's rights under this section. The form may be separate or may be attached to the contract, if readily detachable, and shall be in a type size no smaller than that generally used in the body of the contract.

(f) A form substantially as follows is sufficient to comply with this section.

NOTICE OF CANCELLATION

To (Insert name and address of seller)
I hereby cancel the retail installment contract signed by me on
.....(Insert the date buyer signed agreement), whereby I
agreed to purchase the following goods or services
..... (Concise description of goods or services)
Date.....
Signature of buyer.....

STATEMENT OF BUYER'S RIGHTS

You may cancel the contract referred to above by completing the notice
of cancellation and mailing it by certified mail, return receipt requested, to
the seller at the address shown on the contract and postmarked before mid-
night of the second day after the date you sign the contract or the date on
which you received this notice whichever is later in time. If you cancel the
contract, the seller is entitled to retain out of the down payment, or otherwise
recover a cancellation fee of 5% of the cash price of the sale but in no event
may the seller retain or recover more than \$15.00 plus the cost of delivery
of the merchandise, if delivery is made.

In the event you cancel the seller must return to you (1) any payments
made (less the cancellation fee) and (2) any goods or other property
traded in and (3) any note or other evidence of indebtedness, given by you
to the seller in connection with the sale. After cancellation the seller is en-
titled to receive back from you, at your address, any goods delivered by him
to you providing it has returned any payments or property received from
you as provided above.

(g) If the seller shall fail to place the legend required by section
201A-2 on the contract or to provide the buyer with the Notice of Can-
cellation and Statement of Buyer's Rights required by this section, the con-
tract shall be unenforceable by the seller."

SECTION 9. A new section is hereby added to chapter 201A, Re-
vised Laws of Hawaii 1955, as amended, to be appropriately numbered by
the revisor of statutes, and to read as follows:

"Section 201A-..... Negotiability of notes; consumer goods on
credit. If any contract for sale of consumer goods on credit entered into
in this State between a retail seller and a retail buyer requires or involves
the execution of a promisory note, whether such note be made payable in
one lump sum or installment, such note shall be printed or written on the
face thereof the words "consumer note" and such a note with the words "con-
sumer note" printed or written thereon shall not be a negotiable instrument
within the meaning of the Uniform Commercial Code—Commercial Paper.
For the purposes of this section "consumer goods" means tangible personal
property used or bought for use primarily for personal, family or household
purposes.

Whoever obtains a note in violation of this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars.

If a note is obtained in violation of this section, no finance, delinquency, collection, repossession or refinancing charges may be recovered in any action or proceeding based on such contract for sale.

The provisions of this section shall not apply to any notes executed in connection with any financing which is insured under Federal Housing Administration regulations.”

SECTION 10. A new section is hereby added to chapter 201A, Revised Laws of Hawaii 1955, as amended, to be appropriately numbered by the revisor of statutes, and to read as follows:

“Section 201A-..... Attorney general or prosecutor to enforce Act. The attorney general or the prosecuting attorney may bring an action in the name of the State against any person to restrain and prevent any violation of the Act.”

SECTION 11. This Act shall take effect on January 1, 1968.

(Approved June 8, 1967.)

ACT 286

H. B. 215.

A Bill for an Act Relating to Drug Abuse Control.

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

SECTION 1. Findings and declaration of policy and purpose. The legislature of the State of Hawaii hereby finds that it is essential to the public health and safety to regulate and control the manufacture, distribution, delivery and possession of depressant and stimulant drugs, and other drugs which have a potential for abuse because of their depressant or stimulant effect on the central nervous system or because of their hallucinogenic effect, as defined in this Act.

It is, therefore, hereby declared to be the policy and intent of the legislature and the purpose of this Act to regulate and control such manufacture, distribution, delivery, and possession, and in particular, but without limitation of such purpose, to afford the public the therapeutic benefits of such drugs under medical supervision; to complement and supplement the laws and regulations of the Congress of the United States and the appropriate agencies of the Federal Government affecting such manufacture, distribution, and delivery; to prevent such manufacture, distribution, and delivery for harmful or illegitimate purposes; and to place upon manufacturers, wholesalers, licensed compounders of prescriptions, and persons prescribing such drugs, a basic responsibility for preventing the improper distribution of such drugs to the extent that such drugs are produced, handled, sold, or prescribed by them.

The legislature further finds and declares that there is a substantial traffic in counterfeit drugs simulating the brand or other identifying mark

or device of the manufacturer of the genuine article; that such traffic poses a serious hazard to the health of innocent consumers of such drugs because of the lack of proper qualifications, facilities, and manufacturing controls on the part of the counterfeiter, whose operations are clandestine; and that these factors require enactment of additional controls with respect to such drugs.

SECTION 2. For the purpose of this Act:

(a) The term "director" means the director of health of the State of Hawaii or his duly authorized agent;

(b) The term "person" includes an individual, partnership, corporation, and association;

(c) (1) The term "drug" means (A) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (B) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (C) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (D) articles intended for use as a component of any article specified in clause (A), (B), or (C); but does not include devices or their components, parts or accessories;

(2) The term "counterfeit drug" means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed such drug and which thereby falsely purports, or is represented to be the product of, or to have been packed or distributed by, such other drug manufacturer, processor, packer, or distributor.

(d) The term "depressant or stimulant drug" means:

(1) Any drug which contains any quantity of (A) barbituric acid or any of the salts of barbituric acid; or (B) any derivative of barbituric acid which has been designated by the director as habit-forming;

(2) Any drug which contains any quantity of (A) amphetamine or any of its optical isomers, (B) any salt of amphetamine or any salt of an optical isomer of amphetamine, or (C) any substance designated by regulations promulgated by the director as habit-forming because of its stimulant effect on the central nervous system;

(3) "Lysergic acid," "LSD" (Lysergic Acid Diethylamide), "DMT" (NN-Dimethyltryptamine), NN-Diethyltryptamine, including their salts and derivatives, or any compounds, mixtures or preparations which are chemically identical with such substances;

(4) All parts of the plant of the genus *Lophophora*, also known as "peyote," whether growing or otherwise; the buttons thereof, the alkaloids extracted from any such plant; mescaline and every other compound, salt, derivative, mixture or preparation of such plant;

(5) Psilocybin or any like derivative from the "Mexican Mushroom", or

(6) Any other drug which contains any quantity of a substance designated by regulations promulgated by the director as having a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect;

(e) The term "manufacture, compound or process" shall include re-packaging or otherwise changing the container, wrapper, or labeling of any drug package in the furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer, and the term "manufacturers, compounders, and processors" shall be deemed to refer to persons engaged in such defined activities;

(f) The term "practitioner" means a physician, dentist, veterinarian, or other person licensed in this State to prescribe or administer drugs which are subject to this Act, or a medical officer engaged in the performance of his official duties;

(g) The term "Federal Act" means the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 as amended; 21 U.S.C. section 301 et seq.).

SECTION 3. The following acts and the causing thereof are hereby prohibited:

(a) The manufacture, compounding, processing, or importation of a drug in violation of section 7(a);

(b) The sale, delivery, or other disposition of a drug in violation of section 7(b);

(c) The possession of a drug in violation of section 7(c);

(d) Obtaining a drug in violation of section 7(d);

(e) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit drug;

(f) The doing of any act which causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug;

(g) Inducing any person under the age of twenty (20) years to buy, traffic in, receive, take, ingest or otherwise use, any depressant or stimulant drug, except that this prohibition shall not apply to a practitioner acting in the course of his professional practice or in the performance of his official duties;

(h) The failure to prepare or obtain, or the failure to keep, a complete and accurate record with respect to any drug as required by section 7(e);

(i) The refusal to permit access to or copying of any record as required by section 7(e);

(j) The refusal to permit entry or inspection as authorized by section 7(e);

(k) The filling or refilling of any prescription in violation of section 7(f).

SECTION 4. In addition to the remedies hereinafter provided the director is hereby authorized to apply to the proper court for, and such court shall have jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of section 3, irrespective of whether or not there exists an adequate remedy at law.

SECTION 5. (a) Any person violating any of the provisions of sections 3(a), (b), (c), (d), (e), or (f) shall be fined not more than \$1,000 and imprisoned for not more than 10 years for the first offense, and fined not more than \$2,000 and imprisoned for not more than 20 years for any subsequent offense; provided, however, that any person who violates section 3(b) by selling, delivering, or otherwise disposing of any depressant or stimulant drug to any person under the age of 20 years, or who violates section 3(g), shall be fined not more than \$1,000 and imprisoned for not more than 20 years for the first offense, and fined not more than \$2,000 and imprisoned for life for any subsequent offense.

(b) Any person violating any of the provisions of sections 3(h), (i), (j), or (k) shall be fined not more than \$1,000 and imprisoned not more than 1 year for the first offense, and fined not more than \$2,000 and imprisoned for not more than 3 years for any subsequent offense.

(c) No person shall be subject to the penalties of subsection (a) of this section, for having violated section 3(e) if such person acted in good faith and had no reason to believe that use of the punch, die, plate, stone, or other thing involved would result in a drug being a counterfeit drug, or for having violated section 3(f) if the person doing the act or causing it to be done acted in good faith and had no reason to believe that the drug was a counterfeit drug.

SECTION 6. (a) The following may be seized without warrant by a duly authorized agent of the director or any police officer whenever he has reasonable grounds to believe they are: (1) a depressant or stimulant drug with respect to which a prohibited act within the meaning of section 3 has occurred; (2) a drug that is a counterfeit; (3) a container of such depressant or stimulant drug or of a counterfeit drug; (4) equipment used in manufacturing, compounding, or processing a depressant or stimulant drug with respect to which drug a prohibited act within the meaning of section 3 has occurred; (5) a punch, die, plate, stone, labeling, container or other thing used or designed for use in making a counterfeit drug or drugs, or (6) a conveyance being used to transport, carry or hold a depressant or stimulant drug with respect to which a prohibited act within the meaning of section 3 has occurred; or any conveyance being used to transport, carry or hold a counterfeit drug in violation of section 7(b) of this Act. As used in this paragraph the term "conveyance" includes every description of vehicle, ves-

sel, aircraft, or other contrivance used, or capable of being used as a means of transportation on land, in water, or through the air.

(b) When an article, equipment, conveyance, or other thing is seized under section 6(a), the director may within 15 days thereafter, cause to be filed in the circuit court in whose jurisdiction the property is seized or detained a complaint for the forfeiture of such property as herein provided. The proceedings shall be brought in the name of the State by the county attorney or the public prosecutor, of the county in which the article was seized, or by the attorney general, and the complaint shall be verified by a duly authorized agent of the director. The complaint shall describe the property, state its location, state the name of the person, firm, or corporation in actual possession, state the name of the owner, if known to the person verifying the complaint, allege the essential elements of the violation which is claimed to exist, and shall conclude with a prayer to enforce the forfeiture. Upon the filing of such a complaint, the court shall promptly cause process to issue to a person authorized by law to serve process, commanding him to seize the property described in the complaint and to hold the same for further order of the court. Such person shall at the time of seizure serve a copy of said process upon the owner of said property, if he is in possession thereof. Otherwise service may be made personally, by mail, or by publication according to the law governing the service of civil process in this State. Within 20 days after such seizure or within such further period as may be provided by law or court order, if no claimant has appeared to defend such complaint, the court shall order the police to dispose of said seized property.

(c) Any person, firm, or corporation having an interest in the alleged article, equipment, or other thing proceeded against, or any person, firm, or corporation against whom a civil or criminal liability would exist if said merchandise is in violation of section 3 of this Act may, within 20 days following the police seizure, appear and file answer to the complaint. The answer shall allege the interest or liability of the party filing it. In all other respects the issue shall be made up as in other civil actions.

(d) (1) Any article, equipment, conveyance or other thing forfeited under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct, and the proceeds thereof, if sold, less the legal costs and charges shall be paid into the general fund of the State; but such article, equipment, or other thing shall not be sold under such decree contrary to provisions of this Act.

(2) Whenever in any proceedings under this section the forfeiture of any equipment or conveyance or other thing (other than a drug) is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court (A) that he has not committed or caused to be committed any prohibited act referred to in subparagraph (a) and has no interest in any drug referred to therein, (B) that he has an interest in such equipment or other thing as owner or lienor or otherwise,

acquired by him in good faith, and (C) that he at no time had any knowledge or reason to believe that such equipment, or conveyance or other thing was being or would be used in, or to facilitate, the violation of the laws of this State relating to depressant or stimulant drugs or counterfeit drugs.

(e) When a decree of forfeiture is entered against the article, equipment, conveyance or other thing, court costs and fees and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

SECTION 7. (a) No person shall manufacture, compound or process in this State or import into the State any depressant or stimulant drug, except that this prohibition shall not apply to the following persons whose activities in connection with any drug are as specified in this subsection:

(1) Manufacturers, compounders, and processors, operating in conformance with the laws of this State relating to the manufacture, compounding or processing of drugs, who are regularly engaged in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment; (A) to pharmacies or to hospitals, clinics, public health agencies or physicians for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed in this State to administer such drugs in the course of their professional practice; or (B) to laboratories, research or educational institutions approved by the director under regulations promulgated in accordance with this Act, for their use in research, teaching or chemical analysis;

(2) Suppliers (operating in conformance with the laws of this State relating to the manufacture, compounding or processing of drugs) of manufacturers, compounders, and processors referred to in subparagraph (1);

(3) Wholesale druggists who maintain their establishments in conformance with state and local laws relating to the manufacture, compounding or processing of drugs and are regularly engaged in supplying prescription drugs (A) to pharmacies, or to hospitals, clinics, public health agencies, or physicians for dispensing by registered pharmacists upon prescriptions or for use by or under the supervision of practitioners licensed in this State to administer such drugs in the course of their professional practice, or (B) to laboratories or research or educational institutions for their use in research, teaching, or clinical analysis;

(4) Pharmacies, hospitals, clinics and public health agencies which maintain their establishments in conformance with state and local laws regulating the practice of pharmacy and medicine which are regularly engaged in dispensing drugs upon prescriptions of practitioners licensed in this State to administer such drugs for patients under the care of such practitioners in the course of their professional practice;

(5) Practitioners licensed in this State to prescribe or administer depressant or stimulant drugs, while acting in the course of their professional practice;

(6) Persons approved by the director under regulations promulgated in accordance with this Act who use depressant or stimulant drugs in research, teaching or chemical analysis and not for sale;

(7) Officers and employees of this State, or of a political subdivision of this State or of the United States while acting in the course of their official duties;

(8) An employee or agent of any person described in paragraph (1) through paragraph (6) of this subsection, and a nurse or other medical technician under the supervision of a practitioner licensed by law in this State to administer depressant or stimulant drugs, while such employee, nurse, or medical technician is acting in the course of his employment or occupation and not on his own account.

(b) No person other than:

(1) A person described in subsection (a), while such person is acting in the ordinary and authorized course of his business, profession, occupation, or employment, or

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any depressant or stimulant drug or counterfeit drug is in the usual course of his business or employment as such, shall sell, deliver or otherwise dispose of any depressant or stimulant drug or counterfeit drug to any other person.

(c) No person, other than a person described in subsection (a) or subsection (b) (2) shall possess any depressant or stimulant drug unless (1) such drug was obtained upon a valid prescription, and is held in the original container in which such drug was delivered; or (2) such drug was delivered by a practitioner in the course of his professional practice or in the performance of his official duties and the drug is held in the immediate container in which such drug was delivered.

(d) No person other than a person described in subsection (a) (7) shall obtain or attempt to obtain a depressant or stimulant drug by (1) fraud, deceit, misrepresentation or subterfuge; (2) falsely assuming the title of or representing himself to be a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other persons authorized to possess stimulant or depressant drugs; (3) the use of a forged or altered prescription; or (4) the use of a false name or a false address on a prescription. The director is authorized and directed to cooperate with manufacturers, their agents or employees in activities directed toward the safeguarding of said manufacturer's trademark.

(e)(1) Every person engaged in manufacturing, compounding, processing, selling, delivering or otherwise disposing of any depressant or stimulant drug shall, upon the effective date of this Act, prepare a complete and accurate record of all stocks of each drug on hand and shall keep such record for three years; except that if this record has already been prepared in accordance with section 511(d) of the Federal Act, no additional record shall be required provided that all records prepared under 511(d) of the Federal Act have been retained and are made available to the director

upon request. When additional depressant or stimulant drugs are designated after the effective date of this Act, a similar record must be prepared upon the effective date of their designation. On and after the effective date of this Act, every person manufacturing, compounding, or processing any depressant or stimulant drug shall prepare and keep, for not less than three years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any depressant or stimulant drug shall prepare or obtain and keep for not less than three years, a complete and accurate record of the kind and quantity of each such drug received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction.

(2)(A) Every person required by paragraph (1) of this subsection to prepare or obtain, and keep records, and any carrier maintaining records with respect to any shipment containing any depressant or stimulant drug and every person in charge, or having custody, of such records, shall, upon request of an officer or employee designated by the director permit such officer or employee at reasonable times to have access to and copy such records. For the purposes of verification of such records and of the enforcement of this Act, officers or employees designated by the director are authorized to enter, at reasonable times, any factory, warehouse, establishment, or vehicle in which any depressant or stimulant drug is held, manufactured, compounded, processed, sold, delivered, or otherwise disposed of and to inspect, within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished material, containers and labeling therein, and all things therein (including records, files, papers, processes, controls, and facilities); and to inventory any stock of any such drug therein and obtain samples of any such drug.

(B) No inspection authorized by subparagraph (A) shall extend to (i) financial data, (ii) sales data other than data required to be recorded and maintained under this section, (iii) pricing data, (iv) research data, or (v) personnel data.

(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to a licensed practitioner described in subsection (a) (5) with respect to any depressant or stimulant drug received, prepared, processed, administered, or dispensed by him in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drug or drugs to his patients for which they are charged, either separately or together with charges for other professional services.

(f) No prescription (issued before or after the effective date of this Act) for any depressant or stimulant drug may be filled or refilled more than six months after the date on which such prescription was issued and no such prescription which is authorized to be refilled may be refilled more than five times, except that nothing in this Act shall be construed as preventing a

practitioner from issuing a new prescription for the same drug either in writing or orally. Any oral prescription for such drug shall be promptly reduced to writing on a new prescription blank and filed by the pharmacist filling it.

(g) The director may by regulations exempt any depressant or stimulant drug from the application of all or any part of this section when he finds that regulation of its manufacture, compounding, processing, possession, sale or disposition as provided in this section or in such part thereof is not necessary for the protection of the public health.

SECTION 8. (a) Any officer, employee or agent of the state department of health designated by the director to conduct examinations, investigations, or inspections under this Act relating to depressant or stimulant drugs or to counterfeit drugs may, when so authorized by the director:

- (1) Carry firearms;
- (2) Execute and serve search warrants and arrest warrants;
- (3) Execute seizure by process issued pursuant to section 6;
- (4) Make arrests without warrant for offenses under this Act with respect to such drugs if the offense is committed in his presence or, in the case of a felony, if he has probable cause to believe that the person so arrested has committed or is committing such offense; and

(5) Make, prior to the institution of proceedings under section 6(b), seizures of drugs or containers or conveyances or of equipment, punches, dies, plates, stone, labeling, or other things, if they are, or he has reasonable grounds to believe that they are, subject to seizure and condemnation under section 6.

SECTION 9. The director may make rules and regulations having the force and effect of law for the efficient enforcement of this Act. The director is hereby authorized to make said rules and regulations conform, insofar as practicable, with those promulgated under the Federal Act.

SECTION 10. It is hereby made the duty of the state department of health, its officers, agents, inspectors and representatives and of all state, county and municipal officers whose duty it is to enforce the laws of the State, to enforce all provisions of this part, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other states and territories, relating to drugs.

SECTION 11. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the Act and applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 12. This Act may be cited as the State Drug Abuse Control Act.

SECTION 13. This Act shall take effect thirty days after the date of its approval.

(Approved June 8, 1967.)

ACT 287

H. B. 381.

A Bill for an Act Relating to Employee-Management Cooperation in the State and County Service.

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

SECTION 1. Section 3-80 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

“§ 3-80. Employee-management cooperation. In the interest of effective personnel management and efficient operations of state or county government, orderly and constructive relationships shall be encouraged between government management officials and employees.

Subject to the paramount requirements of the public service, employee-management cooperation must provide employees with an opportunity for meaningful participation in the formulation and implementation of policies and procedures affecting the conditions of their employment.

Employee-management relations shall be consistent with the merit system, laws, and rules. They shall be facilitated through the establishment of uniform and orderly methods of communication.

(a) Membership in public employees' organizations. Employees shall have the right to join or not to join any public employees' association, organization, or union not asserting the right to strike or proposing to assist in any strike against the government.

(b) Right to petition. The right of any individual officer or employee in civil service, or any group of officers or employees, to present grievances or to petition for redress of grievances to the legislature, or any other public officer or body, shall not be denied or interfered with.

(c) Consultation. Each department shall consult its employees or employee organizations when formulating and implementing personnel policies and practices, and matters affecting working conditions that are of concern to its employees.

(d) Discussion before changes. Before changing major policies or methods of operation, each department shall notify its employees of the proposed changes. When requested by its employees, each department shall meet to discuss the proposed changes.

(e) Request for meetings. Employees may request meetings with departments to act upon subjects or disputes for which adjustments are not provided in established rules, regulations, procedures or directives.

(f) Time for meetings. Meetings between employees and officials of the department shall be held during normal working hours. A reasonable number of full-time representatives of public employees' organizations may attend these meetings with the approval of the department.

(g) Written records. Written records may be kept of these meetings and written statements of understanding may be prepared by mutual consent of the department and its employees.

(h) Visitation. Full-time representatives of public employees' organiza-

tions may visit members of their organization at work during regular working hours to investigate grievances and to observe whether civil service rules and safety regulations are being observed; provided, that they do not interfere with the normal operations of the department.

(i) The rights and privileges granted to the employees under this section shall be extended to all employees, irrespective of whether they are members of any public employees' organization or not."

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

(Approved June 8, 1967.)

ACT 288

H. B. 736.

A Bill for an Act Relating to the Hawaii State Boating Law.

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

SECTION 1. Section 112-51, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"Section 112-51. Fees and charges. The department shall assess and collect the following fees and charges to be paid by the owners of vessels required to be registered and numbered, except that the following fees and charges shall not apply to vessels used for commercial fishing as defined under section 21-110 and duly registered under section 21-118:

(a) Registration fee. For the initial registration for the issuance of a certificate.

(1) For each vessel less than 16 feet in length, \$1.

(2) For each vessel 16 feet or more in length, \$3 for the first 12 feet and 25 cents for each additional foot calculated to the nearest foot.

(3) For each amphibious vehicle licensed as a motor vehicle, \$3.

(4) For a boat manufacturer or dealer, \$5 for the first vessel and \$1 for each additional vessel sought to be registered per application.

(5) Boat livery operator shall be assessed according to items (1) to (3) of this subsection.

(b) Annual renewal fee. For the annual renewal of a certificate:

(1) For each vessel less than 16 feet in length, \$1.

(2) For each vessel 16 feet or more in length, \$2 for the first 12 feet and 25 cents for each additional foot calculated to the nearest foot.

(3) For each amphibious vehicle that is licensed as a motor vehicle, \$2.

(4) For a boat manufacturer or dealer, \$3 for the first vessel and \$1 for each additional vessel sought to be registered per application.

(5) For a boat livery operator, the amount computed in accordance with the applicable portions of subsection (b) of this section, or for an operator applying for the renewal of five or more boats, per application, \$10 for the first five boats and \$1 for each additional boat.

(c) Re-registration fee. The fee for the re-registration of a vessel, as to

which a certificate has been cancelled or voided, shall be in the same amount as set out in subsection (a).

(d) Transfer fee. A charge of \$2 shall be assessed upon and paid by the new owner for the transfer of a certificate.

(e) Duplicate certificate fee. The fee of \$1 shall be charged for each duplicate certificate.

(f) Penalty charges for late registration, etc. One-tenth of the respective fee shall be added to such fee and be charged for each month the owner is late in his registration, renewal, re-registration or transfer.

(g) Exemptions. The department may reasonably establish, by rules and regulations, exemptions from the fees required by this section."

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

(Approved June 8, 1967.)

ACT 289

H. B. 826.

A Bill for an Act Relating to Business Development Corporations and Amending Chapter 176A, Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. In order to induce the expansion of long-term, low-cost financing for new or expanding businesses, the state financial assistance programs should be augmented by the forming of a state business development corporation. The private funds made available through such a corporation would greatly enhance the economic development of the State, by supplementing currently available funds with the pooled resources of private individuals, commercial banks, insurance companies, trust companies, pension funds, and public utility companies. Such private participation in the growth of the State would contribute towards filling the gap between available funds and amounts required to support the appropriate level of growth in the State.

SECTION 2. The proviso in section 176A-2(c)(2), Revised Laws of Hawaii 1955, as reads:

"provided, that no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation shall be secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner.", is deleted.

SECTION 3. Section 176A-17. The date as reads "June 30, 1967" in the second sentence of the Revised Laws of Hawaii 1955, is amended to read "June 30, 1968."

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

(Approved June 8, 1967.)

A Bill for an Act Relating to Certification of Psychologists.

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

SECTION 1. The Revised Laws of Hawaii 1955 are amended by adding thereto a new chapter to be designated and to read as follows:

**“CHAPTER 169A
PSYCHOLOGISTS**

Sec. 169A-1. Definitions. As used in this chapter:

(a) “Board” means the board of certification for practicing certified psychologists.

(b) “Director” means the director of regulatory agencies.

(c) “Application fee”, “renewal fee”, “temporary permit fee” and “examination fee” mean the fees in the schedule set forth in section 169A-12.

Sec. 169A-2. Certification required. Except as otherwise provided in this chapter, no person shall represent himself to be a certified psychologist without having first obtained a certificate as provided in this chapter. A person represents himself to be a certified psychologist when he offers services as a certified psychologist including psycho-diagnostic or psycho-therapeutic services, gratuitously or for pay, either publicly or privately.

Sec. 169A-3. Exceptions. The provisions of this chapter shall not apply to:

(a) Any person teaching, lecturing, consulting or engaging in research in psychology insofar as such activities are performed as part of or are dependent upon employment in a college or university.

(b) Any person with a doctor’s degree from an accredited institution of higher education engaged in consulting, independent research, or providing other services in related social sciences, including the disciplines of sociology, anthropology, economics, political science, education, or philosophy, provided that such person does not represent himself as a certified psychologist or offer services including psycho-diagnostic and/or psycho-therapeutic services in that capacity.

(c) Any person employed by a local, state or federal government agency whose psychologists must qualify for employment under governmental certification or under civil service regulations but only at those times when that person is carrying out the functions of such governmental employment.

(d) 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.

(e) Any person who is a sociologist at any accredited institution whose extracurricular activities shall include consultant services in personnel relations.

(f) Nothing contained in this Act shall in any way restrict any person from carrying on any of the aforesaid activities, provided that he does not hold himself out to the public as a certified psychologist, offering services, including psycho-diagnosis and/or psycho-therapy as a certified psychologist.

(g) Nothing in this Act 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 Hawaii.

Sec. 169A-4. Board of certification for practicing psychologists; appointment, qualifications, term, expenses. There is created a board of certification for practicing psychologists, within the department of regulatory agencies for administrative purposes, consisting of seven members. In accordance with the provisions of section 14A-3, the governor shall appoint, with the advice and consent of the senate, five members representing varied specialties of the profession from persons who would qualify for certification under the provisions of this Act and two lay members from the community at large. The terms of the board will be overlapping. Two psychologists and one lay member will be appointed for three years, two psychologists and one lay member will be appointed for two years, and one psychologist will be appointed for one year. The board shall elect one of its members to serve as chairman.

Members shall serve without compensation, except that they shall be reimbursed for actual expenses incurred in the performance of official duties on islands other than on the island of their residence.

Sec. 169A-5. Meetings; quorum. The first meeting of the board shall be held within thirty days after the appointment of the board at a time and place designated by the governor. Thereafter the board shall meet at least once a year and as many other times as the board may deem necessary to discharge its duties. Four members of the board shall constitute a quorum.

Sec. 169A-6. Powers and duties. The board shall:

(a) Examine the qualifications of applicants for certification under this chapter to determine their eligibility for certification as a certified psychologist and forward to the director the names of applicants who are eligible for such certification no later than 90 days after date of application.

(b) Prepare, administer and grade such examinations and tests for applicants as may be required for the purposes of this chapter. The board shall determine the scope and length of such examinations and tests, whether they shall be oral, written or both and the score that shall be deemed a passing score. Examinations must be scheduled at least once annually.

(c) Keep a record of action taken on all applicants for certification; the names of all persons certified; petitions for temporary certificates; actions involving suspension, revocation or denial of certification; recommendations for reciprocity and receipt and disbursal of any moneys. The board shall report annually in writing to the governor concerning all the official acts of the previous year.

(d) Promulgate, amend and repeal pursuant to the provisions of chap-

ter 6C, such rules and regulations as it may deem proper for the purposes of this chapter.

Sec. 169A-7. Requirements for certification. Every applicant for a certificate as a certified psychologist shall submit evidence satisfactory to the board that he meets the requirements as set forth in subparagraphs (a), and (b) or (c) or (d), and (e) of this section:

(a) He is of good moral character.

(b) He holds a doctoral degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board.

(c) He holds a master's degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board and has practiced psychology for a period of two years, or its equivalent in part-time practice, at least one year of which shall have been in the State prior to the date of application; provided he has not previously failed to pass an examination in psychology prescribed by the board or been denied a certificate or had his certificate suspended or revoked by the board; and provided he applies for a certificate within one year from the effective date of this chapter.

(d) Any person who holds a diplomate certificate in good standing granted by the American Board of Examiners in Professional Psychology.

(e) He passes such examination as may be prescribed by the board.

Sec. 169A-8. Certificates, issuance, display. Upon the board forwarding to the director the name of each applicant who is entitled to a certificate under this chapter and upon receipt of the prescribed fee, the director shall promptly issue to each such applicant a certificate authorizing him to use the title "certified psychologist" for a period of one year. Said certificate shall be in such form as the director shall determine. A certified psychologist shall display his certificate in a conspicuous place in his principal place of business.

Sec. 169A-9. Temporary permit. A person not certified in the State who wishes to use the title "certified psychologist" for a period not to exceed ninety days within a calendar year shall petition the board for a temporary permit. If such person is licensed or certified in another state deemed by the board to have standards equivalent to the provisions of this chapter, he shall be entitled to a temporary permit in the same manner and subject to the same conditions specified in section 169A-8 applicable to the issuance of certificates. The period of ninety days may be extended at the discretion of the board but not to exceed 90 days.

Sec. 169A-10. Reciprocity. The board may recommend certification without written or oral examination of an applicant who has not previously failed to pass an examination in psychology prescribed by the board and who submits evidence satisfactory to the board that:

(a) He holds a doctoral degree from an accredited institution of higher education with training and education in the field of psychology adequate to the satisfaction of the board; and

(b) He is certified or licensed to practice psychology in another state deemed by the board to have standards equivalent to the provisions of this chapter; or

(c) He is a diplomate in good standing of the American Board of Examiners in Professional Psychology.

The director shall issue a certificate under this section in the same manner and subject to the same conditions specified in section 169A-8.

Sec. 169A-11. Renewals. Every certificate issued under the provisions of this chapter shall be valid for the period July 1 through June 30 and shall be renewed annually. Failure to renew a certificate shall suspend such certificate; provided that a psychologist whose certificate has been suspended for failure to renew may reinstate such certificate by payment of the renewal fee for the year in which such failure occurred, and provided that the period of suspension is not greater than one year. If certification has lapsed for more than one year, the person may re-apply for a certificate in the manner prescribed in the previous sections of this Act.

Sec. 169A-12. Fees; disposition. The fees required by this chapter, none of which is refundable, shall be as follows:

- (a) Application fee\$10.00
- (b) Examination fee 25.00
- (c) Certificate fee 15.00
- (d) Renewal fee 15.00
- (e) Temporary permit fee 15.00

All fees shall be paid to the director and shall be deposited by him with the director of finance to the credit of the general fund.

Sec. 169A-13. Denial, suspension, revocation of certificate. The board shall refuse to grant a certificate to any applicant and may revoke or suspend any certificate upon any of the following grounds:

- (a) Conviction of crime involving moral turpitude;
- (b) Habitual use of narcotic drugs or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or certificate holder for the practice of psychology;
- (c) Habitual drunkenness;
- (d) Violation of the provisions of this Act; or
- (e) Any unethical practice of psychology as defined by the board in accordance with its own rules and regulations.

Sec. 169A-14. Procedure. All proceedings for denial, suspension or revocation of a certificate or permit on any ground specified in section 169A-13 shall be pursuant to the provisions of chapter 6C, including the right of judicial review.

Section 169A-15. Prohibited acts; penalties. No person shall:

- (a) Use in connection with his name any designation tending to imply that he is a certified psychologist unless he is duly certified and authorized under the provisions of this chapter.
- (b) Represent himself as a certified psychologist during the time his

certificate issued under the provisions of this chapter is suspended or revoked; or

(c) Otherwise violate any of the provisions of this Act.

Any person who violates the provisions of this Act shall be fined not more than \$500 or imprisoned not more than one year, or both."

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

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

(Approved June 8, 1967.)

ACT 291

H. B. 990.

A Bill for an Act Relating to Horizontal Property Regimes.

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

SECTION 1. Section 170A-21, Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the first sentence thereof to read as follows:

"The laws relating to home exemptions from state property taxes shall be applicable to the individual apartments, which shall have the benefit of home exemption in those cases where the owner of single family dwelling would qualify."

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

(Approved June 8, 1967.)

ACT 292

H. B. 385.

A Bill for an Act Relating to Payment of Government Contracts and Amending Chapter 9 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Findings and purpose. The legislature finds that a substantial number of contractors selling goods and services to the state and county governments must frequently wait 90 to 120 or more days to receive payment. The purpose of this Act is to require prompt payment on government contracts.

SECTION 2. Chapter 9 of the Revised Laws of Hawaii 1955 is amended by adding the following section to be appropriately numbered:

"**Sec. 9-..... Payment for goods and services.** Any person who

renders a proper statement for goods delivered or services performed pursuant to contract, to any agency of the State or any county, shall be paid no later than sixty calendar days following receipt of the statement. In the event circumstances prevent the paying agency from complying with this section, the person shall be entitled to interest on the principal amount remaining unpaid at the rate of one-half of one per cent per month commencing on the sixtieth day following receipt of the statement. It is provided, however, that this section shall not apply in those cases where delay in payment is due to a bona fide dispute between the State and the contractor concerning the services or goods contracted for. This section shall apply only to those cases where payment was withheld arbitrarily or erroneously. It is further provided that in cases where the time of payment is contingent upon the receipt of federal funds, or federal approval, the solicitation of bids for contracts shall clearly state that payment is contingent upon such conditions. In cases where the solicitation for bids contains such warning and a contract is awarded in response to such solicitation then interest will not begin to accrue upon any unpaid voucher until the sixtieth day following receipt by the State of the contractor's statement, or the thirtieth day following receipt of such federal funds or approval, which occurs later."

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

(Approved June 10, 1967.)

ACT 293

H. B. 424.

A Bill for an Act Relating to Taxation of Conveyances and Amending Chapter 128A of the Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. The purpose of this Act is to delete the requirement for submission of a duly notarized affidavit of the actual and full consideration of property transferred and substituting in lieu thereof, submission of a certificate of conveyance setting forth the actual consideration of the property transferred and such other facts as the director of taxation shall prescribe. The certificate of conveyance shall be verified by a written declaration on the form that the statements made therein are subject to the penalties prescribed for false declaration of facts.

SECTION 2. Section 128A-6 of the Revised Laws of Hawaii 1955 is amended to read as follows:

"Sec. 128A-6. Certificate of conveyance required. (a) Any party to a document or instrument subject to this chapter, or his authorized representative, shall file, in the manner and place which the director of taxation shall prescribe, a certificate of conveyance setting forth the actual and full consideration of the property transferred, including any lien or encumbrance on the property, and such other facts as the director of taxation may by regulations prescribe. The certificate of conveyance shall be verified by a

written declaration thereon that the statements made therein are subject to the penalties prescribed for false declaration in section 128A-11. The certificate shall be appended to the document or instrument made subject to this chapter and shall be filed with the director of taxation simultaneously with the aforementioned document or instrument for the imprinting of the required seal or seals.

(b) No certificate is required to be filed for any document or instrument made exempt by section 128A-3, save and except that in the following situations, a certificate must be filed in the manner and place which the director of taxation shall prescribe, within ninety days after the transaction or prior to the recordation or filing of the document or instrument with the registrar of conveyances or the assistant registrar of the land court or after such period, recordation or filing as the director of taxation shall prescribe:

(1) In the case of any document or instrument described under subsection 128A-3(c), any party to such document or instrument shall file a certificate declaring that the document or instrument merely confirms or corrects a deed, lease, sublease, assignment, transfer, or conveyance previously recorded or filed.

(2) In the case of any document or instrument described under subsection 128A-3(e), any party to such document or instrument shall file a certificate declaring the amount of the nominal consideration paid and marital or parental relationship of the parties.

(3) In the case of any document or instrument described under subsection 128A-3(e), any party to such document or instrument shall file a certificate declaring the reasons why no consideration is paid or to be paid.

(4) In the case of any deed described in subsection 128A-3(f), any party to such a deed shall file a certificate declaring that the deed is made pursuant to an agreement of sale, and where applicable, an assignment or assignments of agreements of sale.

(5) In the case of any document or instrument described under subsection 128A-3(g), any party to the document or instrument as grantee, lessee, assignee, sublessee, transferee, purchaser, or conveyee, shall file a certificate declaring the full and actual consideration of the property transferred.

(6) In the case of any document or instrument described under subsection 128A-3(h), any person made a party to the document or instrument as grantee, assignee, or transferee shall file a certificate declaring the full and actual consideration of the property transferred.

(c) The form of the certificate and the procedure to be followed for the submission of the certificate shall be prescribed by the director of taxation.

(d) Notwithstanding the foregoing, where the director of taxation deems it impracticable to obtain the signature of any party to a certificate required under this section, he may, in his discretion, waive the requirement of securing the signature of any or all parties to the certificate.

(e) No document or instrument, on account of which a certificate is

required to be filed with the office of the director of taxation under this section, shall be accepted for recordation or filing with the registrar of conveyances or the assistant registrar of the land court, unless such certificate has been duly filed.

(f) Except as provided by law, it shall be unlawful for any officer or employee of the State to make known intentionally information imparted by any certificate filed under this chapter or to permit any such certificate or any copy thereof to be seen or examined by any person other than the person or persons executing such certificate, or their duly authorized agents, or any person duly authorized by the State in connection with their official duties. Any offense against the foregoing provisions shall be punishable by a fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both."

SECTION 3. The second sentence of section 128A-5 is amended to read as follows:

"The seal or seals shall be so imprinted with* a ninety day period after the transaction or prior to the recordation or filing of the document or instrument with the registrar of conveyances or the assistant registrar of the land court or after such period, recordation or filing as the director of taxation shall prescribe."

SECTION 4. Section 128A-11 of the Revised Laws of Hawaii 1955 is amended by deleting the words "affidavit or affidavits" appearing therein and substituting in lieu thereof the words "certificate or certificates."

SECTION 5. This Act shall take effect January 1, 1968.

(Approved June 10, 1967.)

ACT 294

S. B. 257.

A Bill for an Act Relating to County Ordinances to Require Subdividers to Provide or Dedicate Sites for Parks and Playgrounds or Make Payment, and Amending Chapters 138 and 149, Revised Laws of Hawaii 1955.

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

SECTION 1. Chapter 138, Revised Laws of Hawaii 1955, is amended by adding a new section, to be appropriately designated and to read as follows:

"Sec. 138-..... Sites for parks and playgrounds in subdivisions.

(a) Each county shall adopt ordinances to require a subdivider, as a condition precedent to final approval of a subdivision:

(1) To provide land in perpetuity for park and playground facilities for the use of the purchasers or occupants of lots in subdivisions. The ordinances may prescribe the instances in which the dedications shall be required, the area, location, grade, and other state of the sites so required to

* Should read, "within".

be dedicated. In addition thereto, such ordinances may prescribe penalties or other remedies for violation of such ordinances; or

(2) To dedicate land for park and playground facilities for the use of the purchasers or occupants of lots in the subdivision. The ordinances may prescribe the instances in which the dedication shall be required, the area, location, grade, and other state of the sites so required to be dedicated, and the minimum physical facilities required.

(b) The ordinances may provide that a subdivider, in lieu of providing or dedicating land and facilities as may be required pursuant to paragraphs (1) or (2), may make payment to the county of a sum of money equal to the value of the land facilities he would otherwise have had to provide or dedicate. The ordinance may prescribe the method of valuation of such land and facilities, and may provide that such money shall be used for the purpose of providing park and playground facilities for the use of purchasers or occupants of lots in the subdivision.

(c) Upon the provision of land in perpetuity or the dedication of land by the subdivider as may be required under this section, the county concerned shall thereafter assume the cost of improvements and their maintenance, and the subdivider shall accordingly be relieved from such costs."

SECTION 2. Sections 149-94 to 149-97, Revised Laws of Hawaii 1955, are repealed.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 10, 1967.)

ACT 295

H. B. 228.

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

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

SECTION 1. Section 38-37.6, Revised Laws of Hawaii 1955, as amended, relating to employment of cafeteria workers, is amended to read as follows:

"All cafeteria workers employed in the department shall be employed under the provisions of chapter 3 and shall have their compensation fixed in accordance with the provisions of chapter 4, and the monthly rates of basic compensation so determined shall be payable for employment over a twelve-month period. All cafeteria workers shall be employed on a full-time basis, except that a limited number of part-time workers may be employed by the department. No cafeteria worker who is employed on a full-time basis at the time of the approval of this Act shall be converted to a part-time worker unless he requests in writing to convert to a cafeteria worker on a part-time basis. No cafeteria worker employed on a part-time basis shall work less than twenty hours per week. The department shall establish a schedule, based on factors which determine the need for part-

time workers, fixing the number of part-time workers that may be employed by the department. The term 'cafeteria workers' includes all employees of any public school cafeteria other than the cafeteria manager."

SECTION 2. This Act shall take effect upon its approval.
(Approved June 12, 1967.)

ACT 296

S. B. 1038,

A Bill for an Act Amending Section 128-21.5, Revised Laws of Hawaii 1955,
As Amended, Relating to Dedication of Lands in Urban Districts.

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

SECTION 1. The first paragraph of section 128-21.5, subparagraph (b), Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"(b) Any owner of taxable real property in an urban district desiring to dedicate a portion or portions thereof for landscaping, open spaces, public recreation and other similar uses shall petition the director of taxation stating the exact area of the land to be dedicated and that such land is not within the setback and open space requirements of applicable zoning and building code laws and ordinances, and that such land shall be used, improved and maintained in accordance with and for the sole purpose for which it was dedicated, except that land within a historic district may be so dedicated without regard to the setback and open space requirements of applicable zoning and building code laws and ordinances."

SECTION 2. This Act shall take effect upon its approval.
(Approved June 12, 1967.)

ACT 297

H. B. 524.

A Bill for an Act Relating to Certain Amounts Not Taxable Under the General Excise Tax Law and Amending Chapter 117 of the Revised Laws of Hawaii 1955.

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

SECTION 1. Purpose. The purpose of this Act is to ensure uniform, equitable and unambiguous application and enforcement of those provisions of chapter 117 relating to monies received as reimbursements for costs and advances.

SECTION 2. Section 117-17.1, Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the last sentence to read as follows:

"The reimbursement of costs or advances made for or on behalf of one person by another shall not constitute gross income of the latter, unless the

person receiving such reimbursement also receives additional monetary consideration for making such costs or advances.”

SECTION 3. Subsection (p) of 117-21, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(p) Amounts received by a cooperative housing corporation from its shareholders in reimbursement of funds paid by such corporation for the expenses of operating and maintaining the cooperative land and improvements, provided that if any shareholder shall fail to report and pay the taxes assessable on any amounts received by virtue of stock ownership in a cooperative housing corporation, the provisions of this chapter shall apply to all reimbursed amounts received by such corporation, and provided, further, that such a cooperative housing corporation is a corporation:

- (1) having one and only one class of stock outstanding.
- (2) each of the stockholders of which is entitled solely by reason of his ownership of stock in the corporation, to occupy for dwelling purposes a house, or an apartment in a building owned or leased by the corporation.
- (3) no stockholder of which is entitled (either conditionally or unconditionally) to receive any distribution not out of earnings and profits of the corporation except in a complete or partial liquidation of the corporation.”

SECTION 4. Section 117-21, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new subsection (s) to read as follows:

“(s) Amounts received by the manager or board of directors of an association of apartment owners of a horizontal property regime established in accordance with chapter 170A in reimbursement of sums paid for common expenses.”

SECTION 5. This Act shall take effect upon its approval.
(Approved June 12, 1967.)

ACT 298

H. B. 859.

A Bill for an Act Relating to Works of Art for State Buildings.

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

SECTION 1. Purpose. The State has recognized its responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen by the establishment of the state foundation on culture and the arts. The legislature declares it to be a state policy that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be used for state buildings.

SECTION 2. Chapter 9, Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to read as follows:

“Sec. 9-5.6. Art in state buildings. All appropriations for the ori-

ginal construction of any state building shall include, as a nondeductible item, an amount of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the structure, detached within or outside of the structure, or can be exhibited in other public facilities. In case the amount shall not be required in toto or in part for any project, such unrequired amounts may be accumulated and expended for other projects.

“The comptroller shall, in consultation with the state foundation on culture and the arts, determine the amount to be made available for the purchase of works of art for each project, and payments therefor shall be made, after acceptance, in accordance with law.

“The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art shall be the responsibility of the comptroller and the state foundation on culture and the arts.”

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

(Approved June 12, 1967.)

ACT 299

S. B. 998.

A Bill for an Act Establishing a Progressive Neighborhoods Program and Making Appropriations Therefor.

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

PART I FINDINGS AND PURPOSE

SECTION 1. **Title.** This Act shall be known as the “Progressive Neighborhoods Act”.

SECTION 2. **Findings and purpose.** A number of distinct neighborhoods in the State, primarily on the island of Oahu, lag so far behind the remainder of the community in economic, health, social, and physical standards as to hamper the general welfare of the entire State. Substandard neighborhood factors in these areas tend not to appear singly but in multiples and have the effect of reenforcing one another so that composite problem areas result. It is an urgent matter and in the general welfare of the State to take remedial action in neighborhoods where consistent low family income, chronic unemployment, dilapidated and overcrowded housing, low educational achievement, high rates of ill health and illegitimacy, major incidence of adult and juvenile offenses, and economic assistance to families and needy children occur one with the other in severe degrees. It is further evident that as the standards of the State as a whole rise these neighborhoods tend to fall farther behind even though they may make modest improvements.

It is the purpose of this Act to initiate on an exemplary and demonstration basis remedial action to alleviate conditions contributing to a composite problem area by concerted program to supplement public resources

in such an area and to attempt new solutions through reallocation of present resources. Demonstration of the utility of additional resources or the better use of traditional resources in a neighborhood will provide an exemplary focus for approaches to socio-economic problems in other neighborhoods and environments.

PART II
PROGRESSIVE NEIGHBORHOODS TASK FORCE

SECTION 3. Purpose. The purpose of this part is to establish a working-study group of experts in the problems facing multiproblem neighborhoods to analyze the basic deficiencies which contribute to socio-economic dysfunctioning in distinct neighborhoods. The task force will attempt to uncover core problem factors, establish alternative means for their solution, and set down practical expectations for the use and better use of existing and incremental additional public resources for problem solution. The task force will include public administrators who deal with specific parts of social problems in target neighborhoods who will be able to assess the utility of fragmented functional approaches which have been traditional to meeting expectations. The task force will include residents of the neighborhood to articulate problems and needs. And the task force will include consultant services to deal in depth with the system within which the multiple problems exist.

SECTION 4. Task force established. There is established a progressive neighborhoods task force for the purpose of this part.

(a) The task force shall be appointed by the governor and shall consist of the director of the department of social services, the director of the department of health, the superintendent of education, the director of the department of labor and industrial relations, a judge of the family court, the president of the University of Hawaii, the director of the Hawaii office of economic opportunity and three members of the general community or their representatives. The task force shall also include three citizens of the target area. The governor shall appoint an ex officio chairman.

(b) The task force shall meet at least twice a month while studying any particular target neighborhood; provided that the citizen members of the task force shall be compensated in an amount not to exceed \$20 per meeting attended; and provided further, that the task force shall undertake its endeavors in one neighborhood at a time in phases and that phase one shall be restricted to the Nanakuli-Waianae area.

(c) The task force shall be responsible for initiating such studies and experimental programs as are necessary to identify the major core problems contributing to multiproblem neighborhoods, to propose and institute interventions into problem cycles, to evaluate the effectiveness of present or innovated interventions aimed at problem modification, and to assay the cost-benefits of different systems of intervention; for investigating various proposals for the possible reallocation and realignment of agency approaches and programs and making such recommendations to the governor, the chief

justice, and the legislature as are indicated to increase problem modification in target neighborhoods and program effectiveness or to make possible new programs of higher indicated potential; and for piloting a program in career development in education, social work, community organization, health services and the like for the purpose of final remedy of progressive neighborhoods problems.

(d) The task force shall adopt rules and regulations in accordance with chapter 6C, Revised Laws of Hawaii 1955, for the purpose of this part.

(e) The powers and duties of the task force shall be restricted by statutory law except as provided herein.

SECTION 5. Annual report. The task force shall make an annual report to the governor and the legislature, including recommendations to further the purposes of this Act.

PART III MODEL SCHOOLS PROGRAM

SECTION 6. Purpose. The purpose of this part is twofold: (a) to allow for the more effective use of education programs in multiproblem neighborhoods and (b) to provide for exemplary and demonstration school programs in progressive neighborhoods which could serve as models for other neighborhoods and schools. The educational needs in multiproblem neighborhoods differ from other neighborhoods both as to substance and method: accentuation of verbal skills, cultural enrichment, individualized help, and classroom methods which are meaningful to the values of the neighborhood appear to be the distinctive and prevalent needs for progressive neighborhoods. A further consequence of the gap between cultural values of the school and the neighborhood is the fact that the school is not a positive factor in the lives of a good number of the families in the neighborhood. Schools must be more attuned to the total needs and values of these neighborhoods and model schools must demonstrate how to adjust the classroom and curriculum systems to the neighborhood environment.

SECTION 7. Authorization. The department of education is authorized to make Nanaikapono school a model school within the meaning of this part. For this purpose, the department shall conduct a two week workshop for new teachers at Nanaikapono school prior to the beginning of the 1967-1968 school year for sensitivity training and cultural adjustment purposes. The department shall also design a community centered multi-purpose library for public and school use at the proposed Nanakuli high school.

PART IV NANAKULI CHILDREN AND YOUTH PROJECT

SECTION 8. Purpose. Public Law 89-97 provides grants to assist in the provision of comprehensive health service for children and youth in areas with a concentration of low-income families. This federal aid can offer screening, diagnosis, preventive services, treatment, correction of defects and

after care, both medical and dental. Projects under this grant are expected to care for the comprehensive and continuous health problems of the child population, both medical and dental, physical and emotional; such projects lend themselves well to strengthening neighborhoods with multiproblems.

SECTION 9. Authorization. The department of health is authorized to establish a Nanakuli children and youth project to provide comprehensive health services for approximately two thousand children and youths in the Nanakuli area.

**PART V
COMMUNITY PHYSICIAN PROGRAM**

SECTION 10. Purpose. Multiproblem neighborhoods have severe health needs and the Waianae-Nanakuli area in particular is unable to attract a resident physician even though the area supports some 30,000 residents and has serious health services needs. It is apparent that the economic hardships prevalent in these communities make it impossible to support a resident physician without public support. It is the purpose of this part to provide for a contractual guarantee of income for a resident physician for the Waianae-Nanakuli community to serve as a model for possible expansion to other progressive neighborhoods.

SECTION 11. Waianae-Nanakuli community physician contracts. The department of health is authorized to enter into an agreement and contract with physicians licensed to practice medicine and surgery in the State of Hawaii for the purpose of providing medical services to the Waianae-Nanakuli community, such an agreement or contract to provide for the following:

- (1) A guarantee of an annual gross income to a physician of not more than \$25,000 from all sources, including any subsidy provided by this part, and which shall be subject to taxation to the extent provided for in chapter 121, Revised Laws of Hawaii 1955; and
- (2) That the physician take up and be a permanent resident of the Waianae-Nanakuli community; and
- (3) That the State of Hawaii pay annually a subsidy to the physician to the extent that his annual gross income from all sources, including but not limited to medical payments made by the department of social services, private fees, and all other taxable income as defined by chapter 121, Revised Laws of Hawaii 1955, does not amount to more than \$25,000.

**PART VI
COMMUNITY IMPROVEMENT GRANTS**

SECTION 12. Purpose. Multiproblem neighborhoods have a high degree of physical deterioration in housing and other physical facilities due not so much to lack of motivation on the part of the residents but to the lack of capital and materials for home and community facilities improvements. The availability of materials and capital for self-help improvement projects to non-profit organizations and groups will help to improve both

the physical and social character of multiproblem neighborhoods by giving means and goals for self-improvement. The purpose of this part is to provide small capital grants to non-profit self-help groups in multiproblem neighborhoods to improve the physical and social character of such communities.

SECTION 13. Improvement grants. The director of finance shall authorize community social agencies, trusts, or churches to administer grants to self-help groups resident in multiproblem neighborhoods for the purposes of providing capital funds for materials or financing for home or community facilities improvements. The director of finance may make such rules and regulations as may be necessary to protect the integrity of the State's interest in providing for the purposes of this part. The funds authorized under this part shall first be used on a demonstration basis for the Waianae-Nanakuli community.

PART VII DETACHED WORKER PROGRAM

SECTION 14. Purpose. The cultural environment of multiproblem neighborhoods is often such that traditional approaches to strengthening community identification and participation through public programs such as youth groups and recreation are inadequate to making real contributions to the social life of the community. It is necessary to reach out to the youth in these neighborhoods rather than expecting them to come to the program. It is the purpose of this part to provide for a detached social worker to perform community organization work in a progressive neighborhood on a demonstration basis to stimulate participation by the residents in organized activities of social benefit, particularly in recreation programs.

SECTION 15. Authorization. The department of social services is authorized to establish a social worker position, subject to chapters 3 and 4, RLH 1955, for the purposes of this part; provided that this position shall be assigned to the Waianae-Nanakuli area on a detached basis, primarily for the purpose of community organization work and strengthening participation by the children and youth of the area in recreational programs.

SECTION 16. The department of accounting and general services is authorized to contract with the city and county of Honolulu for a sum not to exceed \$25,000 for a CIP to enclose the pavilion at Nanakuli recreational center to provide a multipurpose recreational building.

SECTION 17. There is appropriated to the governor's office, out of the general revenues of the State of Hawaii, the sum of \$125,000, or so much thereof as may be necessary, for the purpose of this Act, provided that other available funds shall be used first to the maximum extent possible including moneys authorized by Act 4, Session Laws of Hawaii 1965, Public Law 89-10, Economic Opportunity Act, and Public Law 89-97; and provided further, that the funds shall be expended in cooperation with the progressive neighborhood task force created under part II of this Act.

SECTION 18. This Act shall take effect on July 1, 1967, except that part II shall take effect upon approval of this Act.

(Approved June 13, 1967.)

ACT 300

H. B. 898.

A Bill for an Act Relating to Mass Transit System.

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

SECTION 1. **Grant of powers.** Every county of this State is hereby empowered and authorized to acquire, condemn, purchase, lease, construct, extend, own, maintain, and operate mass transit systems, including, without being limited to, motor buses, street railroads, fixed rail facilities such as monorails or subways, whether surface, subsurface or elevated, taxis, and other forms of transportation for hire for passengers and their personal baggage.

Every county shall have such power to provide mass transportation service, whether directly, jointly or under contract with private parties, without such county or private parties being subject to the jurisdiction and control of the state public utilities commission in any manner.

SECTION 2. **Provision relating to purchase.** Any franchise heretofore granted by the legislature authorizing the transportation of persons or property, or both, by motor vehicle limited to one county or a portion of a county is hereby amended as follows with respect to the procedure for the purchase of the property of the company holding the franchise (hereinafter called the "company"):

(a) The legislative body of the county may by ordinance authorize or provide for the purchase of the property of the company. No authorization by referendum nor any legislative act authorizing such referendum shall be required, and all references to such referendum or legislative act are hereby deleted from said franchise.

(b) Notice by the county to the company of the county's intention to acquire the property of the company shall not be required, and all references to such notice are hereby deleted from said franchise.

SECTION 3. **Effect of amendment.** The amendments provided in section 2 of this Act shall not be construed to amend or affect any other provision of the franchise referred to in said section 2.

SECTION 4. **Financing the acquisition, construction, etc., of mass transportation systems.** Any mass transportation system owned or operated or to be acquired by a county is hereby declared to be and to constitute a public improvement of such county within the meaning and purview of chapter 139, and an undertaking of such county within the meaning and purview of chapter 140. Any county may issue its general obligation bonds or notes pursuant to the provisions of chapter 139 or its revenue bonds or

notes pursuant to the provisions of chapter 139 or its revenue bonds or notes pursuant to the provisions of chapter 140 or both general obligation and revenue bonds or notes in order to pay the costs to the county of acquiring, constructing, reconstructing, improving, bettering, extending, equipping or furnishing a mass transportation system or systems in such county.

SECTION 5. 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 6. Effective date. This Act shall take effect upon its approval.

(Approved June 13, 1967.)

ACT 301

H. B. 807.

A Bill for an Act Relating to the Establishment of Hawaii Ponoï as the Official State Song.

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

SECTION 1. Purpose. The purpose of this Act is to designate "Hawaii Ponoï" as the official state song of the State of Hawaii.

SECTION 2. Chapter 14 of the Revised Laws of Hawaii 1955 is amended by adding the following new section to read as follows:

"**Sec. 14-5.4. State song.** The song "Hawaii Ponoï" is hereby adopted, established, and designated as the official song of the State, to be effective for as long as the legislature of the State does not otherwise provide."

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

(Approved June 13, 1967.)

ACT 302

H. B. 359.

A Bill for an Act Relating to the Compensation of Public Employees and Making an Appropriation Therefor.

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

SECTION 1. Subsection 4-4(a), Revised Laws of Hawaii 1955, is hereby amended by adding at the end thereof the following sentence:

"The provisions of section 4-4 shall not apply to the compensation for positions referred to in section 4-4.1, commonly known as blue-collar positions."

SECTION 2. Chapter 4, Revised Laws of Hawaii 1955, is hereby amended by adding thereto a section 4-4.1 to read as follows:

“Section 4-4.1. Compensation plan for blue-collar positions. The salary schedule prescribed in section 4-10 shall not apply to positions in recognized trades or crafts or other skilled mechanical crafts, or unskilled, semi-skilled, 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. The pay of employees who occupy such positions shall be fixed and adjusted biennially and shall, as nearly as is consistent with the public interest, reflect the average of prevailing wages paid in the State for the same or similar kinds of positions; provided further that provisions of 4-4, where it is not inconsistent to the provisions of this Act, shall be applicable.

a. Effective April 1, 1968, the monthly rates of pay for blue-collar positions shall be determined by application of prevailing wages and which shall be in accordance with the following provisions, provided that the wage survey conducted for this purpose shall not include wages paid by the construction industry nor any government jurisdiction employing personnel within the State of Hawaii; provided further that if data on prevailing wages in the State for a class is lacking or insufficient, reasonable wage data of other areas which have pertinence to the State of Hawaii may be used:

1. the salary schedule applicable to blue-collar positions shall be comprised of 5 increment steps and 3 longevity steps at 5% intervals.

2. the average of prevailing wage shall be reflected at step 2 of the schedule.

3. a salary schedule for nonsupervisory blue-collar positions, hereafter to be referred to as the wage board schedule, shall be established in accordance with accepted techniques and methods of prevailing wage application.

4. a salary schedule for supervisory blue-collar positions, hereafter to be referred to as wage board supervisory schedule shall be established in systematic relationship to the level of work supervised as follows:

(a) the wage board supervisory level for Working Foreman shall be set at not more than 10% above the level of work supervised.

(b) the wage board supervisory level for Foreman I shall be set at not more than 20% above the level of work supervised.

(c) the wage board supervisory level for Foreman II shall be set at not more than 30% above the level of work supervised.

(d) the wage board supervisory level for Foreman III shall be set at not more than 40% above the level of work supervised.

(e) the wage board supervisory level for supervisory positions above Foreman III shall be set systematically in consideration of the aforementioned pattern reflecting differences in relative levels of duties and responsibilities.

b. 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 4-10 (b).

c. Initial implementation of wage board salary schedule.

1. The conference of personnel directors shall conduct a survey of

wages for positions covered by this Act, using sound statistical methodology and techniques and shall recommend to the public employees compensation appeals board for its approval the wage board schedules, based upon survey findings and consistent with section 2a of this Act.

The conference of personnel directors shall also 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, qualification requirements and prevailing wage data for classes deemed covered by this Act by November 15, 1967.

Full opportunity for consultation with such persons and organizations including employee organizations shall be afforded. The conference of personnel directors may enter into cooperative arrangements with both public or private agencies in the conduct of the wage survey.

2. The appeals board referred to in section 4-4 shall provide for the publication of the tentative compensation plan. All petitions for appeal against the compensation plan shall be filed with the appeals board within 20 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 adjustments 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 February 1968.

Following the final adjustment, the conference of directors shall submit to the state legislature, through the office of the governor, a report setting forth the final compensation plan and wage board schedules and the cost thereof for its information and approval. The effective date of the approved plans shall be July 1, 1968, provided however the actual conversion to the new wage board schedules shall be made retroactive as of April 1, 1968, provided further that the existing compensation for blue-collar positions shall remain in effect until the establishment and implementation of the wage rate plan as provided herein.

3. The salaries of employees who are covered under section 4-4.1 shall be converted from the existing schedule in the following manner:

(a) employees in steps B, C, D, E and F of the existing salary schedule shall be assigned to steps 1, 2, 3, 4 and 5 respectively, of their new wage board schedules.

(b) employees in steps G and L1 of the existing salary schedule shall be assigned to steps L1 and L2 respectively, of their new wage board schedules.

(c) employees in steps L2, L3 and L4 of the existing salary schedule shall be assigned to step L3 of their new wage board schedules.

(d) employees whose existing salary rates exceed the wage rates assigned

to them under the new wage board schedules shall retain their existing rates until such time as their assigned wage rates exceed their salary rates which existed on the effective date of the conversion.

(e) the State shall assume the initial cost of implementation of this plan.

d. Subsequent implementation of the wage board schedules.

1. The compensation plan and wage board schedules for positions covered under section 4-4.1 shall be reviewed and adjusted biennially in accordance with the provisions in section 2c of this Act, provided however that the 1967 and 1968 dates mentioned therein and the provisions on initial conversion and retroactive feature of the new schedules shall not be applicable; and provided further that the November 15th date shall apply to odd-numbered years and the third Wednesday in February shall apply to even-numbered years. Said adjusted plan and wage board schedules shall take effect on July 1, beginning in 1970 and in each even-numbered year thereafter."

SECTION 3. Section 4-9, Revised Laws of Hawaii 1955, is hereby amended by adding a new paragraph at the end thereof to read as follows:

"Any employee whose pay rate is converted to the compensation plan provided for under section 4-4.1, effective April 1, 1968, shall not receive the normal annual increment to which he would have otherwise been entitled during the fiscal year 1968-69. In subsequent adjustments, any employee who is paid under the compensation plan provided for under section 4-4.1 shall not be entitled to his normal annual increment for a year's satisfactory service in any fiscal year that an increase in the wage schedule is effected."

SECTION 4. The provisions of chapter 4 shall be applicable to all employees within section 4-4.1 to the extent that they are not inconsistent with the provisions of this Act.

SECTION 5. The sum of \$669,854, or so much as may be necessary is hereby appropriated to the department of budget and finance from the general revenues for the additional cost of pay increases resulting from the implementation of the wage board pay schedule for the period April 1, 1968 up to and including June 30, 1968; provided that the department of budget and finance shall report expenditures made from this appropriation during the 1969 session of the legislature.

The appropriation made by this section shall be allotted by the director of finance to the several state departments and to the several counties. In the case of the counties the money allotted shall be paid into the county treasuries; provided that special and federal fund monies shall be used to the maximum extent before state funds are utilized.

SECTION 6. This Act shall take effect upon its approval.
(Approved June 13, 1967.)

ACT 303

S. B. 93.

A Bill for an Act to Amend Section 3-20, Revised Laws of Hawaii 1955, as Amended, Relating to Civil Service Exemptions.

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

SECTION 1. Subparagraph (e) of section 3-20, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

“(e) Employees in the office of the governor and household employees at Washington Place, and six employees in the office of the lieutenant governor.”

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

(Became law June 24, 1967, without Governor's signature pursuant to State Constitution, Art. III, § 17.)

ACT 304

S. B. 731.

A Bill for an Act Authorizing the County of Kauai to Pay Frank Silva.

WHEREAS, Frank Silva has not been compensated for services rendered the county of Kauai as an employee from January 21, 1960 to May 15, 1960; and

WHEREAS, the value of such services amount to \$998.07, plus interest; and

WHEREAS, Frank Silva is now employed by the county of Kauai; now, therefore,

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

SECTION 1. The board of supervisors of the county of Kauai is hereby authorized to pay Frank Silva, Laborer II, waterworks account no. W-2101, retirement system active no. K-54176, \$998.07 for his period of employment from January 21, 1960 to May 15, 1960, together with interest thereon.

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

(Became law June 24, 1967, without Governor's signature pursuant to State Constitution, Art. III, § 17.)

ACT 305

H. B. 696.

A Bill for an Act Amending Sections 38-30, 38-30.5, and 38-31 of the Revised Laws of Hawaii 1955, as Amended, Relating to Teachers Salary.

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

SECTION 1. Section 38-30 of the Revised Laws of Hawaii 1955, as

amended, is hereby amended by adding to paragraph (c) teacher classifications, Class VI to read as follows:

“(c) Teachers shall be classified as follows:

(1) A Class I teacher is any teacher who holds a certificate issued by the department and who does not qualify as a Class II, III, IV, V, or VI teacher, as described below.

(2) A Class II teacher is any teacher who holds a certificate issued by the department based upon four acceptable years of college education and other requirements as may be established by the department.

(3) A Class III teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and other requirements as may be established by the department.

(4) A Class IV teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and fifteen additional credits approved by the department and other requirements as may be established by the department.

(5) A Class V teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and thirty additional credits approved by the department and other requirements as may be established by the department.

(6) A Class VI teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and forty-five additional credits approved by the department and other requirements as may be established by the department.

(7) A vocational agriculture Class I teacher is any teacher in Class I who is teaching vocational agriculture.

(8) A vocational agriculture Class II teacher is any teacher in Class II who is teaching vocational agriculture.

(9) A vocational agriculture Class III teacher is any teacher in Class III who is teaching vocational agriculture.

(10) A vocational agriculture Class IV teacher is any teacher in Class IV who is teaching vocational agriculture.

(11) A vocational agriculture Class V teacher is any teacher in Class V who is teaching vocational agriculture.

(12) A vocational agriculture Class VI teacher is any teacher in Class VI who is teaching vocational agriculture.

(13) A technical school Class I teacher is any teacher in Class I or with equivalent qualifications as determined by the department who is teaching technical school courses.

(14) A technical school Class II teacher is any teacher in Class II or with equivalent qualifications as determined by the department who is teaching technical school courses.

(15) A technical school Class III teacher is any teacher in Class III or with equivalent qualifications as determined by the department who is teaching technical school courses.

(16) A technical school Class IV teacher is any teacher in Class IV or

with equivalent qualifications as determined by the department who is teaching technical school courses.

(17) A technical school Class V teacher is any teacher in Class V or with equivalent qualifications as determined by the department who is teaching technical school courses.

(18) A technical school Class VI teacher is any teacher in Class VI or with equivalent qualifications as determined by the department who is teaching technical school courses."

SECTION 2. Section 38-30.5 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Section 38-30.5. Salary ranges; teachers, educational officers. Salary ranges for teachers and educational officers of the department shall be subject to the requirements of sections 38-30, 38-31 and 38-31.5 and shall be as follows:

POSITIONS	DEPARTMENT OF EDUCATION SALARY RANGE	
Teachers	Class I	DOESR 1
	Class II	DOESR 3
	Class III	DOESR 5
	Class IV	DOESR 6
	Class V	DOESR 7
	Class VI	DOESR 8
Vocational Agriculture Teachers	Class I	DOESR 5
	Class II	DOESR 7
	Class III	DOESR 9
	Class IV	DOESR 10
	Class V	DOESR 11
	Class VI	DOESR 12
Technical School Teachers	Class I	DOESR 4
	Class II	DOESR 6
	Class III	DOESR 8
	Class IV	DOESR 9
	Class V	DOESR 10
	Class VI	DOESR 11
Vice Principal I		DOESR 9
Vice Principal II		DOESR 10
Principal I		DOESR 11
Principal II		DOESR 12
Principal III		DOESR 13
Principal IV		DOESR 14
Curriculum Specialist I		DOESR 12
District Staff Specialist and Curriculum Specialist II		DOESR 13

State Staff and Program Specialist I	DOESR 13
State Staff and Program Specialist II	DOESR 14
State Program Administrator/Psychologist	DOESR 15
State Program Director	DOESR 17
Deputy District Superintendent I	DOESR 15
Deputy District Superintendent II	DOESR 16
District Superintendent I	DOESR 18
District Superintendent II	DOESR 19
Assistant Superintendent	DOESR 20

All DOESR salary ranges not indicated above are presently unoccupied.”

SECTION 3. Amend section 38-31 of the Revised Laws of Hawaii 1955, as amended, by establishing a new longevity step “L-4” to the integrated salary schedule as follows:

Salary Range	Longevity Step
	L-4
1 B	7,777
1 I	8,684
2 B	8,166
2 I	9,118
3 B	8,574
3 I	9,574
4 B	9,003
4 I	10,053
5 B	9,453
5 I	10,556
6 B	9,926
6 I	11,084
7 B	10,422
7 I	11,638
8 B	10,943
8 I	12,220
9 B	11,490
9 I	12,831
10 B	12,065
10 I	13,473
11	14,147
12	14,854
13	15,597
14	16,377
15	17,196
16	18,056
17	18,959
18	19,907
19	20,902
20	21,947

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

(Became law June 24, 1967, without Governor's signature pursuant to State Constitution, Art. III, § 17.)

ACT 306

S. B. 19.

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

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

SECTION 1. Short title. This Act may be called "The Ombudsman Act of 1967".

SECTION 2. Definitions. (a) "Agency" includes any permanent governmental entity, department, organization, or institution, and any officer, employee, or member thereof acting or purporting to act in the exercise of his official duties, except:

- (1) a court;
- (2) the legislature, its committees, and its staff;
- (3) an entity of the federal government;
- (4) a multi-state governmental entity; and
- (5) the governor and his personal staff.

(b) "Administrative act" includes any action, omission, decision, recommendation, practice, or procedure, but does not include the preparation or presentation of legislation.

SECTION 3. Ombudsman; office established, appointment, tenure, removal, qualifications, compensation, vacancy. The office of ombudsman is established. The legislature, by a majority vote of each house in joint session, shall appoint an ombudsman who shall serve for a period of six years. An ombudsman may be reappointed but may not serve for more than three terms. The legislature, by two-thirds vote of the members in joint session, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

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

The compensation of the ombudsman shall be \$22,000 per annum. The compensation of the ombudsman shall not be diminished during his term of office, unless by general law applying to all salaried officers of the State.

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

SECTION 4. Assistance, staff, delegation. The ombudsman shall

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

The ombudsman may delegate to his appointees any of his duties except those specified in sections 13 and 14.

SECTION 5. Procedure. The ombudsman may establish procedures for receiving and processing complaints, conducting investigations, and reporting his findings. However, he may not levy fees for the submission or investigation of complaints.

SECTION 6. Jurisdiction. The ombudsman has jurisdiction to investigate the administrative acts of agencies and he may exercise his powers without regard to the finality of any administrative act.

SECTION 7. Investigation of complaints. (a) The ombudsman shall investigate any complaint which he determines to be an appropriate subject for investigation under section 9.

(b) The ombudsman may investigate on his own motion if he reasonably believes that an appropriate subject for investigation under section 9 exists.

SECTION 8. Notice to complainant and agency. If the ombudsman decides not to investigate, he shall inform the complainant of that decision and shall state his reasons.

If the ombudsman decides to investigate, he shall notify the complainant of his decision and he shall also notify the agency of his intention to investigate.

SECTION 9. Appropriate subjects for investigation. An appropriate subject for investigation is an administrative act of an agency which might be:

- (1) Contrary to law;
- (2) Unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law;
- (3) Based on a mistake of fact;
- (4) Based on improper or irrelevant grounds;
- (5) Unaccompanied by an adequate statement of reasons;
- (6) Performed in an inefficient manner; or
- (7) Otherwise erroneous.

The ombudsman may investigate to find an appropriate remedy.

SECTION 10. Investigation procedures. (a) In an investigation,

the ombudsman may make inquiries and obtain information as he thinks fit; enter without notice to inspect the premises of an agency; and hold private hearings.

(b) The ombudsman is required to maintain secrecy in respect to all matters and the identities of the complainants or witnesses coming before him except so far as disclosures may be necessary to enable him to carry out his duties and to support his recommendations.

SECTION 11. Powers. Subject to the privileges which witnesses have in the courts of this State, the ombudsman may:

(1) Compel at a specified time and place, by a subpoena, the appearance and sworn testimony of any person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation; and

(2) Compel any person to produce documents, papers, or objects which the ombudsman reasonably believes may relate to a matter under investigation.

The ombudsman may bring suit in an appropriate state court to enforce these powers.

SECTION 12. Consultation with agency. Before giving any opinion or recommendation that is critical of an agency or person, the ombudsman shall consult with that agency or person.

SECTION 13. Procedure after investigation. If, after investigation, the ombudsman finds that:

(1) A matter should be further considered by the agency;

(2) An administrative act should be modified or cancelled;

(3) A statute or regulation on which an administrative act is based should be altered;

(4) Reasons should be given for an administrative act; or

(5) Any other action should be taken by the agency; he shall report his opinion and recommendations to the agency. He may request the agency to notify him, within a specified time, of any action taken on his recommendations.

SECTION 14. Publication of recommendations. After a reasonable time has elapsed, the ombudsman may present his opinion and recommendations to the governor, the legislature, the public, or any of these. The ombudsman shall include with this opinion any reply made by the agency.

SECTION 15. Notice to the complainant. After a reasonable time has elapsed, the ombudsman shall notify the complainant of the actions taken by him and by the agency.

SECTION 16. Misconduct by agency personnel. If the ombudsman thinks there is a breach of duty or misconduct by any officer or employee of an agency, he shall refer the matter to the appropriate authorities.

SECTION 17. Annual report. The ombudsman shall submit to the legislature and the public an annual report discussing his activities under this Act.

SECTION 18. Judicial review, immunity. No proceeding or decision of the ombudsman may be reviewed in any court, unless it contravenes the provisions of the Act. The ombudsman has the same immunities from civil and criminal liability as a judge of this State. The ombudsman and his staff shall not testify in any court with respect to matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this Act.

SECTION 19. Agencies may not open letters to ombudsman. A letter to the ombudsman from a person held in custody by an agency shall be forwarded immediately, unopened, to the ombudsman.

SECTION 20. Penalty for obstruction. A person who willfully hinders the lawful actions of the ombudsman or his staff, or willfully refuses to comply with their lawful demands, shall be fined not more than one thousand dollars.

SECTION 21. Effective date. This Act shall take effect upon its approval.

(Became law June 24, 1967, without Governor's signature pursuant to State Constitution, Art. III, § 17.)

ACT 307

S. B. 1128.

A Bill for an Act Relating to Residential Leaseholds, the Acquisition by the State Through Condemnation of Lands in Fee Simple and the Disposition Thereof, and the Rights of Lessees.

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

**PART I
GENERAL PROVISIONS**

SECTION 1. Findings and declaration of necessity. The legislature finds that:

(a) A prime goal in the United States is the promotion of the public welfare and the securing of liberty as enunciated in the Constitution of the United States through the attainment of fee simple ownership of residential lots by the greatest number of people. Article I, section 2 of the State Constitution recognizes this goal when it states:

"All persons are free by nature and are equal in their inherent and inalienable rights. Among these rights are the enjoyment of life, liberty and the pursuit of happiness, and the acquiring and possessing of property"

(b) During the past few years, Hawaii's economy has expanded greatly and its population has grown rapidly. Concomitantly, the demand for single-family residential lots, especially in the urban areas of the State where

the population growth has been concentrated, has increased sharply.

(c) The present-day land ownership system in the State is characterized by a concentration of the fee title to lands in the hands of a few. In the days of the Hawaiian monarchy, all of the lands were held by the Hawaiian kings and chiefs and a few of their faithful followers. While the concentration of ownership of land in the hands of a few may have been well-suited to the needs of the people in the days of the monarchy, it is hardly suited to the needs of the people in modern Hawaii. Yet, the pattern of concentration of land ownership in the hands of a few has remained essentially unchanged since the days of the monarchy. Today, land ownership is centered not in the monarchical government, but in the hands of a few estates, trusts and other private landowners. At least three-fourths of all privately held land in the State are currently owned by this small group of owners. Much of this land is in the rapidly developing urban areas of the State, where the need for single-family residential lots is critical.

(d) This critical shortage of land has led large landowners to enter into complex arrangements, such as development contracts, master leases, participating leases, subleases and leases with developers. The terms and conditions of these arrangements were at that time heavily weighted in favor of the lessors or fee owners against the developers and those who participated in the development or share in the lease rentals. Neither did the participants in the private arrangements or contracts or leases contemplate, at that time, the wholesale condemnation of private leased residential lots by the State as provided in this act.

(e) The few landowners have, over the years, permitted some of their urban lands to be developed into single-family residential lots. However, because of restrictive indentures in instruments creating the various trusts and estates, and because of income taxation problems, the landowners have generally engaged in the practice of leasing, rather than selling in fee simple, the residential lots developed on their lands.

(f) The population growth and the increase in demand for residential lots, and the concentration of ownership of private lands in the hands of a few and their practice of leasing, rather than selling in fee simple, the residential lots developed on their lands, have led to a serious shortage of residential fee simple property at reasonable prices in the State's urban areas and have deprived the people of the State of a choice to own or to take leases to the land on which their homes are situated.

(g) The shortage of single-family, residential, fee simple property, and the restriction on the people of a real choice between fee simple and leasehold residential property have in turn caused land prices for both fee simple and leasehold residential lots to become artificially inflated and have enabled lessors to include in residential leases terms and conditions that are financially disadvantageous to the lessees, restrict unduly their freedom to enjoy their leasehold estates and are weighted heavily in favor of the landlord as against the lessees.

(h) In the next twenty years, it appears that the few, large landowners

will continue to permit the development of leasehold, rather than fee simple, residential lots in counties exceeding 100,000 persons in population, unless legislation is enacted to reverse this trend.

(i) Even when the provisions providing for purchase of the fee simple title of residential lots by lessees or the State as provided in this act become effective, neither the lessees nor the State can possibly acquire all leasehold lands. Thus, many of the over 16,000 leasehold contracts now in existence and future leases will remain outstanding, and the economic facts stated above indicate clearly that lessees require certain statutory protection of their fundamental rights to bargain and to otherwise preserve their equitable and legal interests.

(j) The dispersion of ownership of fee simple residential lots to as large a number of people as possible, the ability of the people to acquire fee simple ownership of residential lots at a fair and reasonable price and the ability of lessees of residential leases to derive full enjoyment from their leaseholds are factors which vitally affect the economy of the State and the public interest, health, welfare, security and happiness.

The legislature declares as a matter of legislative determination that:

SECTION 2. Definitions. Unless otherwise clear from the context, as used in this Act:

(a) "Lease" means a conveyance of land by a fee simple owner as lessor, or by a lessee as sublessor, to any person, in consideration of a return of rent or other recompense, for a term (1) exceeding thirty-five years (including any periods for which the lease may be extended or renewed at the option of the lessee) as to leases existing and in force on the date of approval of this Act, or (2) exceeding twenty years (including any periods for which the lease may be extended or renewed at the option of the lessee) as to leases executed after the date of approval of this Act.

(b) "Lessor" means any person who leases or subleases land to another, and his heirs, successors, legal representatives and assigns.

(c) "Lessee" means any person to whom land is leased or subleased, and his heirs, successors, legal representatives and permitted assigns.

(d) "Fee simple owner" and "fee owner" mean the person who owns the fee simple title to the land which is leased, including a life tenant with a remainder over, vested or contingent and a holder of a defeasible estate, and his heirs, successors, legal representatives and assigns.

(e) "Legal and equitable owners" means the fee simple owner and all persons having legal or equitable interests in the fee or in the lessor's leasehold estate, including mortgagees, developers, lienors and sublessors, and their respective heirs, successors, legal representatives and assigns.

(f) The terms "lessor", "lessee", "fee simple owner", "fee owner", and "legal and equitable owners" include individuals, both masculine and feminine, and, except as to the term "lessee", the terms also include corporations, firms, associations, trusts, estates, and the State. When more than one person are the lessors, lessees, fee simple owners, fee owners, or legal and

equitable owners of a lot, the terms apply to each of them, jointly and severally.

(g) "Leased fee" and "leased fee interest" mean all of the interests of the fee owner, lessor and all legal and equitable owners of the land which is leased, other than the lessee's interest as hereinafter defined.

(h) "Lessee's interest" and "leasehold interest" mean the current fair market value of all on-site improvements, including all landscaping, walks, drives, walls, fences, buildings and betterments on the surface of the lot, paid for or required to be paid for by the lessee, plus the unamortized current replacement cost of all off-site improvements paid for or required to be paid for by the lessee, determined on the basis of current costs of installation of the same off-site improvements under the circumstances existing at the time of the original installation, and computed on a straight-line basis over the period of the lease, together with the lessee's value increment as hereinafter defined.

(i) "Lessee's value increment" means the value of his interest in the residential use, enjoyment and amenities of the lot during the balance of the unexpired term of the lease, computed notwithstanding any provision to the contrary in the lease or any other contract; provided that such value shall in no event be less than ten per cent nor more than 15 per cent of the current fair market value of the unencumbered fee of the lot.

(j) "Lot", "housetot", "residential lot", and "residential housetot" mean a parcel of land, one acre 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 a single family.

(k) "Fair market value" means that amount of money that a purchaser willing, but not obliged, to buy an interest in land would pay to an owner willing, but not obliged, to sell it, taking into consideration all uses to which the land is adapted or might in reason be applied.

(l) "Development tract" means a single contiguous area of real property not less than five acres in size which has been developed and subdivided into residential lots occupied or to be occupied under leases. Two or more pieces of real property shall be considered as a single contiguous area if they would be contiguous except for the interposition or existence of a road, street, stream, or other like interference.

(m) "Authority" means the Hawaii housing authority created by chapter 74, Revised Laws of Hawaii 1955.

SECTION 3. Applicability. The provisions of this act apply to all lands leased as residential lots which are situated in counties with a population of 100,000 or more, owned or held privately or by the State, except Hawaiian home lands which are subject to Article XI of the Constitution of the State and lands owned or held by the federal government.

SECTION 4. No estoppel or waiver. The rights granted to lessees by this act shall be effective, notwithstanding any provision in any lease or contract to the contrary. No lessee shall be estopped by any covenant,

term, condition, or contract, however worded, from claiming the rights granted to him or otherwise be deemed to have waived such right. Any provision in any lease or contract contrary to the intent or purpose of this act shall be void.

SECTION 5. Trusts and estates. The rights granted to lessees by this chapter shall be effective, notwithstanding any condition or provision to the contrary in any instrument creating any life tenancy, defeasible fee, estate or trust, regardless of whether such tenancy, fee, estate or trust was in effect prior to the effective date of this act or is created hereafter; and the life tenant, holder, officer or trustee of any such tenancy, defeasible fee, estate, or trust may convey residential leases for terms exceeding twenty years and shall perform all acts required of him by this Act. Every such instrument now in existence or hereafter executed shall be construed in conformity with the intent and purpose of this Act.

SECTION 6. Penalty. Any person who violates any provision of this act shall be fined not more than \$5,000 nor less than \$1,000 or imprisoned not more than one year, or both. All fines collected shall be deposited in the fee simple revolving fund created by this act.

SECTION 7. Administration of act. The Hawaii housing authority shall administer this act.

SECTION 8. Authority's duties, generally. In addition to any other duty prescribed by law and in this act, the authority shall:

(a) Within six months after the date of approval of this act, adopt and promulgate, in accordance with chapter 6C, Revised Laws of Hawaii 1955, all rules and regulations necessary to effectuate the purposes of this act.

(b) Enforce the provisions of this act and the rules and regulations adopted pursuant thereto.

(c) Subject to the provisions of chapters 3 and 4, Revised Laws of Hawaii 1955, appoint and remove such administrative, technical and clerical staff as it may require and prescribe their powers and duties; except that the authority may appoint, without regard to chapters 3 and 4, one or more appraisers on a part-time, contractual basis for the purposes set forth in this act.

(d) Establish such reasonable fees to be assessed and collected from lessees for the services of any appraiser.

(e) Disseminate information and render assistance to lessees of residential lots in order that the provisions of this act may be understood and effectively implemented.

(f) Conduct an investigation upon any written complaint or whenever it appears to the authority that a provision of this act has been or is being violated. In such investigation, the authority may examine the books, accounts, records and files of any person connected with the matter under investigation and conduct hearings. If the authority finds from satisfactory evidence that any person has violated or is violating any of the provisions

of this act, it may order such person to cease and desist from continuing such violation or engaging therein or doing any act or acts in furtherance thereof and, where necessary, it may bring an action in the name of the State in any court of competent jurisdiction for enforcement of its orders.

(g) Acquire by eminent domain proceedings, all necessary property interests as provided in this act.

(h) Make and execute contracts, mortgages, and other instruments necessary or convenient to the exercise of the powers of the authority.

(i) Issue revenue bonds and refunding bonds as provided in this act.

(j) From time to time, require from the lessors of leases of residential lots and from all fee owners and legal and equitable owners of lots subject to such leases, such information as it may reasonably require in connection with the administration of this act.

(k) Do all things necessary and convenient to carry out the powers expressly conferred upon it by this act.

SECTION 9. Interested members, officers, or employees. No member of the authority or officer or employee administering the provisions of this act shall acquire any interest, direct or indirect, in the ownership or development of any development tract other than by gift, devise or inheritance, nor shall he have or acquire any interest, direct or indirect, in the financing or in any contract or proposed contract for services to be furnished or used in connection with or relating to the development of any development tract. If any such member, officer or employee has or acquires an interest by gift, devise or inheritance, direct or indirect, in any development tract or is a lessee of any residential lot affected by the eminent domain proceedings instituted under this act, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Such member, officer or employee shall not participate in any action by the authority relating to the property, tract or contract in which he has or acquires any such interest. Violation of any provision of this section shall constitute misconduct in office and cause for dismissal.

PART II

CONDEMNATION OF DEVELOPMENT TRACT

SECTION 10. Applicability. This part applies to development tracts which are, at the time of acquisition of the tracts by the authority as provided herein: (a) developed and subdivided into residential houselots occupied by lessees under leases executed before the date of approval of this act; (b) developed and subdivided or partially developed into residential houselots occupied or to be occupied by lessees under leases executed after the date of approval of this act, provided that ten or more years remain before the final termination of the lease term, and provided further that 90 per cent of the leases to the lots have been executed.

SECTION 11. Designation of development tract for acquisition. The authority may designate a development tract for acquisition through

exercise of the power of eminent domain or by purchase under threat of eminent domain if, after due notice and public hearing, the time and place of which have been duly advertised in a newspaper of general circulation in the county in which the development tract is situated on at least three different days, the last publication being not less than five days before the date of hearing, the authority finds that the acquisition of the tract through exercise of the power of eminent domain or by purchase under threat of eminent domain and the disposition thereof, as provided in this part will effectuate the public purposes described in this act and shall also find either

(a) that a shortage of fee simple residential property exists in the county and that the acquisition and disposition of the development tract by the authority as provided in this part will assist in alleviating this shortage pursuant to the purposes of this act, or

(b) that the lessees of more than 50 per cent of the residential lease lots within the development tract are desirous of owning the leased fee interest to their lots and have the financial capabilities to pay for the same in the manner provided in this part.

The findings of the authority shall be conclusive in any suit, action or proceedings.

SECTION 12. Exercise of power of eminent domain. Within twelve months after the designation of the development tract for acquisition, the authority shall acquire through voluntary action of the parties, or institute eminent domain proceedings to acquire the tract so designated; provided that negotiations for acquisition by voluntary transaction shall not be required before the institution of eminent domain proceedings. Except as otherwise provided in this part, the authority shall exercise its power of eminent domain in the same manner as provided in chapter 8, Revised Laws of Hawaii 1955. If the development tract is not acquired or eminent domain proceedings are not instituted within the twelve month period, the authority shall reimburse the fee owner, the lessor and the legal and equitable owners of the land so designated for actual out-of-pocket expenses of appraisal, survey and attorney fees as the owner, the lessor, and the legal and equitable owners may have incurred as a result of the designation.

SECTION 13. Compensation. The compensation to be paid for the development tract shall be the current fair market value of the tract diminished by the lessees' interests in the leased lots within the tract. Compensation shall be determined as of the date of the designation of the development tract for acquisition.

SECTION 14. Interest acquired. (a) Upon acquisition of a development tract as provided in this part, the property interest acquired by the authority is all of the right, title, and interest of the fee owner, and of the lessor and all legal and equitable owners, if any, in and to the development tract acquired; subject to existing leases of residential houselots within the development tract, and to all covenants, conditions, easements, reservations and restrictions of record running with the land or contained in the

agreement of sale, deed or other conveyance held by the fee owner, lessor and legal and equitable owners or permitted or suffered by lessees of existing residential house lot leases, which are not inconsistent with the intent of this part. The acquisition terminates all the right, title and interest of the fee owner, lessor and all legal and equitable owners, whether such interest be a remainder, vested or contingent, a reversion, or other beneficial interest in the property, present or prospective.

(b) If the leasehold is subject to any mortgage, lien or encumbrance suffered or permitted by the lessee, including, but not limited to, rights arising through divorce, marriage or assignment, the purchase of the leased fee by the lessee shall in no manner affect or impair such mortgage, lien or encumbrance or the security afforded thereby to the holder thereof, and the leasehold shall continue, notwithstanding the purchase of the leased fee by the lessee, for the purpose and to extent necessary to avoid any impairment of such leasehold security, unless the holder of such leasehold mortgage, lien or encumbrance shall in writing consent to the transfer thereof to the fee as herein provided. Upon such written consent by the holder thereof, each such mortgage, lien or encumbrance to which the leasehold is subject and to which such consent refers shall be transferred to and shall bind the fee acquired by the lessee, and shall thereafter continue in full force and effect as a mortgage, lien or encumbrance of the fee acquired by the lessee, in the same order and priority among such mortgages, liens and encumbrances so transferred to the fee as the same applied to and bound the lessee's immediate, previous leasehold interest.

SECTION 15. Interest in compensation paid by the authority. The fee owner, lessor, and all legal and equitable owners shall share in the compensation paid by the authority as their respective interests shall appear. Notwithstanding any contrary provision in any contract or lease, a developer or other person entitled to share in the lease rentals shall share in such compensation paid by the authority to the extent of his interest as may be determined by agreement of those entitled to share in the compensation paid by the authority and in the absence of such agreement, the interest of a developer or other person entitled to share in the lease rentals shall equal his total share in the lease rentals for the remainder of the period during which he would have been entitled to share in the lease rentals, discounted to present day value.

SECTION 16. Compulsory or involuntary conversion. It is the intent of the legislature, within the meaning of section 1033 or section 1231 of the Internal Revenue Code or the applicable provisions of chapter 121, Revised Laws of Hawaii 1955, as well as all other statutes, rules, regulations, administrative orders and legal interpretations within the federal and state governments relating to taxation, that any conveyance of title to property by a fee owner to the authority under the provisions of this part shall constitute a compulsory or involuntary conversion (as a result of the exercise of the power of condemnation or the threat of imminence thereof), and

that such fee owner shall not be deemed, by reason in whole or in part of any provision of this part or by reason of the execution by the fee owner of leases to the property and other properties subsequent to the date of approval of this act, to hold the property primarily for sale to customers in the ordinary course of trade or business.

SECTION 17. Disposition, generally. It shall be the policy of the authority to encourage the widespread fee simple ownership of residential lots situated within a development tract. Where necessary or desirable, the authority may lease the residential lots. Not more than one lot shall be sold in fee simple or leased to a purchaser or lessee. A husband and his wife together, unless separated and living apart under a decree of separation issued by a court of competent jurisdiction, shall be entitled to only one lot. Except in case of a sale to the lessee of the leased fee interest to his leasehold residential lot, no sale in fee simple or lease shall be made unless the purchaser meets all of the qualifications enumerated in section 22.

SECTION 18. Notice of disposition. Except in case of a sale of the leased fee interest to the lessee of a residential lot under lease, no sale or lease of any residential lot shall be made by the authority unless he has published on at least two different days in a newspaper of general circulation in the county, a notice of its intent to sell or lease. The notice shall state, in general terms, the size, location and prices or lease rentals of the lots to be sold or leased, the terms of the sale or lease, and the last date on which applications will be received by the board, which date shall not be less than thirty days after the first publication of such notice. The notice shall also state the times and places at which more detailed information with respect to the sale or lease may be secured by interested persons.

SECTION 19. Option of lessee to purchase leased fee. The lessee of a residential lot within a development tract, whether he was a lessee at the time of the acquisition or became a lessee after the acquisition of the development tract, may purchase from the authority at any time during the term of his lease the leased fee interest to the lot; provided, that the lessee is not then in default in the performance of his obligations under the lease; and provided, further that the sales price shall be at the lowest possible price consistent with section 21 and the purpose of this act.

SECTION 20. Disposition by lease. The authority may lease any of the residential lots in a development tract at such lease rentals and upon such terms and conditions as it may determine. Such leases shall be subject to all of the rights of lessees enumerated in part III of this act. The authority may, in its discretion, utilize any of the residential lots and rent out the same for periods of twenty years or less for the purposes set forth in Title 8, Revised Laws of Hawaii 1955, or for any other purpose, all upon such terms and conditions as the authority may determine.

SECTION 21. Not for profit. It is hereby declared to be the policy of the State that the authority shall carry out its responsibilities under this

part in an efficient manner so as to enable it to fix the sales prices and rentals for residential lots at the lowest possible rates consistent with the purpose of this part; and that the authority shall not administer this part for profit, or as a source of revenue to the State. To this end, the authority shall fix the sales prices for residential lots or rentals for lots at no higher rates or prices than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the authority from whatever sources derived under the administration of this part) will be sufficient: (a) to pay, as the same becomes due, the principal and interest on the bonds of the authority; (b) to meet the cost of, and to provide for the administration of this part; and (c) to create a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

SECTION 22. Qualification for lease or purchase. Except in the case of a sale to the lessee of the leased fee interest to any residential lot under lease, no lease or sale of any residential houselot within a development tract shall be made to any person:

(a) Unless he is a citizen of the United States or a declarant alien who has resided in the State for a period of five years or more; is at least twenty years of age; is a bona fide resident of the State and has a bona fide intent to reside in the development tract if successful in purchasing or leasing the lot; and has sufficient financial capabilities to meet the sales price or lease rentals.

(b) Who owns 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 authority an unrefused application to lease or purchase a lot in a development tract. A person shall be 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) owns such lands.

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

SECTION 23. Mortgages, agreements of sale, other instruments.

(a) If the purchaser of a fee simple title or leased fee is unable to obtain sufficient funds at reasonable rates from private lenders, the authority may, by way of mortgage, agreement of sale or other instruments to secure the indebtedness, loan to the lessee up to ninety per cent of the purchase price.

(b) The purchaser of the fee simple title or leased fee shall pay not less than ten per cent of the price and execute with the authority an agreement of sale or mortgage or other instrument to secure the indebtedness

under the terms of which the unpaid balance and the interest thereon, at a reasonable rate determined by the authority, shall be paid in monthly installments over such periods as the authority may determine. Every mortgage, agreement of sale, other instruments to secure the indebtedness or instrument of indebtedness may contain such other provisions as are usually found in such instruments and shall provide that the purchaser may prepay the whole or any part of the unpaid balance of the purchase price plus accrued interest at any time without prepayment penalty.

(c) If the purchaser defaults on the payment of any loan, the authority shall take all necessary action to collect the delinquent principal and interest on the loan and may take all actions allowed to holders of obligations, including the power to repossess, purchase, lease, rent, repair, renovate, modernize and sell the property foreclosed.

SECTION 24. Restrictions on sale and use of residential lots. (a) For a period of five years after the lease was initially issued by the authority for a residential lot, or after the purchase from the authority of the fee simple title to a residential lot where the purchase was made other than as a result of the exercise by a lessee of his option to purchase the leased fee, the lessee or purchaser shall not assign the lease or sell the fee unless he has first notified the authority in writing of his intention to assign or sell. The notice shall specify the lessee's or purchaser's address and shall expressly offer to sell such property to the authority at a price which shall not exceed the sum of the original cost to the lessee or purchaser less depreciation at the rates used for real property tax purposes, of all buildings and improvements thereon.

(b) Within thirty days after the receipt of such notice the authority shall in writing notify the lessee or purchaser at the address so specified whether it elects to exercise its option. If the authority refuses, or fails within the thirty-day period to reply to the offer, the lessee or purchaser may assign the lease or sell the property in fee to any person, free from any price restrictions.

(c) The authority may lease, rent or resell any lot and improvements so purchased as any other lot held by it under this part.

(d) Any original lease, deed, agreement of sale, mortgage and other instruments of conveyance issued by the authority under this part shall expressly contain the restriction on sale and use of the residential lot as prescribed by this section.

SECTION 25. Bonds. From time to time, the authority may issue revenue bonds, and also refunding bonds for the purpose of paying or retiring bonds previously issued, in such amounts as it may deem advisable for the purpose of this part. The authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable exclusively from the income and revenues of the development tract, the acquisition and development of which are financed with the proceeds of such bonds or from the income and revenues of other development

tracts, the acquisition and development of which are not financed with the proceeds from such bonds. Any such bonds may be additionally secured by a pledge of any other revenues received. Any provision of any law to the contrary notwithstanding, all bonds issued pursuant to this act shall be fully negotiable.

Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

SECTION 26. State and political subdivisions not liable on bonds. The bonds and other obligations of the authority under this part (and such bonds and obligations shall so state on their face) shall not be a debt of the State or of any political subdivision; neither the State nor political subdivisions shall be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the authority under this part. The bonds shall not be considered public indebtedness within the meaning of paragraph 2 of section 3, Article VI of the Constitution of the State, nor shall such bonds constitute an indebtedness within the meaning of any other debt limitation or restriction. Bonds may be issued under this part notwithstanding any debt or other limitation prescribed by any statute.

SECTION 27. Form and sale of bonds. The bonds of the authority shall not be subject to section 9-5.5, Revised Laws of Hawaii 1955. They shall be authorized by resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from the date thereof, bear interest as determined by the authority, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms or redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds shall be sold at not less than par at public sale held after notice published once at least five days prior to such sale in a newspaper having a general circulation in the State; provided that such bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

If any member or officer of the authority whose signature appears on any bond or coupon ceases to be such member or official before the delivery of such bond, his signature shall, nevertheless, be valid and sufficient for all purposes, the same as if such member or officer had remained in office until such delivery. In any suit, action or proceedings, involving the validity or enforcement of any bond of the authority or the security therefor, any such bond, reciting in substance that it has been issued by the authority to aid in financing loans under this part, shall be conclusively deemed to have been issued in accordance with the purposes and provisions of this part.

SECTION 28. Provisions of bonds. In connection with the issuance of bonds or the incurring of any obligation and to secure the payment

of such bonds or obligations, the authority may make such covenants and do any and all such acts and things as may be necessary, convenient or desirable in order to secure its bonds, or, in the absolute discretion of the authority, tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated in this act.

SECTION 29. Bonds as legal investments. The State and all of its public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, including savings and loan associations, all investment companies, insurance companies, insurance associations and other persons carrying on an insurance business in the State, and all executors, administrators, guardians, trustees and other fiduciaries in the State may legally invest monies or funds belonging to them or within their control and available for investment under other provisions of law, in any bonds or other obligations issued by the authority under this part, and such bonds and other obligations of the authority shall be authorized security for all public deposits and shall be fully negotiable in the State. It is the purpose of this section to authorize any of the foregoing to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investments, retirement, compensation, pension and trust funds and funds held on deposit, for the purchase of any such bonds or other obligations; provided that nothing contained in this section shall operate to relieve any person, firm or corporation from liability for failure to exercise reasonable care in selecting investments or, in the case of a guardian or trustee, from liability for failure to exercise the judgment and care to observe the duties required of a guardian or trustee by sections 179-14 and 340-6, Revised Laws of Hawaii 1955.

SECTION 30. Exemption from taxation and assessments. The authority and the property acquired by it under this part, if not leased or sold, shall be exempt from any and all taxes and assessments. Bonds, notes, debentures and other evidences of indebtedness issued by the authority are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes.

SECTION 31. Investment of reserves. The authority may invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to the authority under this part unless otherwise specifically provided by law.

SECTION 32. Security for funds deposited. The authority may, by resolution, provide that all moneys deposited by it shall be secured: (1) by any securities by which funds deposited by the state director of finance may be legally secured as provided in section 133-3, Revised Laws of Hawaii 1955, or (2) by an undertaking with such sureties as are approved by the

authority faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon, and all banks and trust companies may give any such security for such deposits.

SECTION 33. Fee simple residential revolving fund. A fee simple residential revolving fund is hereby created. The funds appropriated for the purposes of this act and all moneys received or collected by the authority under the provisions of this act shall be deposited in the revolving fund. The proceeds in the funds shall first be used to pay the principal and interest on bonds or other indebtedness issued by the authority and then for necessary expenses of the authority in administering this part.

PART III RIGHTS OF LESSEES

SECTION 34. Applicability. Except as otherwise expressly provided, this part applies to all leases existing and in force on the date of approval of this act and to all leases executed thereafter.

Notwithstanding any term, condition or provision in any lease to the contrary, the lessee of a residential lot shall have all of the rights enumerated in this part.

SECTION 35. Discrimination. No person shall be denied the right to become a lessee of a residential lot, because of his race, religion, sex, or ancestry.

SECTION 36. Free assignability. A lessee may assign his lease at any time without the approval or consent of the lessor, and the assignee shall have the same rights and obligations under the lease as the original lessee; provided that no such assignment shall be effective to transfer any interest in the lease unless the lessor has received (a) either a true executed copy of such assignment or written notice thereof, (b) a reasonable service charge, except in case of an assignment by way of mortgage or assignment to or by the Federal Housing Administration or Veterans Administration or a foreclosure of mortgage or assignment in lieu of foreclosure, and (c) the written undertaking of the assignee to perform all obligations of the lessee under the lease, which undertaking may be incorporated in such assignment. No such assignment shall release the assignor from liability under the lease unless the lessor consents in writing to the assignment. The lessor shall not require payment of any money for his consent except the service charge, nor withhold such consent unreasonably. Any person acquiring the leasehold estate in consideration of the extinguishment of a debt secured by mortgage of the lease or through foreclosure sale, judicial or otherwise, shall be liable to perform the obligations imposed on the lessee by the lease only during the period such person has possession or ownership of the leasehold estate.

SECTION 37. Forfeiture. No forfeiture of the lessee's interest in a leasehold shall be declared by the lessor for the lessee's failure to pay the rent or otherwise to perform his obligations under the lease, unless the

lessor has given written notification to the lessee of the default and has given the lessee at least thirty days within which to correct the default.

SECTION 38. Extension. From time to time during the first twenty years of the term of any lease, the lessee shall have the right to extend the lease term to fifty-five years, commencing on the first day of the calendar month in which the lessee gives written notice thereof to the lessor, subject to the following conditions:

(a) At the time the right to extend the lease is exercised, the unexpired term of the lease shall be less than fifty years;

(b) The extension shall be for the purpose of mortgaging the leasehold interest;

(c) The lessee is not then in default in any respect under the lease; and

(d) The notice shall be accompanied by payment of a reasonable service charge.

This provision shall apply only to leases executed and effective subsequent to the date of approval of this act.

SECTION 39. Lease rental. In every case of an extension under section 38 the annual lease rental during the first thirty years shall not exceed an amount determined as follows:

(a) Compute to nearest whole year, seventy-five per cent of the unexpired period of fixed rent at the commencement of the extended term;

(b) Multiply the number of years computed in (a) by the fixed annual rent in effect immediately prior to such extension;

(c) Deduct from thirty years the number of years computed in (a) and multiply that difference by the annual rent determined by mutual agreement of lessor and lessee within thirty days after such extension or by arbitration in accord with chapter 188 of the Revised Laws of Hawaii 1955; and

(d) Add the amounts computed in (b) and (c) and divide that sum by 30. This sum rounded to the nearest dollar shall be the annual rent for the first thirty years of the extended term; provided that such rent shall not without the consent of the lessor be less than the annual rent in effect immediately prior to such extension.

The annual rent payable hereunder for and during the remaining period of the extended term shall be determined by mutual agreement of the lessor and the lessee, or if they fail to reach such agreement at least ninety days before the commencement of the period, by arbitration in accordance with chapter 188, Revised Laws of Hawaii 1955.

SECTION 40. Zoning changes. A lessor, fee owner or any legal or equitable owner applying for a change in zoning in any area shall notify all of his lessees within three-fourths miles of the land proposed to be rezoned of the application and its contents at least thirty days before filing the same before any public zoning authority.

SECTION 41. Rights to self-organization; remedies. Lessees in a development tract shall have the right of self-organization and the right to

form, join, or assist each other in forming associations for their mutual benefit or to select representatives of their choosing to engage in bargaining with their lessor or to secure other mutual aid or protection as may be necessary or desirable with respect to their respective leasehold interests. No lessor or agent of the lessor shall interfere with, restrain or coerce any lessee in the exercise of the rights granted by this section or dominate or attempt to control the formation of any such organization. Neither the lessor nor the organization or the duly authorized representative of a majority of such lessees shall refuse to bargain collectively in good faith with each other. In the event of any such refusal or violation of this section, either party may file a complaint with the authority, and the authority, after due notice of hearing and hearings, may issue such cease and desist orders as shall be meet and just in the light of the evidence adduced.

SECTION 42. Sale of fee by lessor. No fee owner of any residential lot under lease shall sell the leased fee interest to the lot to any third party unless he has first given a written thirty-day notice to the lessee and the authority of such intention.

SECTION 43. Reversion of improvements. At the termination of any lease, or at the expiration of the lease term, the lessee may remove all improvements on the lot which were constructed at the cost of, or otherwise paid for by the lessee, without compensating the lessor therefor.

PART IV

SEVERABILITY, JUDICIAL DECLARATION, AND EFFECTIVE DATE

SECTION 44. Severability. If any part, section, sentence, clause, or phrase of this act, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses and phrases of this act, or the application of this act to other persons or transactions or circumstances, shall not be affected. The legislature hereby declares that it would have passed this act and each part, section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more parts, sections, sentences, clauses, or phrases of this act, or its application to any person or transaction or other circumstance, be declared unconstitutional or invalid.

SECTION 45. Judicial declaration on validity of act. Any time after the date of approval of this act, any interested person may petition the supreme court for a judicial declaration as to the validity of any provision of this act pursuant to chapter 227 or chapter 228, Revised Laws of Hawaii 1955.

SECTION 46. Effective date. Parts I, III and IV shall take effect upon approval of this act; part II shall take effect on July 1, 1969.

(Became law June 24, 1967, without Governor's signature pursuant to State Constitution, Art. III, § 17.)

PROPOSED CONSTITUTIONAL AMENDMENT

PROPOSED CONSTITUTIONAL AMENDMENT
S. B. No. 1102

A Bill for an Act Proposing Amendments to the Constitution of the State of Hawaii, Relating to the Composition, Districting, Redistricting, Apportionment, Reapportionment, and Constitutional Amendment Provisions Affecting the State Senate.

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

SECTION 1. Article III, Section 2 of the Constitution of the State of Hawaii shall be amended to read as follows:

“Senate; Districts; Composition

Section 2. The senate shall be composed of twenty-five members, who shall be elected by the qualified voters of the respective senatorial districts. Until the next reapportionment, the senatorial districts, and the number of senators to be elected from each, shall be as follows:

First senatorial district: the island of Hawaii, three;

Second senatorial district: the islands of Maui, Molokai, Lanai and Kahoolawe, two;

Third senatorial district: that portion of the island of Oahu consisting of the eighth representative district as described in the Schedule, article XVI, section 1, of the Constitution of the State of Hawaii, as amended, three;

Fourth senatorial district: that portion of the island of Oahu consisting of the ninth and tenth representative districts as described in the said Schedule and the first and the eighth precincts of the eleventh representative district as described in the governor's proclamation issued September 11, 1964, for the 1964 general election, four;

Fifth senatorial district: that portion of the island of Oahu consisting of the twelfth and thirteenth representative districts as described in the said Schedule and the second through seventh precincts, inclusive, and the ninth through twelfth precincts, inclusive, of the eleventh representative district, and the first through fifth precincts, inclusive, and the eighth, eleventh, fifteenth and sixteenth precincts of the fourteenth representative district as described in the said proclamation, four;

Sixth senatorial district: that portion of the island of Oahu consisting of the fifteenth representative district as described in the said Schedule and the sixth, seventh, ninth and tenth precincts and the twelfth through fourteenth precincts, inclusive, of the fourteenth representative district as described in the said proclamation, four;

Seventh senatorial district: that portion of the island of Oahu consisting of the sixteenth and seventeenth representative districts as described in the said Schedule, four;

Eighth senatorial district: the islands of Kauai and Niihau, one.”

SECTION 2. Article III of the Constitution of the State of Hawaii shall be amended by adding thereto a new section, to be designated “Section 2.1” next following section 2 thereof, to read as follows:

PROPOSED CONSTITUTIONAL AMENDMENT

“Reapportionment of Senate

Section 2.1. On or before June 1 of the year 1975, and of each tenth year thereafter, the governor shall reapportion the members of the senate in the following manner: the total number of senators shall first be reapportioned among four basic areas, namely, (1) the island of Hawaii, (2) the islands of Maui, Molokai, Lanai and Kahoolawe, (3) the island of Oahu and all other islands not specifically enumerated, and (4) the islands of Kauai and Niihau, on the basis of the number of voters registered at the last preceding general election in each of such basic areas and computed by the method known as the method of equal proportions, no basic area to receive less than one member. Upon the determination of the total number of senators to which each basic area is entitled, such total shall be reapportioned among the one or more senatorial districts within each basic area on the basis of the number of voters registered at the last preceding general election within each of such senatorial districts and computed by the method known as the method of equal proportions, no senatorial district to receive less than one member. Upon any reapportionment, should the total number of voters registered in any senatorial district be less than one-half of the quotient obtained by dividing the total number of voters registered in the State by the total number of members to which the senate is entitled, then, as part of such reapportionment, the basic area within which such senatorial district lies shall be redistricted by the governor in such manner that the total number of voters registered in each new senatorial district therein shall be more than one-half of such quotient, provided, however, that there shall be at least one senatorial district in each basic area.

Upon completion of the reapportionment of the senate as provided herein, the governor shall issue a proclamation showing the results thereof.

Except as otherwise provided hereinafter, the initial reapportionment shall be effective for the election of members to the senate in 1976 and shall remain in effect for succeeding senatorial elections until the next reapportionment takes effect. Except as otherwise provided hereinafter, any subsequent reapportionment shall be effective for the election of members to the senate in the year next following such reapportionment and shall remain in effect for succeeding senatorial elections until the next reapportionment takes effect.

An incumbent senator whose term of office does not expire until the second general election following the date of the proclamation, including any such senator whose seat has been apportioned to another district by reapportionment, shall be allowed to complete his four-year term; provided that when the seat of such holdover senator has been reapportioned to another district, the election to fill the new seat in the district to which such seat has been newly apportioned shall not be held until the time of the second election following such proclamation.

Original jurisdiction is hereby vested in the supreme court of the State to be exercised on the application of any registered voter, made within thirty days following the date specified above, to compel, by mandamus or otherwise, the governor to perform the above duty and made within thirty days

PROPOSED CONSTITUTIONAL AMENDMENT

following the date of such proclamation, to compel, by mandamus or otherwise, the correction of any error made in such reapportionment.”

SECTION 3. Article III, section 5, of the Constitution of the State of Hawaii shall be amended by substituting a semicolon for the period at the end of the second sentence thereof and adding the following thereafter:

“provided that members of the senate elected at the general election of 1966 shall be divided into two classes. Members of the first class shall hold office for a term of four years beginning with their election and ending on the day of the second general election held thereafter. Members of the second class shall hold office for a term of two years beginning with their election and ending on the day of the next general election held thereafter. Upon the expiration of the aforesaid terms of office of members of the respective classes, the term of office of their successors shall be four years. Of the members to which each senatorial district is entitled, one-half shall be members of the second class. If the total number of senators to which a senatorial district is entitled is not an even number, the number of members of the first class in such district shall be the quotient of said total number divided by two, rounded off to the next whole number. The remainder shall be members of the second class. Membership in the first and second classes shall be determined by the number of votes cast for each senator in such district. The first class shall consist of those senators, in number corresponding with the number of members of the first class to which such district is entitled, who are elected with the highest number of votes from such district. The remaining senators elected shall constitute the second class. The senator from a senatorial district that is entitled to one senator shall automatically be a member of the first class.”

SECTION 4. Article XV, section 2, of the Constitution of the State of Hawaii shall be amended by substituting a period for the semicolon in the sixth paragraph thereof and by deleting from the sixth paragraph the proviso at the end of said paragraph, which reads:

“provided, that no constitutional amendment altering this proviso or the representation from any senatorial district in the senate shall become effective unless it shall also be approved by a majority of the votes tallied upon the question in each of a majority of the counties.”

SECTION 5. The foregoing amendments shall take effect upon compliance with the provisions of article XV, section 3, of the Constitution of the State of Hawaii; provided that the proviso now in article XV, section 2, paragraph 6, shall not be applicable.

[Passed final reading in the Senate on April 18, 1967, and in the House of Representatives on April 28, 1967.]

**TABLES SHOWING EFFECT
OF ACTS**



GENERAL INDEX

TABLES SHOWING EFFECT OF ACTS
THIRD LEGISLATURE, REGULAR SESSION OF 1966
AND
FOURTH LEGISLATURE, REGULAR SESSION OF 1967
STATE OF HAWAII

Key: Am = Amended
 R = Repealed
 N = New Section
 Tr = Transferred

———— = Section number to be assigned by the Revisor of Statutes

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**D. SECTIONS OF HAWAIIAN HOMES COMMISSION ACT
1920 AFFECTED**

Section No.	Effect	L. 1966 Act No.	L. 1967 Act No.	Section No.	Effect	L. 1966 Act No.	L. 1967 Act No.
208, 213, 216	Am	146	218	R	146

E. STATE CONSTITUTION

Section No.	Effect	L. 1967 Act No.
Art. III, XV	Proposed Am	SB 1102

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