

SESSION LAWS
OF
HAWAII
PASSED BY THE
SEVENTH STATE LEGISLATURE

REGULAR SESSION
1973

Convened on Wednesday, January 17
and
Adjourned Sine Die on Friday, April 13

Published by Authority of the
Revisor of Statutes
Honolulu, Hawaii

AUTHORITY

Section 2-4, Hawaii Revised Statutes, provides as follows:

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

PREFACE

This volume contains all the laws passed by the Legislature at the Regular Session of 1973.

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

HIDEHIKO UYENOYAMA
Revisor of Statutes

Honolulu, Hawaii
August 10, 1973

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Daniel K. Inouye

House of Representatives:

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Patsy T. Mink

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Lieutenant Governor George R. Ariyoshi

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REGULAR SESSION

1973

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D—Democrats 17
R—Republicans 8

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D—Democrats 35
 R—Republicans 16

TABLE OF CONTENTS

	PAGE
List of Acts	viii
Text of Acts.....	1
Tables Showing Effect of Acts:	
A. Sections of Hawaii Revised Statutes Affected	666
B. Session Laws of Hawaii Affected	670
C. Sections of Hawaiian Homes Commission Act 1920 Affected ..	670
General Index	671

LIST OF ACTS
SEVENTH STATE LEGISLATURE
REGULAR SESSION OF 1973

ACT	BILL	SUBJECT	PAGE
1	H.B. 3	Legislature, legislative agencies—appropriation	1
2	H.B. 126	State bonds—interest rate	2
3	H.B. 122	Public property—inventory	3
4	H.B. 148	Unemployment trust fund—administrative use	4
5	S.B. 76	Ambulances—regulation	6
6	S.B. 89	Hepatitis—disclosure to blood bank	8
7	H.B. 134	Meat—adulterated or misbranded products	9
8	H.B. 137	Wages—claims	9
9	H.B. 139	Employment—temporary disability benefits	10
10	H.B. 142	Workmen's compensation—reports by employer	10
11	H.B. 145	Workmen's compensation—compromise of claim	12
12	H.B. 147	Workmen's compensation—reports by physicians	12
13	H.B. 213	Livestock and poultry—emergency rules	13
14	H.B. 214	Agriculture—sale of seeds	14
15	H.B. 215	Board of agriculture—hearings	15
16	H.B. 340	Accounting—assignment of state payments	16
17	S.B. 141	Coroner's duties—death certificates	16
18	H.B. 470	Public lands—residence lots	20
19	H.B. 1141	Retirement system—employer contributions	21
20	H.B. 1875	Aeronautics laws—enforcement	21
21	H.B. 334	Income tax—exclusion	22
22	S.B. 125	Nursing home administrator—license	26
23	S.B. 163	Physicians and surgeons—licensing examinations	26
24	S.B. 1221	Public employment—health fund	27
25	S.B. 87	Cancer—research information	29
26	S.B. 660	Adverse possession—time limitation	31
27	S.B. 990	Civil identification—social security number	32
28	S.B. 1284	Veterans—loan funds	33
29	S.B. 1386	Appropriations—lapsing exemption	35
30	H.B. 34	Eminent domain proceedings—statute revision	35
31	H.B. 36	Statute revision—technical amendments	37
32	H.B. 37	Sureties—statute revision	45
33	H.B. 39	District courts—cases involving military vehicles	46
34	H.B. 47	Food, drugs and cosmetics—warning notice	46
35	H.B. 121	Public contracts—bid deposits	47
36	H.B. 124	Collective bargaining in public employment—excluded personnel	48
37	H.B. 127	Retirement system—ordinary disability	49
38	H.B. 1874	Fish and game agents—appointment	50
39	H.B. 154	Vital statistics—correction of birth certificates	50
40	H.B. 160	Schools—district superintendents	51
41	H.B. 162	Schools—teachers	52
42	H.B. 186	Agricultural cooperatives—articles of association	52
43	H.B. 187	Insurance—age of majority	53
44	H.B. 194	Elevator mechanics—licenses	56
45	H.B. 132	Motor vehicles—odometer offenses	56
46	H.B. 216	Feed—inspection	57
47	H.B. 218	Workmen's compensation—partial disability; death	57
48	H.B. 320	Attorney general—investigators	59
49	H.B. 323	Public lands—cancellation of leases	59
50	H.B. 329	Real property tax—exemption for leprosy sufferers	60
51	H.B. 338	Tax appeal court—time limitation	61

ACT	BILL	SUBJECT	PAGE
52	H.B. 478	Employment agencies—prohibited practices	63
53	H.B. 482	Unemployment compensation—eligibility of homemaker	64
54	H.B. 656	Employment—prohibited discriminatory practices	66
55	H.B. 862	Service of process—fees	68
56	H.B. 1326	Emergency medical services—statewide program	69
57	H.B. 1333	International Marine Exposition—site selection	69
58	H.B. 1521	Schools—transportation of pupils	70
59	H.B. 1523	Mauna Kea large optical telescope—nonprofit corporation	71
60	S.B. 59	Public employment—maternity leave	72
61	S.B. 97	Temporary disability insurance—pregnancy	72
62	S.B. 134	Temporary disability insurance—claims appeal	74
63	S.B. 722	Motor vehicle rentals—return	75
64	S.B. 822	Workmen's compensation—funeral and burial allowance	76
65	S.B. 1382	Capitol security guards—administration	77
66	H.B. 1156	Hawaiian home lands—loan guarantee	78
67	S.B. 140	Displaced persons—assistance	80
68	H.B. 325	Public lands—leases for tree crop orchards	82
69	S.B. 129	Plant and animal quarantine—revision	83
70	H.B. 315	Broadcasting authority—personnel; compensation	91
71	H.B. 316	Public broadcasting authority—transfer of property	94
72	H.B. 901	Merchandise—removal of identification marks	94
73	H.B. 1246	Retirement system—prior service credit	95
74	S.B. 34	Collection agencies—prohibited practices	96
75	S.B. 276	Unemployment compensation—pregnancy	99
76	S.B. 908	Indigent criminal defendants—public defender or counsel	101
77	S.B. 1002	Lands with resource value—state acquisition	102
78	S.B. 1043	Workmen's compensation—fee schedules	104
79	S.B. 1308	Fisherman training—repeal	106
80	S.B. 1312	Podiatry—business regulations	106
81	H.B. 1151	University of Hawaii—student loans	111
82	H.B. 1194	Kauai—economic development	112
83	H.B. 1299	Molokai—economic development	113
84	H.B. 1334	North Kohala—economic development	114
85	H.B. 1552	Criminal injuries compensation—coverage of certain offenses	114
86	H.B. 1847	Real property execution—district court procedure	115
87	H.B. 2026	Insurance—union mutual benefit societies	115
88	H.B. 23	Child custody—jurisdiction	116
89	H.B. 180	Mortgage brokers—sales restriction	124
90	H.B. 133	Motor vehicles—odometer offenses	125
91	H.B. 615	General excise tax—deaf and disabled persons	126
92	H.B. 880	Medical malpractice—limitation of actions	126
93	H.B. 997	Mental institutions—statute revision	127
94	H.B. 1170	Drivers—intoxication; hearings	132
95	H.B. 1254	Motion picture operators—licensing	133
96	H.B. 1770	Meat products—geographical origin	134
97	S.B. 90	Health department—licensing of certain occupations	134
98	S.B. 192	Public employment—blue collar compensation	135
99	S.B. 820	Weights and measures division—director and deputies	141
100	S.B. 1007	Factory built housing—manufacturer's bond	144
101	S.B. 1008	Workmen's compensation—services of attendant	144
102	H.B. 395	Wills—revocation by marriage	146
103	S.B. 1206	Population movement—planning	146
104	H.B. 1093	Veterinary examiners board—expenditures	147
105	S.B. 122	Pharmacy—license	148
106	S.B. 194	Tax returns—disclosure by preparers	149
107	S.B. 930	Shoreline areas—setbacks and uses	150
108	S.B. 1131	Temporary disability insurance—church employee exclusion	152

ACT	BILL	SUBJECT	PAGE
109	H.B. 998	Civil actions—statute revision	153
110	S.B. 270	University of Hawaii—Research Corporation	153
111	S.B. 883	Physician assistants—direction and control	154
112	S.B. 910	Horizontal property regimes—reports and fees	155
113	S.B. 1100	Real property tax—minimum amount	157
114	S.B. 1227	Counties—grants-in-aid; taxes	157
115	H.B. 327	Real property tax—assessment appeals	158
116	H.B. 1096	Contractors—licensing procedure	159
117	H.B. 1097	Contractors—examination	160
118	H.B. 1089	Environmental quality—permits; duties	161
119	H.B. 1337	Urban design—county plans	167
120	S.B. 137	Employment security—technical amendments	169
121	S.B. 155	Veterinarians—license revocation or suspension	180
122	S.B. 995	Mental health records—disclosure to patients	181
123	S.B. 1153	Schools—campus parking	182
124	H.B. 103	Fishing reserves—management	182
125	H.B. 166	Boating accidents—rendering assistance	183
126	H.B. 196	Physicians and surgeons—licenses	184
127	H.B. 706	Motor vehicles—mass merchandise insurance	186
128	H.B. 1003	Uniform federal tax lien registration act—recording procedure	187
129	H.B. 1005	Motor vehicles—sales regulations	189
130	H.B. 1322	Hawaiian home lands—loan guarantee fund	192
131	H.B. 2024	Real estate brokers and salesmen—licensing prerequisites	198
132	H.B. 13	Community property—disposition at death	200
133	H.B. 35	Tax procedure—statute revision	202
134	H.B. 38	Service of process upon county—statute revision	209
135	H.B. 40	Motor vehicle registration and drivers—appeals	210
136	H.B. 59	Penal Code—general amendments	211
137	H.B. 115	Private roads—traffic control	218
138	H.B. 131	Motor vehicles—odometer offenses	219
139	H.B. 157	Drivers—blood alcohol testing	220
140	H.B. 183	Escrow depository—license requirements	220
141	H.B. 185	Escrow depository—license fees	221
142	H.B. 317	Real estate brokers and salesmen—license fees	222
143	H.B. 562	Subdivisions—public access to beaches	223
144	H.B. 577	Workmen's compensation—third party suit	225
145	H.B. 660	Schools—physical punishment of students	227
146	H.B. 876	Dogs—county licensing	227
147	H.B. 900	Abandoned vehicles—disposition of license plates	229
148	H.B. 995	Abandoned vehicles—towage liability	229
149	H.B. 1000	Public utilities—procedure	230
150	H.B. 1043	Real estate sales—schools	234
151	H.B. 1154	Junior police—insurance protection	235
152	H.B. 1169	Driver's license—definition of highway	236
153	H.B. 1769	Imported commodities and foods—pesticide residue	238
154	H.B. 1849	Savings and loan associations—branch office powers	239
155	H.B. 1852	Oaths and affirmations—witnesses	240
156	S.B. 121	Optometrists—licensing	240
157	S.B. 157	Veterinarian—licensing	242
158	S.B. 160	Accountancy—revision	243
159	S.B. 284	Additional unemployment compensation—pregnancy	253
160	S.B. 415	Public employment program—civil service coverage	254
161	S.B. 377	Antipollution projects—revenue bonds	255
162	S.B. 394	Fire stations—volunteers	263
163	S.B. 744	Industrial loan company—mercantile business stock	264
164	S.B. 929	Coastal zones—management program	264
165	S.B. 1017	Private guards—concurrent duties	266

ACT	BILL	SUBJECT	PAGE
166	S.B. 1152	Mass transit, mass transportation—definition	266
167	S.B. 1155	Arrest—accused beyond court jurisdiction	267
168	S.B. 1202	Post retirement—county contribution	267
169	S.B. 316	Dentistry—peer review proceedings	268
170	H.B. 311	Damages by contractors—recovery fund	268
171	S.B. 56	Year 2000 commission—staff	272
172	S.B. 96	Temporary disability insurance—chiropractic or osteopathic care	272
173	S.B. 109	Escrow depositories—real estate broker	273
174	S.B. 111	Escrow depositories—capital or bond requirements	274
175	S.B. 176	Real property tax—agricultural lands	274
176	S.B. 228	Criminal injuries compensation—appropriations	279
177	S.B. 231	Public employment—equal opportunity; preferences; public service employment	284
178	S.B. 386	Claims against the State—legislative procedure	288
179	S.B. 920	Correctional program—master plan	290
180	S.B. 1014	Savings and loan associations—voting rights of members	304
181	S.B. 1018	Elevator mechanics—occupational safety and health violations	305
182	S.B. 1024	Civil air patrol—expenditures	307
183	S.B. 1178	Workmen's compensation—special fund	307
184	S.B. 1183	Controlled substances—methaqualone	310
185	H.B. 22	Elections—campaign contributions and expenditures	311
186	H.B. 161	Schools—principals and acting principals	321
187	H.B. 200	Collection agencies—licenses	321
188	H.B. 659	Police—restraining order against spouse	322
189	H.B. 661	Spouse abuse—offense	323
190	H.B. 662	Police—restraining order against spouse	324
191	H.B. 990	Jury selection—generally	325
192	H.B. 1162	Divorce—property rights	333
193	H.B. 1640	Motor carrier regulation exemption—raw milk and animal husbandry	334
194	S.B. 569	State-chartered credit unions—authorization	336
195	S.B. 980	Governor—emergency powers	364
196	S.B. 5	Senior citizens fair—authorization	365
197	S.B. 51	Transportation control—interdepartmental commission	365
198	S.B. 873	Studies by State and counties—duties of archivist	366
199	S.B. 1274	Legislative employees and agencies—salary increases	367
200	H.B. 33	Estates—principal and income	367
201	H.B. 60	Penal Code—gambling	375
202	H.B. 1091	Highways—traffic lane marking	379
203	H.B. 637	Motor vehicles—“no-fault” insurance	381
204	S.B. 37	Population and Hawaiian Future Commission—establishment	401
205	S.B. 178	Public lands—grant of easement	403
206	S.B. 622	Controlled substances—dispensing by practitioners	404
207	S.B. 1029	University of Hawaii and community colleges—credit equivalency program	405
208	S.B. 1103	Securities—commodity futures contract	406
209	S.B. 1205	Child development services—statewide program	407
210	S.B. 1228	Counties—grants-in-aid; improvements	412
211	H.B. 2021	Family court proceedings—revision	413
212	S.B. 227	Claims against the State—appropriations	433
213	S.B. 698	Wrongful death damages—future earnings	436
214	H.B. 172	Driver's licenses—categories	437
215	S.B. 1380	Capitol district—state-county jurisdiction	440
216	H.B. 12	Elections—campaigning on highways	440
217	H.B. 809	Elections—general amendments	442
218	S.B. 1295	General Appropriations Act of 1973	484
219	S.B. 902	District family courts—establishment	658
220	S.B. 993	Hawaiian home lands—maximum home loan	660

Session Laws of Hawaii
Passed By The
Seventh State Legislature
Regular Session
1973

ACT 1

H. B. NO. 3

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

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

SECTION 1. There is hereby appropriated from the general funds of the State the sum of \$769,184, or so much thereof as may be necessary, for defraying the pre-session, interim session and other expenses of the Senate for the Regular Session of 1973, Seventh State Legislature of the State of Hawaii, and for the period up to and including January 15, 1974.

SECTION 2. There is hereby appropriated from the general funds of the State the sum of \$995,000, 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 Regular Session of 1973, Seventh State Legislature of the State of Hawaii, and for the period up to and including January 15, 1974.

SECTION 3. Any unencumbered balances of the appropriations provided for in sections 1 and 2 remaining at the close of the Regular Session of 1973 are hereby appropriated to defray any and all expenses of the Senate and the House of Representatives, respectively, 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 and the pre-session expenses of the Regular Session of 1974, Seventh State Legislature of the State of Hawaii. Payment of such expenses of the Senate shall be made only with the approval of the President of the Senate, and payment of such expenses of the House of Representatives shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 16, 1974, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 16, 1974.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provision of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member

ACT 2

shall be \$45 per day and authorized by the President of the Senate or the Speaker of the House of Representatives, respectively.

SECTION 6. There is hereby appropriated from the general funds of the State the sum \$1,615,046, to the office of the legislative auditor for the following expenses: (a) the sum of \$705,046, or so much thereof as may be necessary, for defraying the expenses of the office of the legislative auditor during the fiscal year 1973-74; (b) the sum of \$75,000, or so much thereof as may be necessary, for defraying the expenses of the office of the state ethics commission during the fiscal year 1973-74; (c) the sum of \$150,000, or so much thereof as may be necessary, to be expended upon approval of this Act, for the purpose of performing special studies, improving capabilities for planning, programming and budgeting, and fulfilling other special requests made of the legislative auditor by the legislature or jointly by the President of the Senate and the Speaker of the House; (d) the sum of \$685,000, or so much thereof as may be necessary, to be expended during the fiscal year 1973-74, for interim legislative studies, for contractual services for such studies, for training and other operating expenses to continue the development of the legislature's planning, programming and budgeting capabilities, for equipment relating to computer systems programming and operations for the purpose of improving the efficiency of legislative operations including, but not limited to, bill drafting, statutory and information retrieval, status of legislative actions, and reproductions of legislative material and for such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives, or of the Senate and the House of Representatives through the President of the Senate and the Speaker of the House of Representatives, respectively.

SECTION 7. There is hereby appropriated from the general funds of the State the sum of \$533,584, to the legislative reference bureau for the following expenses: (a) the sum of \$379,966, or so much thereof as may be necessary, for defraying the expenses of the legislative reference bureau during the fiscal year 1973-74; and (b) the sum of \$153,618, or so much thereof as may be necessary, for defraying the expenses of the office of the revisor of statutes during the fiscal year 1973-74.

SECTION 8. There is hereby appropriated from the general funds of the State the sum of \$185,290, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of said office during the fiscal year 1973-74.

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

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

(Approved January 30, 1973.)

ACT 2

H. B. NO. 126

A Bill for an Act Relating to General Obligation Bonds of the State of Hawaii.

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

SECTION 1. Notwithstanding the interest rate limitation contained in section 39-5, Hawaii Revised Statutes, bonds issued after March 31, 1973 but prior to April 1, 1974 under part 1 of chapter 39, Hawaii Revised Statutes, may bear interest, payable annually or semi-annually, at a rate or rates not exceeding eight per cent a year.

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

(Approved March 13, 1973.)

ACT 3

H. B. NO. 122

A Bill for an Act Relating to Inventory of State and County Property.

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

SECTION 1. Section 106-1, Hawaii Revised Statutes, is amended to read:

"Sec. 106-1 By state officers. The lieutenant governor, the heads of the executive departments, the administrative director of the courts (for the whole judiciary department of the State), and all other persons and boards of a public character having in their custody or under their control or in anywise using property belonging to the State (which latter persons and boards are not by law under the control and direction of any of the departments or heads of departments herein specifically named) shall, on or before September 15 of each year, prepare and file with the comptroller of the State, a return or inventory, sworn to before a person authorized by law to administer oaths, containing a full, true, and corrected list by detailed items of all property, of whatsoever nature (as of July 1 of the year for which such return is made), belonging to the State and in the possession, custody, control, or use of the officer so making the return or of the department of the government over which he presides or of any officer, agent, or employee serving in such department or under the returning officer, and containing further opposite each item a statement of the carrying value of the property therein named according to the best knowledge, information, and belief of the officer making the return. The officer making the return shall similarly file a copy of the sworn inventory with the comptroller, accompanied, however, by detailed separate statements, under oath, of those items of property acquired, and those disposed of, during the year elapsed since the inventory made as of the last preceding July 1."

SECTION 2. Section 106-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 106-2 By county mayors to state comptroller. The mayors of each county shall, on or before September 15 of each year, prepare and file with the comptroller of the State a return or inventory, sworn to before a person authorized by law to administer oaths, containing a full, true, and correct list by detailed items of all property of whatsoever nature, as of July 1 of the year for which such return is made, of all property belonging to the State and in

ACT 4

the use, custody, or possession for the time being of the county or city and county or any of the officers thereof, and containing further, opposite each item, a statement of the carrying value of the property therein named according to the best knowledge, information, and belief of the officer making the return.”

SECTION 3. Section 106-4, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 106-4 Authority to withhold salary.** The comptroller of the State and the director of finance of each county shall ascertain if inventories have been filed as required by sections 106-1 and 106-3, respectively. If any officer, head of department, agent, employee, or other person fails to file the required inventory within the time prescribed, the comptroller or director shall withhold the salary or wage due such officer, head of department, agent, employee, or other person until the inventory is filed unless the comptroller or director finds, in his discretion, that the delay in filing the required inventory within the time prescribed was for good cause.”

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 March 15, 1973)

ACT 4

H. B. NO. 148

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-123, Hawaii Revised Statutes, is amended to read:

“**Sec. 383-123 Withdrawals; administrative use.** (a) Withdrawals. Moneys requisitioned from the State’s account in the unemployment trust fund shall be used exclusively for the payment of benefits and for refunds pursuant to section 383-76 and section 383-7(6), except that moneys credited to this State’s account pursuant to section 903 of the Social Security Act, as amended, shall be used exclusively as provided in subsection (b) of this section. The director of finance shall from time to time, with the approval of the department of labor and industrial relations in accordance with regulations prescribed by the comptroller of the State, requisition from the unemployment trust fund such amounts, not exceeding the amount standing to this State’s account therein, as it deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof the moneys shall be deposited in the benefit account. Expenditures of such moneys in the benefit

*Edited accordingly.

account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of moneys in their custody. All benefits and refunds shall be paid from the fund upon warrants drawn upon the director of finance by the comptroller of the State supported by vouchers approved by the department. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or, in the discretion of the department, shall be redeposited with the Secretary of the Treasury of the United States, to the credit of this State's account in the unemployment trust fund, as provided in section 383-122.

(b) Administrative use. Moneys credited to the account of this State in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which: (1) specifies the purposes for which the moneys are appropriated and the amounts appropriated therefor, (2) limits the period within which the moneys may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be obligated during a twelve-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (A) the aggregate of the amounts credited to the account of this State pursuant to section 903 of the Social Security Act, as amended, during the same twelve-month period and the twenty-four preceding twelve-month periods exceeds (B) the aggregate of the amounts obligated pursuant to this subsection and charged against the amounts credited to the account of this State during such twenty-five twelve-month periods. For the purposes of this subsection, amounts which are obligated for administration or paid out for benefits shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during a twelve-month period specified herein may be charged against any amount credited during such twelve-month period earlier than the twenty-fourth preceding such period.

Moneys credited to the account of this State pursuant to section 903 of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of this chapter pursuant to this subsection.

Moneys appropriated for the payment of expenses of administration pursuant to this subsection shall be requisitioned as needed for the payment of obligations incurred under the law appropriating the moneys and, upon requisition, shall be deposited in the employment security administration fund from which such payments shall be made. Moneys so deposited shall, until ex-

ACT 5

pended, remain a part of the unemployment compensation fund and, if it will not be expended within one week after it is withdrawn from the unemployment trust fund, shall be returned at the earliest practical date to the Secretary of the Treasury of the United States for credit to this State's account in the unemployment trust fund."

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

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

(Approved April 5, 1973.)

ACT 5

S. B. NO. 76

A Bill for an Act Relating to Health Regulations.

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

SECTION 1. Section 321-11, Hawaii Revised Statutes, is amended to read:

"Sec. 321-11 Subjects of health regulations, generally. The department of health may make such regulations as it deems necessary for the public health and safety respecting:

- (1) Nuisances, foul or noxious odors, gases, or vapors, waters in which mosquitoes breed or may breed, sources of filth, causes of sickness or disease, within the respective districts of the State, and on board any vessel;
- (2) Adulteration and misbranding of food or drugs;
- (3) Location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, courts, construction projects, excavations, pools, watercourses, areas, and alleys;
- (4) Privy vaults and cesspools;
- (5) Fish and fishing;
- (6) Interments and dead bodies;
- (7) Disinterments of dead human bodies, including the exposing, disturbing or removing of such bodies from their place of burial or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;
- (8) Cemeteries and burying grounds;
- (9) Laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses and professions: barber shops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops,

*Edited accordingly.

public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where foods or beverages are canned or bottled for public consumption or sale; provided, that nothing in this chapter shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where the laundering or sterilization is done in an efficient and sanitary manner;

- (10) Hospitals, maternity homes, convalescent homes, children's boarding homes, old folks homes, and home health agencies;
- (11) Hotels, rooming houses, lodging houses, apartment houses, and tenements;
- (12) Laboratories;
- (13) Any place or building where noisome or noxious trades or manufactures are carried on, or intended to be carried on;
- (14) Milk;
- (15) Poisons and hazardous substances, the latter term including, but not limited to, any substance or mixture of substances which (A) is corrosive, (B) is an irritant, (C) is a strong sensitizer, (D) is inflammable or (E) generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children;
- (16) Pig and duck ranches;
- (17) Places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (18) Any restaurant, theater, market, stand, shop, store, factory, building, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (19) Foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (20) Devices as defined in section 328-1;
- (21) Sources of ionizing radiation;
- (22) Medical examination, vaccination, revaccination, and immunization of school children. No child shall be subjected to such medical examination, vaccination, revaccination, or immunization, whose parent or guardian shall in writing object thereto on grounds that such requirements are not in accordance with the religious tenets of an established church of which he is a member or adherent, but no such objection shall be recognized when, in the opinion of the department there is danger of an epidemic from any communicable disease;
- (23) Disinsectization of aircraft entering or within the State as may be

ACT 6

necessary to prevent the introduction, transmission, or spread of disease or the introduction or spread of any insect or other vector of significance to health;

- (24) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents, or other pests, which, in the opinion of the department may be lethal, poisonous, noxious, or dangerous to human life.

- (25) Ambulances and ambulance equipment.

The department may require such certificates, permits or licenses as it may deem necessary adequately to regulate the conditions or businesses referred to in this section."

SECTION 2. 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, 1973.)

ACT 6

S. B. NO. 89

A Bill for an Act Relating to the Disclosure of the Identity of Persons Infected with Communicable Diseases.

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

SECTION 1. Section 325-4, Hawaii Revised Statutes, is amended to read:

"Sec. 325-4 Identity of patients safeguarded. Reports to the department of health provided for by this chapter shall not be made public so as to disclose the identity of the persons to whom they relate except insofar as may be necessary to safeguard the public health against those who disobey the rules and regulations relating to these diseases or to secure conformity to the laws of the State.

Reports to the department of health of persons who have had viral hepatitis may be disclosed by the department to any blood bank to enable it to reject as donors any individual with such a history."

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

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

(Approved April 5, 1973.)

*Edited accordingly.

ACT 7

H. B. NO. 134

A Bill for an Act Relating to the Hawaii Meat Inspection Act.

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

SECTION 1. Section 159-25, Hawaii Revised Statutes, is amended to read:

“Sec. 159-25 Slaughter, transportation, and selling. No person shall, with respect to any cattle, sheep, swine, goats, horses, mules, or other equines, or any carcasses, parts of carcasses, meat or meat products of any animals:

- (1) Slaughter any animals or prepare any meat or meat products which are capable of use as human food, at any establishment preparing such meat or meat products solely for intrastate commerce, except in compliance with the requirements of this chapter.
- (2) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce:
 - (A) Any meat or meat products which
 - (i) Are capable of use as human food, and
 - (ii) Are adulterated or misbranded at the time of the sale, transportation, offer for sale or transportation, or receipt for transportation.
 - (B) Any meat or meat products required to be inspected under this chapter unless they have been so inspected and passed.
- (3) Do, with respect to any such meat or meat products which are capable of use as human food, any act while they are being transported in intrastate commerce or held for sale after transportation, which is intended to cause or has the effect of causing meat or meat products to be adulterated or misbranded.”

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

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

(Approved April 9, 1973.)

ACT 8

H. B. NO. 137

A Bill for an Act Relating to Payment of Wages.

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

SECTION 1. Section 388-11(b), Hawaii Revised Statutes, is amended to read:

“(b) Except for claims filed by individuals employed in a bona fide executive, administrative, or professional capacity or in the capacity of an outside

*Edited accordingly.

ACT 9

salesman, whenever the director of labor and industrial relations determines that wages have not been paid, and that the unpaid wages constitute an enforceable claim, the director may upon the request of the employee take an assignment in trust for the wages without being bound by any of the technical rules respecting validity of any such assignments and may bring any legal action necessary to collect such claim. With the consent of the assigning employee at the time of the assignment the director may settle and adjust any such claim to the same extent as might the assigning employee. No claim shall be accepted by the director after the expiration of one year from the date the wages are due and payable.”

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

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

(Approved April 9, 1973.)

ACT 9

H. B. NO. 139

A Bill for an Act Relating to Temporary Disability Insurance.

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

SECTION 1. Chapter 392, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 392- Failure to submit timely wage and employment information.** An employer to whom an insurer has sent a request for information on wages, hours, and duration of employment regarding an employee claiming disability benefits shall complete and submit such information within seven days from the date the request was received. If the employer fails to submit such information within seven days, the director upon notification by the insurer shall levy a penalty of \$10 for each delinquent request where the employer fails to show good cause for failure to file on time.”

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 on July 1, 1973.

(Approved April 9, 1973.)

ACT 10

H. B. NO. 142

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

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

*Edited accordingly.

SECTION 1. Section 386-95, Hawaii Revised Statutes, is amended to read:

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

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

On June 30 and December 31 of each year the employer shall make a report to the director with respect to each injury on which he is continuing to pay compensation, showing all amounts theretofore paid by him on account of the injury.

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

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

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

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

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

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

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

(Approved April 9, 1973.)

*Edited accordingly.

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

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

SECTION 1. Section 386-78, Hawaii Revised Statutes, is amended to read:

"Sec. 386-78 Compromise. (a) No compromise in regard to a claim for compensation pending before the director shall be valid unless it is approved by decision of the director as conforming to this chapter and made a part of such decision; provided that such compromise shall not prejudice claimant's right to reopen his case or to future medical benefits.

(b) No compromise in regard to a claim for compensation shall be effected and approved in any appeal until after the director has been notified of the proposed terms thereof and has had an opportunity to be heard relative thereto."

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

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

(Approved April 9, 1973.)

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

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

SECTION 1. Section 386-96, Hawaii Revised Statutes, is amended to read:

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

- (1) Within seven days after the date of first attendance or service rendered, an initial report shall be made to the department and to the employer of the injured employee in the manner prescribed by the department.
- (2) Interim reports to the same parties and in the same manner as prescribed in paragraph (1) shall be made at intervals of twenty-one days or less during continuing treatment.
- (3) Final report to the same parties and in the same manner as prescribed in paragraph (1) shall be made within seven days after termination of treatment.

*Edited accordingly.

No claim under this chapter for medical or surgical treatment, or hospital services and supplies, shall be valid and enforceable unless the reports are made as provided in this section, except that the director may excuse the failure to make the report within the prescribed period or a non-submission of said report when he finds it in the best interest of justice to do so. If the director does not excuse the submission of: (a) an initial or interim report within the time prescribed in (1) and (2) above, the delinquent physician shall be fined in an amount not to exceed \$25; (b) a final report which is 30 days late or a non-submission, the delinquent physician shall be fined in an amount not to exceed \$25.

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

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

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

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

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

(Approved April 9, 1973.)

ACT 13

H. B. NO. 213

A Bill for an Act Relating to Administrative Procedures.

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

SECTION 1. Section 91-3(b), Hawaii Revised Statutes, is amended to read:

"(b) Notwithstanding the foregoing, if an agency finds that an immi-

*Edited accordingly.

ACT 14

ment peril to the public health, safety, or morals or to livestock and poultry health requires adoption, amendment, or repeal of a rule upon less than twenty days' notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal."

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 9, 1973.)

ACT 14

H. B. NO. 214

A Bill for an Act Relating to the Sale of Agricultural and Vegetable Seeds.

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

SECTION 1. Section 150-23, Hawaii Revised Statutes, is amended to read:

"Sec. 150-23 Prohibiting sales; germination tests. No person shall sell, or offer, or expose for sale any agricultural or vegetable seed for sowing purposes within the State unless:

- (1) The seed has been labeled in accordance with sections 150-24 and 150-25;
- (2) No false or misleading advertisement has been made with respect to the seed;
- (3) The amount of noxious weed seeds are not in excess of tolerances established by the rules and regulations of the department of agriculture;
- (4) A testing of the seed has been completed within nine months, exclusive of the calendar month in which the test was completed, to determine the percentage of germination; provided, however, that the department may by regulation extend the nine-month limitation for seeds that have been packaged or processed under conditions that would greatly extend the viability of seeds."

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

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

(Approved April 9, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Hearings Held by Department of Agriculture.

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

SECTION 1. Section 26-16, Hawaii Revised Statutes, is amended to read:

“Sec. 26-16 Department of agriculture. The department of agriculture shall be headed by an executive board to be known as the board of agriculture.

The board shall consist of seven members, one who shall be a resident of the county of Hawaii, one who shall be a resident of the county of Maui, one who shall be a resident of the county of Kauai, and four at large. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint a chairman of the board from the members. The chairman of the board of land and natural resources shall be added as an ex officio voting member of the board.

The board may delegate to the chairman such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairman of the board shall serve in a full-time capacity. He shall, in that capacity, perform such duties, and exercise such powers and authority, or so much thereof, as may be delegated to him by the board.

The department shall promote the conservation, development, and utilization of agricultural resources in the State; assist the farmers of the State and any others engaged in agriculture by research projects, dissemination of information, crop and livestock reporting service, market news service, and any other means of improving the well-being of those engaged in agriculture and increasing the productivity of the lands, and administer the programs of the State relating to animal husbandry, entomology, farm credit, development of agricultural products, and the establishment and enforcement of the rules and regulations on the grading and labeling of agricultural products.

The chairman of the board of agriculture or his designated representative shall hold at least one publicly announced hearing on each of the islands of Oahu, Hawaii, Maui, Kauai and Molokai each year for the purpose of hearing complaints and suggestions, if any, from the farmers, ranchers, consumers and other interested groups and persons with respect to matters within the duties, powers, and authority of the department of agriculture.

The functions and authority heretofore exercised by the board of commissioners of agriculture and forestry (except the management of state parks and the conservation, development, and utilization of forest resources, including regulatory powers over the forest reserve provided in section 183-41, and of fish and game resources transferred to the department of land and natural resources), by the farm loan board as heretofore constituted, and by the University of Hawaii with respect to the crop and livestock reporting service and market news service, are transferred to the department of agriculture established by this chapter.”

ACT 16

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

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

(Approved April 9, 1973.)

ACT 16

H. B. NO. 340

A Bill for an Act Relating to Assignment of State Payments.

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

SECTION 1. Section 40-58, Hawaii Revised Statutes, is amended to read:

"Sec. 40-58 In favor of assignees. No assignment of moneys by a person to whom the State is directly indebted shall be effective unless the assignment is first approved by the comptroller. The comptroller may prescribe the form for an assignment, and may approve the assignment within a reasonable time period if, in his discretion, the rights or obligations of the State under any contract or other undertaking or under any law, rule, or order by a competent authority will not be prejudiced thereby. Upon approval of the assignment, the comptroller shall draw a warrant payable to the assignee. Except as to contracts encumbered by the comptroller, each expending agency, upon notification of the comptroller's approval of an assignment, shall prepare a claim for payment in accordance with the terms of the assignment."

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

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

(Approved April 9, 1973.)

ACT 17

S. B. NO. 141

A Bill for an Act Relating to the Duties of the Coroner, the Coroner's Physician and Others in Connection with Deaths, Cremations and Burials.

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

SECTION 1. Section 741-7, Hawaii Revised Statutes, is amended to read:

"Sec. 741-7 Reports of investigation.

(a) The coroner or deputy coroner shall reduce his findings to writing in the following form:

*Edited accordingly.

STATE OF HAWAII

County (or City and County) of.....

CORONER'S INQUEST

An inquisition taken at..... county (or city and county) of on the..... day of..... in the year 19..... before..... coroner of the county upon the body of..... there lying dead, resulted as follows:

That the deceased was named..... ; and a native of..... ; was aged about; that he came to h..... death, on the day of..... 19....., from.....

IN WITNESS WHEREOF, the coroner has hereunto set his hand on this day of 19.....

(b) Upon receipt of a certificate of death from the person in charge of the disposition of the body, the coroner's physician shall thereupon state the name of the disease or condition directly leading to the death; other significant conditions contributing to the death; day on which death occurred; and such other information as may be required on the certificate of death by the director of health in order to classify the death. The local agent of the department of health shall be notified in writing of the reason for the delay, if the cause of death cannot be determined within three days."

SECTION 2. Section 741-8, Hawaii Revised Statutes, is amended to read:

"Sec. 741-8 Duty to forward copy of reports to any county or prosecuting attorney and to person in charge of disposition of body.

(a) Every coroner, or deputy coroner, shall, without delay, forward to the county attorney in the case of coroners for the counties of Maui and Kauai, and the prosecuting attorney in the case of coroners for the city and county of Honolulu and the county of Hawaii, a true and correct copy of the inquisition.

(b) The coroner's physician shall, in addition, make available without delay the death certificate of the person whose death was investigated to the person in charge of the disposition of the body so that he may file the death certificate with the local agent of the department of health as required by section 338-9."

SECTION 3. Section 741-10, Hawaii Revised Statutes, is amended to read:

"Sec. 741-10 Decent burial. When any coroner or deputy coroner takes an inquest upon the dead body of a stranger or indigent person or, being called for that purpose, does not think it is necessary, on view of the body, that any inquest should be taken, he shall cause the body to be decently buried. A burial-transit permit authorizing a burial shall be secured from the local agent of the department of health by the person in charge of such burial."

ACT 17

SECTION 4. Section 741-16, Hawaii Revised Statutes, is amended to read:

“Sec. 741-16 Disposal of decomposed remains. The coroner’s physician may order forthwith the cremation of the remains of any person appearing to have come to death under any of the circumstances set forth in section 741-3 if, in his opinion, the remains constitute an immediate menace to the public health. The cremation shall be supervised by the coroner and shall take place only after a reasonable amount of investigation has taken place in an effort to establish the identity of the remains and the cause of death. Such cremation shall take place after a burial-transit permit authorizing cremation has been secured from the local agent of the department of health.”

SECTION 5. Section 338-1, Hawaii Revised Statutes, is amended to read:

“Sec. 338-1 Definition of terms. As used in this part, unless the context otherwise indicates:

- (1) “Public health statistics” includes the registration, preparation, transcription, collection, compilation, and preservation of data pertaining to births, adoptions, legitimations, deaths, fetal deaths, morbidity, marital status, and data incidental thereto.
- (2) “Live birth” is the complete expulsion or extraction from its mother of a product of conception that did, after complete expulsion or extraction from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscle, whether or not the umbilical cord was cut or the placenta attached.
- (3) “Fetal death” is death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, that did not, after complete separation from the mother, breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscle.
- (4) “Dead body” means lifeless human body, or such parts of the human body, or the bones thereof, from the state of which it reasonably may be concluded that death recently occurred.
- (5) “Person in charge of the disposition of the body” means any person who places, or causes to be placed, a stillborn child, or dead body, or ashes, after cremation, in a grave, vault, urn, or other receptacle, or otherwise disposes thereof.
- (6) “Physician” means a person legally authorized to practice medicine, osteopathy, or the science of naturopathy in the State.”

SECTION 6. Section 338-9, Hawaii Revised Statutes, is amended to read:

“Sec. 338-9 Filing and preparation of death and fetal death certificates.
(a) The person in charge of the disposition of the body shall file with the local agent of the department of health in the district in which the death or fetal

death occurred, or a dead body was found, a certificate of death or fetal death within three days after the occurrence.

(b) In preparing a certificate of death or fetal death the person in charge of the disposition of the body shall:

- (1) Obtain and enter on the certificate the personal data and other information pertaining to the deceased person required by the department from the person best qualified to supply them;
- (2) Present the certificate of death to the physician last in attendance upon the deceased, or to the coroner's physician who shall thereupon certify the cause of death to his best knowledge and belief; present the certificate of fetal death to the physician, midwife, or other person in attendance at the fetal death, who shall certify the fetal death and such medical data pertaining thereto as he can furnish;
- (3) Notify immediately the appropriate local agent, if the death occurred without medical attendance, or if the physician last in attendance fails to sign the death certificate. In such event the local agent shall inform the local health officer, and refer the case to him for immediate investigation and certification of the cause of death prior to issuing a permit for burial, or other disposition of the body. When the local health officer is not a physician or when there is no such officer, the local agent may complete the certificate on the basis of information received from relatives of the deceased or others having knowledge of the facts.

If the circumstances of the case suggest that the death or fetal death was caused by other than natural causes, the local agent shall refer the case to the coroner for investigation and certification.

(c) A death certificate may be filed by the next of kin and accepted by the local agent without meeting the requirements set forth above when there has been a judicial finding and declaration by a court of record that a person is dead; provided, that there shall be attached to the death certificate the judgment, decision, order or other document of a court of record adjudging the person to be dead."

SECTION 7. Section 338-10, Hawaii Revised Statutes, is amended to read:

"Sec. 338-10 Delayed determination of the cause of death. If the cause of death cannot be determined within three days, the certification of its cause may be filed after the prescribed period, but the attending physician or coroner's physician shall notify in writing the local agent of the department of health of the district in which the death occurred, of the reason for the delay, in order that a permit for the disposition of the body may be issued."

SECTION 8. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

*Edited accordingly.

ACT 18

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

(Approved April 10, 1973.)

ACT 18

H. B. NO. 470

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

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

SECTION 1. Section 171-48, Hawaii Revised Statutes, is amended to read:

“Sec. 171-48 Residence lots, requirements. In the disposition of lots for residence purposes:

- (1) No person shall purchase or lease, directly or indirectly through an agent, nominee, third person, or otherwise, any interest in more than one lot.
- (2) No person and no unmarried minor child, whose spouse or parent purchases or leases a lot, shall be qualified to purchase or lease any lot.
- (3) The board shall require the lessee or purchaser to construct, within three years after disposition, a dwelling of such size and value as shall be prescribed by the board and to use the lot and dwelling as his principal domicile; provided that the board may, for good and sufficient cause and to alleviate hardship, extend the building deadline, but for a period not exceeding one year.
- (4) The board shall establish such additional restrictions, requirements or conditions in accordance with the powers granted to it in section 171-6(6).
- (5) No person shall be qualified to purchase or lease any lot by drawing if his gross income including the gross income of his spouse exceeds \$20,000 per year. In determining gross income, the standard income tax exemption for each of his dependents, as determined by the income tax laws of the State, shall be allowed.
- (6) No person shall be qualified to purchase or lease any lot who, or whose spouse, or both of them, owns or is a lessee, under a residential lease for a term exceeding twenty years (including any periods for which the lease may be extended or renewed at the option of the lessee), of any land situated within or without the State suitable for residential use.”

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

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

(Approved April 10, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the Determination of Employer Contributions to the Employees' Retirement System.

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

SECTION 1. Section 88-122, Hawaii Revised Statutes, is amended to read:

"Sec. 88-122 Determination of employer normal cost and accrued liability contributions. Based on regular interest and such mortality and other tables as are adopted by the board of trustees, the actuary engaged by the board shall, on the basis of successive annual actuarial valuations, determine the employer's normal cost accrued liability contributions for each year beginning July 1:

- (1) The normal cost for each year after June 30, 1971 shall be the percentage of the aggregate annual compensation of employees as of March 31 of the preceding year which, if contributed over each employee's prospective period of service and added to his prospective contributions, will be sufficient to provide for the payment of all future benefits after subtracting the sum of the unfunded accrued liability as of the beginning of the year and the assets of the pension accumulation fund as of the end of the preceding year.
- (2) The unfunded accrued liability as of July 1, 1971 shall be fixed at \$250,000,000. The accrued liability contribution for each year after June 30, 1971 shall be the level annual payment required to liquidate such unfunded accrued liability over the remainder of the period of fifty years beginning July 1, 1964.
- (3) The unfunded accrued liability as of the beginning of a year may, at the discretion of the board, be adjusted to take account of changes in regular interest or such mortality and other tables as are adopted by the board, or to reflect changes in the liability with respect to service rendered in previous years."

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

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

(Approved April 12, 1973.)

A Bill for an Act Relating to Enforcement of Aeronautics Laws.

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

*Edited accordingly.

ACT 21

SECTION 1. Section 261-17(a), Hawaii Revised Statutes, is amended to read:

“(a) Enforcement officers. The director of transportation, officers, and employees of the department of transportation, and every state and county officer charged with the enforcement of state laws and ordinances, shall enforce and assist in the enforcement of this chapter and of all rules, regulations, and orders issued pursuant thereto and of all other laws of the State relating to aeronautics; and in that connection each of the persons may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where airports, air navigation facilities, or other aeronautical activities are operated or conducted. In aid of the enforcement of this chapter, the rules, regulations, and orders issued pursuant thereto, and all other laws of the State relating to aeronautics, the powers of police officers are conferred upon the director, and such of the officers, employees, agents and representatives of the department as may be designated by the director to exercise such powers, including the power to serve and execute warrants and arrest offenders, and the power to serve notices and orders. For the purposes of this subsection the term ‘agents and representatives’ includes persons performing services at airports under contract with 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 12, 1973.)

ACT 21

H. B. NO. 334

A Bill for an Act Relating to Income Tax Exclusion for Vietnam Prisoners of War.

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

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

“**Sec. 235-2 Same; “Internal Revenue Code.”** “Internal Revenue Code” means the Internal Revenue Code of 1954 as it applies to the determination of gross income, adjusted gross income, and taxable income, except those provisions of the Internal Revenue Code which pursuant to this chapter do not apply. For each taxable year specified in column 1 below the Internal Revenue Code meant is the Internal Revenue Code of 1954 as amended as of June 7, 1957 and as further amended by the acts of Congress, or portions thereof, enumerated in column 2 (section numbers in column 2 are inclusive). Amendments to the Code not herein enumerated shall not be operative for the purposes of this chapter unless specifically adopted.

*Edited accordingly.

Column 1

Taxable year beginning on or after January 1, 1958, or which in whole or in part is governed by this chapter pursuant to the provisions of Act 1 of the Special Session Laws of 1957, and subsequent taxable years.

Taxable year beginning on or after January 1, 1959, or beginning in 1958 but ending on or after June 30, 1959, and subsequent taxable years.

Taxable year beginning on or after January 1, 1961, and subsequent taxable years.
 Taxable year beginning on or after January 1, 1962, and subsequent taxable years.
 Taxable years ending after December 31, 1962, but only

Column 2

Public Laws 85-165, 85-320, and 85-367; Public Law 85-866, Title I, sections 4-12, 19, 20 (with respect to sales, exchanges, and distributions made after December 31, 1957), 21, 22, 24, 25, 28, 29 (the provisions of section 29 being applicable as agreed upon in connection with the consent of the department of taxation to the change in the method of accounting, and reading "the first taxable year beginning after December 31, 1953, and ending after August 16, 1954" as "the first taxable year governed by the Income Tax Law of 1957"), 34, 35, 37(c), 38, 43-48, 52(b), 53, 55, 95, and 97.

Public Law 85-866, Title I, sections 2 (with respect to obligations acquired after December 31, 1957), 3 (with respect to amounts received as a statutory subsistence allowance for a period after September 30, 1958), 13, 15 (with respect to the costs and improvements there designated), 17, 23, 26, 27, 30 (the provisions of section 30 being applicable to the extent they relate to deductions for contributions and gifts), 37(b) and (d), 39, 49, 50, 51, 52(a), 54, 57(a), 58 (with respect to the amounts there designated), 101 (with respect to taxable years of regulated investment companies beginning on or after March 1, 1958), Title II, sections 202, 204 (with respect to property acquired by purchase after December 31, 1958).

Public Law 86-564, Title III, section 302.

Public Law 87-834, sections 22 and 28.

Public Law 87-834, section 4.

ACT 21

in respect of periods after December 31, 1962.

Taxable year beginning on or after January 1, 1963, and subsequent taxable years.

Taxable year beginning on or after January 1, 1965.

Public Law 87-834, sections 13 and 21;

Public Law 87-863, section 2.

Public Law 86-376, section 1(a);

Public Law 86-470, section 3(a);

Public Law 86-594, section 1; Pub-

lic Law 86-779, sections 6(a), (b),

and (c), 7(a) and (b); Public Law

87-256, section 110(a);

Public Law 87-834, section 3(a);

Public Law 87-858, section 2(a)

and (b);

Public Law 87-863, section 1(a)

and (b);

Public Law 88-4, section 1; Public

Law 88-272, sections 203(d) (with

respect to dispositions of elevators

and escalators made in taxable

years beginning on or after January

1, 1965), 204(a) (with respect to

group-term life insurance provided

in taxable years beginning on or

after January 1, 1965), 205(a) (with

respect to amounts attributable to

periods of absence beginning on or

after January 1, 1965), 206(a) and

(b)(2)(3) and (4) (with respect to

sales on or after January 1, 1965),

207(a), (b)(1)(2)(3), and (c)(2),

208(a) (with respect to losses sus-

tained in taxable years beginning on

or after January 1, 1965), 211(a),

212(a), 213(a) and (b) (with respect

to expenses incurred in taxable

years beginning on or after January

1, 1965), 217(a), 224(a), (b), and (c)

(with respect to certain deferred

payments on sales or exchanges of

property occurring in taxable years

beginning on or after January 1,

1965), 230(a) and (b) (with respect

to capital loss carryovers in taxable

years beginning on or after January

1, 1965, and further provided that

in the case of a taxpayer other than a corporation, there shall be treated

Taxable years ending after December 31, 1965 but only with respect to compensation for periods of active service after such date.

Taxable years ending after December 31, 1966, but only with respect to contributions made after such date.

Taxable years beginning January 1, 1967.

Taxable year beginning on or after January 1, 1968.

Taxable years beginning on or after January 1, 1966.

as a short-term capital loss in the first taxable year beginning after December 31, 1964, any amount which is treated as a short-term capital loss in such year as in effect immediately before May 11, 1965), 231(a) and (b) (with respect to dispositions of certain depreciable realty in taxable years beginning on or after January 1, 1965); Public Law 88-554, section 1. Internal Revenue Code of 1954, section 112, as amended by Public Law 89-739.

Public Law 88-272, section 209, with the exceptions of section 209(c)(2) and section 209(f).

Public Law 90-78, section 1.

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.

Public Law 87-792, section 5. Internal Revenue Code, section 112(d), as added by Public Law 92-279.”

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(a). This Act upon its approval shall apply to the taxable years stated in section 1 of this Act.

(b) If refund or credit of any overpayment for any taxable year resulting from the application of Internal Revenue Code section 112(d) as added by Public Law 92-279 (including interest, additions to the tax, and additional amounts) is prevented at any time before the expiration of the applicable period specified in subsection (c) by the operation of any law or rule of law, said refund or credit of overpayment may, nevertheless, be made or allowed if the claim is filed before the expiration of said applicable period specified in subsection (c).

*Edited accordingly.

ACT 22

(c) For purposes of subsection (b), the applicable period for any individual with respect to any compensation is the period ending on whichever of the following days is the later:

- (1) the day which is one year after the date of the enactment of the Act, or
- (2) the day which is 2 years after the date on which it is determined that the individual's missing status (within the meaning of section 112(d) of the Internal Revenue Code of 1954) has terminated for purposes of said section 112.

(Approved April 17, 1973.)

ACT 22

S. B. NO. 125

A Bill for an Act Relating to Application Fees for a Nursing Home Administrator's License.

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

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

"Sec. 457B-9 Fees. An applicant for license to practice nursing home administration by examination shall pay a fee of \$40. A fee of \$20 is required for each reexamination. Application fees shall not be refundable.

The annual fee for a temporary license or a renewal of license shall be \$25. The annual renewal fee shall be paid to the board on or before June 30 of each year. Failure, neglect, or refusal of any duly licensed nursing home administrator to pay the annual renewal fee shall constitute a forfeiture of the nursing home administrator's license. The license may be restored within 3 years upon written application therefor and the payment to the board of all delinquent fees plus a penalty of \$10 and evidence of participation in educational programs.

All fees and other moneys collected or received under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund."

SECTION 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 17, 1973.)

ACT 23

S. B. NO. 163

A Bill for an Act Relating to Fees for the Administration of the Federation Licensing Examination for Medical Licensure.

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

SECTION 1. Chapter 453 is amended by adding a new section to be appropriately designated and to read:

*Edited accordingly.

“Sec. 453- Proctoring fees. The fee to administer the federation licensing examination (FLEX) to an out-of-state candidate who is temporarily in this State and who desires to take the examination for medical licensure for another state shall be \$10 for each day or any part thereof.”

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 17, 1973.)

ACT 24

S. B. NO. 1221

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

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

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 87-4 State and county contributions to the fund. The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$5 for each of their respective employee-beneficiaries and \$15 for each respective employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan, provided, that the monthly contributions shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State or the appropriate county shall be \$15 for both of them.

The State or the appropriate county shall make a monthly contribution of \$2.04 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provisions to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund or general revenues appropriated for that purpose.

The State through the department of budget and finance and the several counties through their respective departments of finance shall pay to the fund a monthly contribution of \$2.25 for each of their respective employees to be used towards the payment of group life insurance benefits for each employee.

The contributions shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund.”

SECTION 2. Section 87-6, Hawaii Revised Statutes, is amended to read as follows:

*Edited accordingly.

ACT 24

“Sec. 87-6 Contributions by an employee-beneficiary. Each employee-beneficiary shall make a monthly contribution to the fund amounting to the difference between the monthly charge of the health benefits plan selected by the employee-beneficiary and the State’s and county’s contributions to the fund.

During the period the health benefits plan selected by an employee-beneficiary is in effect, the employee-beneficiary shall authorize, if allowed under present laws, that his contribution be withheld and transmitted to the fund monthly by the comptroller, county auditor or finance officer from whom he receives his compensation, pension, or retirement pay. If, however, an employee-beneficiary’s contribution to the fund is not withheld and transmitted to the fund, the employee-beneficiary shall pay his monthly contribution (1) directly to the fund by the tenth day of each month, in the case of an employee-beneficiary who normally receives his compensation from the comptroller of the State, or (2) in the case of all other employee-beneficiaries, to the respective county auditor or finance officer from whom he normally receives his compensation for transmittal to the fund by the tenth day of each month.

Notwithstanding any other law to the contrary, an employee-beneficiary who is a retired employee or upon his death his beneficiary as described in section 87-1(6) shall not be required to make any contribution to the fund. The monthly contribution of an employee-beneficiary who is a retired employee, or upon his death his beneficiary as described in section 87-1(6), shall be financed by the State through the department of budget and finance and the several counties through their respective departments of finance for each of their respective employee-beneficiaries.”

SECTION 3. Section 87-25, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 87-25 Determine eligibility of employee or dependent. The board of trustees shall establish and adopt eligibility requirements to determine which employee and dependent may qualify as an employee-beneficiary or dependent-beneficiary, respectively; provided, that a retired member of the employees’ retirement system, a county pension system, or a police, firemen, and bandsmen pension system of the State or county, or his dependent shall be eligible to qualify as an employee-beneficiary or dependent-beneficiary, whether or not the retired member was actively employed by the State or county at the time of his retirement. Only an employee-beneficiary or dependent satisfying the eligibility requirements may qualify as an employee-beneficiary or dependent-beneficiary.”

SECTION 4. Section 87-27, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) There shall be no duplication of benefits payable under federal medicare but the plan so established by the board shall be supplemental to the federal medicare plan.
- (2) The contribution for voluntary medical insurance coverage under federal medicare may be paid by the fund, in such manner as the board shall specify, in the case of an employee-beneficiary who is a retired employee, and his spouse while he is living, and after his death his spouse provided she qualifies as an employee-beneficiary; provided that the counties, through their respective departments of finance, shall reimburse the fund for any contributions made for county employee-beneficiaries under this paragraph.
- (3) The benefits available under the plan, when taken together with the benefits available under the federal medicare plan shall, as nearly as is possible, approximate the benefits available under the plans set forth in section 87-22. If, for any reason, a situation develops where the benefits available under the supplemental plan and the federal medicare plan substantially differ from those that would otherwise be available, the board is authorized to correct this inequity to assure substantial equality of benefits.
- (4) Any employee-beneficiary or dependent beneficiary who is enrolled in the federal medicare plan shall participate in the supplemental plan to be set up hereunder, and any employee-beneficiary or dependent beneficiary eligible for, but not enrolled in the federal medicare plan, may participate in such other plans as are set forth in section 87-22."

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii to be expended by the department of budget and finance for the 1973-74 biennium the sum of \$275,000, or so much thereof as may be necessary, for the purposes of this Act.

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

SECTION 7. This Act shall take effect on July 1, 1973.

(Approved May 3, 1973.)

ACT 25

S. B. NO. 87

A Bill for an Act Relating to Morbidity and Mortality Information for Cancer Research.

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

SECTION 1. Chapter 324, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

*Edited accordingly.

“PART III. CANCER STUDIES

Sec. 324-21 Sources of information protected. Any person, public or private medical facility, or social or educational agency, may provide information, interviews, reports, statements, memoranda, or other data or relevant material relating to individuals with cancer to the Hawaii tumor registry. Such information may be used in the course of any cancer research study approved by the cancer commission of the Hawaii medical association.

No liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided the information or material, or by reason of having released or published the findings, conclusions, and summaries of the researchers to advance medical research and medical education.

Sec. 324-22 Identity of persons studied and material, restrictions. (a) The material collected under this part shall be used or published only for the purpose of advancing medical research, medical education, or education of the public in the interest of reducing morbidity or mortality; provided that the Hawaii tumor registry may reveal all relevant information to a patient's attending physician.

(b) The identity, or any group of facts which tends to lead to the identity, of any person whose condition or treatment has been studied shall be confidential and shall not be revealed in any report or any other matter prepared, released, or published. Researchers may, however, use the names of persons when requesting additional information for research studies approved by the cancer commission; provided that when a request for additional information is to be made directly from a patient, the researcher shall first obtain approval for such request from the patient's attending physician.

(c) The use of such additional information obtained by researchers shall also be governed by subsection (a) and in addition, where the patient is still living and the information is to be obtained directly from the patient, the researcher shall first obtain the approval of the patient, his immediate family, or attending physician, in that order of priority.

Sec. 324-23 Legal proceedings; information excluded from. Except as otherwise provided, findings, conclusions, or summaries resulting from medical studies within the scope of this part shall not be used or made available in any legal proceeding. Any information provided to any researcher or study committee shall not be used or made available in any legal proceeding unless it is unobtainable from the original source. In such event, the judicial officer shall in chambers inspect the findings, conclusions, or summaries and make available factual information contained therein.

Sec. 324-24 Penalty. Any person violating this part shall be guilty of a misdemeanor and fined not more than \$500.”

SECTION 2. Section 321-43, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 321-43 Statistical activities.** The department of health shall engage in the collection and analysis of statistical information on the morbidity and mortality of cancer in the State. The morbidity data may be collected in co-

operation with the Hawaii state medical association and the Hawaii cancer society. The mortality data as collected from death certificates shall be analyzed by the staff of the department in order to determine the significance of cancer in the State by race, sex, age, occupation, site in the body, and in any other way found desirable for the purpose of determining the areas where greatest emphasis should be laid in the statewide cancer control program. The morbidity data shall be used in determining the prognosis and chance of cure, as well as the number of persons cured of cancer in the State; for assisting in the direction of tumor research; for determining, if possible, the tendencies of benign tumors to become malignant; and for assisting in the follow-up of diagnosed or treated tumor cases as requested by attending physicians. All statistical material collected under this section shall be considered confidential as to the names of persons or physicians concerned, except that researchers may use the names of such persons when requesting additional information for research studies when such studies have been approved by the cancer commission of the Hawaii medical association.”

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

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

(Approved May 4, 1973.)

ACT 26

S. B. NO. 660

A Bill for an Act Relating to Adverse Possession.

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

SECTION 1. The purpose of this Act is to change the length of time a person has to be in adverse possession of real property from ten years to twenty years in order to bring an action for the purpose of establishing title to real property.

SECTION 2. Subsection 12(a), Act 90, Session Laws 1972, is amended as follows:

“Sec. 12. Chapter 669 of the Hawaii Revised Statutes is amended as follows:

(a) Section 669-1 is amended to read as follows:

‘Sec. 669-1 **Object of action.** (a) Action may be brought 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 the adverse claim.

(b) Action for the purpose of establishing title to real property may be brought by any person who has been in adverse possession of the real property for not less than twenty years.

*Edited accordingly.

ACT 27

(c) Action under subsection (a) or (b) shall be brought in the circuit court of the circuit in which the property is situated.”

SECTION 3. Section 665-3, Hawaii Revised Statutes, is hereby amended to read as follows:

“**Sec. 665-3 Defenses.** In such actions no person shall be allowed to defend against the State on the ground of being in possession of the property, unless he proves that he is in possession under color of title, or has been in adverse possession thereof for a period not less than twenty years and that the taxes upon the property have been paid by him during the last twelve years of the period.”

SECTION 4. Section 657-31, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 657-31 Ten years.** No person shall commence an action to recover possession of any lands, or make any entry thereon, unless within twenty years after the right to bring the action first accrued.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 6. This Act shall take effect upon its approval and shall govern any case or controversy which shall arise after the effective date of this Act; provided, however, that this Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

(Approved May 4, 1973.)

ACT 27

S. B. NO. 990

A Bill for an Act Relating to Civil Identification.

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

SECTION 1. Section 28-38, Hawaii Revised Statutes, is amended to read:

“**Sec. 28-38 Information to be secured.** The department of the attorney general shall require, collect, secure, and make and preserve a written record of the following items of information so far as it is practicable to secure the same, with respect to each applicant for registration:

- (1) The name of the person applying to be registered (hereinafter called the ‘registrant’ or ‘applicant’), the street and number or address of his place of habitation in the State, and his residence and business telephone numbers, if any;
- (2) Whether he has ever been fingerprinted and, if so, where, when, and why;

*Edited accordingly.

- (3) His occupation and any pertinent data relating thereto;
- (4) His nationality or racial extraction;
- (5) His citizenship status;
- (6) The date and place of his birth;
- (7) His personal description including sex, height, weight, hair, eyes, complexion, build, scars, and marks;
- (8) The fingerprints of both hands of the registrant; provided, that this requirement shall not apply to minors until they reach the age of six years, except as may be requested by a parent or guardian;
- (9) The name, relationship, and address of the nearest relative or other person to be notified in case of sickness, accident, death, emergency, or need, of each person registered, if such notification is desired;
- (10) The social security number of the registrant."

SECTION 2. Section 28-40, Hawaii Revised Statutes, is amended to read:

"Sec. 28-40 Identification certificates; form. The department of the attorney general, after taking the fingerprints of each registrant as provided in this part (except as otherwise provided in the case of children under six years of age), and after securing the information required by or pursuant to this part, shall issue to each registrant a certificate of identification in such form, and with such information, as the attorney general deems necessary and practicable, the certificate to contain, among other things: his social security number; the date of issue; the name, residence, citizenship status, date of birth (if known), the registrant's signature, a facsimile signature of the attorney general, the signature of the officer or employee issuing the certificate (to be designated as the 'registrar'), the fingerprints of the index and middle fingers of each of the registrant's hands (except as otherwise provided in the case of children under six years of age), the name and address of the person to be notified in case of need, and such other personal identification data as the attorney general deems necessary and practicable. Upon the fingerprinting of each child attaining the age of six years after having been registered, his previous certificate shall be canceled and a new certificate shall be issued under the same number, bearing his fingerprints."

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

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

(Approved May 4, 1973.)

ACT 28

S. B. NO. 1284

A Bill for an Act Relating to Special Funds of the State.

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

*Edited accordingly.

ACT 28

SECTION 1. Section 364-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 364-9 Bonds. In addition to the \$20,000,000, issued by the treasurer of the Territory, the director of finance may issue from time to time general obligation bonds of the State to an amount not exceeding \$5,000,000 in the manner provided for by part I of chapter 39. The proceeds of such bonds shall be used solely for the making or purchase of veterans mortgages as provided in this chapter.

All repayments of principal on mortgages made or purchased under this chapter, all moneys received from the veterans administrator with relation thereto, all realizations on foreclosure of such mortgages, all interest received on mortgages made or purchased under this chapter, all fees and charges received from mortgagees or veterans under this chapter after service charges of mortgages have been paid, and all other moneys received from the veterans administrator shall be paid into a special fund in the state treasury, to be called the veterans bonds fund, and used first to pay the principal and interest on bonds issued under this chapter, and then to pay the expenses of the director in administering this chapter. All moneys in the veterans bonds fund are appropriated for the payment of principal and interest on bonds issued under this chapter and the payment of service charges to mortgagees, as the same become due and payable, and for payment of the expenses of the director in administering this chapter, including employees' salaries and other expenses in connection therewith. To the extent that moneys in the veterans bonds fund are inadequate to meet the principal and interest on bonds issued under this chapter, 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.

If there are moneys in general, special, or revolving funds in the State which, in the director of finance'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 chapter. The loans shall in general comply with sections 36-23 and 36-24."

SECTION 2. Section 364-12, Hawaii Revised Statutes, is repealed.

SECTION 3. All moneys in the veterans bond special fund are transferred to the veterans bond fund, and the veterans bond special fund is repealed by this Act.

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

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

(Approved May 4, 1973.)

*Edited accordingly.

ACT 29

S. B. NO. 1386

A Bill for an Act Relating to the Lapsing of Appropriations.

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

SECTION 1. The Legislature recognizes that federal aid projects for which funds have been appropriated must be expended in order to qualify for federal aid financing and reimbursement and that the encumbrance and expenditure of these funds may require periods longer than the five year lapsing period provided in existing appropriation bills enacted by the Sixth Legislature. The purpose of this bill is to exempt appropriations made by (1) Act 68, Session Laws of Hawaii 1971 as amended by Act 202, Session Laws of Hawaii 1972; (2) Act 197, Session Laws of Hawaii 1971; and (3) Act 176, Session Laws of Hawaii 1972, for projects which qualify for federal aid financing and reimbursement from the lapsing provisions contained in those Acts.

SECTION 2. Notwithstanding the lapsing provisions of (1) Section 25 of Act 68, Session Laws of Hawaii 1971 as amended by Section 6 of Act 202, Session Laws of Hawaii 1972; (2) Section 14 of Act 197, Session Laws of Hawaii 1971; and (3) Section 13 of Act 176, Session Laws of Hawaii 1972, appropriations made by these Acts for capital investment projects, the expenditure of which appropriations is necessary to qualify for federal aid financing and reimbursement, shall not lapse.

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

(Approved May 4, 1973.)

ACT 30

H. B. NO. 34

A Bill for an Act Relating to Eminent Domain Proceedings in Circuit Courts, Amending Sections 101-20, 101-27, 101-30, 101-34, 101-52, and 101-54, Hawaii Revised Statutes.

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

SECTION 1. Section 101-20, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 101-20 Notice. When the owner or claimant of the land sought to be condemned is known, the summons shall be served by delivering to him, or to an agent authorized by appointment or by law to receive service of process, a certified copy thereof, together with a copy of the plaintiff's complaint. If the owner or claimant, although known, was never a resident of the State or has removed therefrom or cannot for any reason be served with process within the State, or if the owner or claimant is unknown, then the service of the summons upon the owner or claimant may be made in the manner provided by sections 634-59, 634-60, and 634-63. If the defendants are joined in the complaint by describing them as a class, then the service of the summons upon the defendants may be made by publication in a newspaper of general circulation in the county in which the property is situated, in the manner pro-

ACT 30

vided by sections 634-59(3) and 634-63, and by giving such further notice as the court may order. The service of summons, as provided for in this section, shall be sufficient to give the court jurisdiction to proceed with and finally determine the case.”

SECTION 2. Section 101-27, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 101-27 Defendant allowed damages upon abandonment or dismissal of proceedings. Whenever any proceedings instituted under this part are abandoned or discontinued before reaching a final judgment, or if, for any cause, the property concerned is not finally taken for public use, a defendant who would have been entitled to compensation or damages had the property been finally taken, shall be entitled, in such proceedings, to recover from the plaintiff all such damage as may have been sustained by him by reason of the bringing of the proceedings and the possession by the plaintiff of the property concerned if the possession has been awarded including his costs of court, a reasonable amount to cover attorney’s fees paid by him in connection therewith, and other reasonable expenses; and the possession of the property concerned shall be restored to the defendant entitled thereto. Issues of fact arising in connection with any claim for such damage shall be tried by the court without a jury unless a trial by jury is demanded by either party, pursuant to the rules of court, within ten days from the date of the entry of an order or judgment allowing the discontinuance of the proceedings, or dismissing the proceedings or denying the right of the plaintiff to take the property concerned for public use. In the event judgment is entered in favor of the defendant and against the plaintiff, any moneys which have been paid, and any additional security which has been furnished, by the plaintiff to the clerk of the court under sections 101-28 and 101-29, shall be applied or enforced toward the satisfaction of the judgment. In the case of the State or a county, if the moneys so paid to the clerk of the court are insufficient, then the balance of such judgment shall be paid from any moneys available or appropriated for the acquisition of the property concerned, or if that is insufficient then the same shall be paid from the general fund of the State or county, as the case may be.”

SECTION 3. Section 101-30, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 101-30 Order of possession. No order of possession shall issue unless the plaintiff has paid to the clerk of the court issuing the order, for the use of the persons entitled thereto, the amount of the estimated compensation or damages stated in the motion for the issuance of the order and, in the case of a plaintiff other than the State or a county, has so paid such additional amount, or furnished such additional security, as may be required by the court.

An order of possession issued under section 101-29 shall not become effective until (1) summons in the action has been served personally on the defendants within or without the State, as provided in section 101-20 or section 634-60, or (2) the first publication of the summons directed to the defendants has occurred and notice has been posted as provided in section 634-59, or (3) the papers mailed to the defendants have been received as provided in section

634-60, or (4) the best notice practicable under the circumstances has been given as ordered by the court for good cause shown.”

SECTION 4. Section 101-34, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 101-34 Issue as to use may be set for immediate trial.** If the defendant in his answer, or in return to the order to show cause, issued under section 101-28, denies that the use for which the property sought to be condemned is a public use, or a superior public use within the meaning of section 101-7, the issue may, upon the motion of any party, be set for immediate trial, without a jury and without regard to position on the calendar. Notwithstanding any provision of section 641-2, an interlocutory appeal shall lie from the decision on the issue as of right, and the appeal shall be given precedence in the supreme court. Failure of the defendant to raise the issue within ten days after service of an order granting immediate possession shall be deemed an admission that the use is a public use or a superior public use, as the case may be.”

SECTION 5. Sections 101-52 and 101-54, Hawaii Revised Statutes, are amended by deleting the words shown in the second column below opposite the section number, wherever the same appear in the designated section, and inserting in lieu thereof the words shown in the third column:

SECTION NUMBER	WORDS TO BE DELETED	WORDS TO BE INSERTED
101-52	circuit judges at chambers	circuit courts
101-52	circuit judge at chambers	circuit court
101-52	on his own motion	on its own motion
101-54	sitting as a circuit judge at chambers	sitting without a jury

SECTION 6. In sections 1 to 4, statutory material to be repealed is bracketed, and new material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 7. This Act shall take effect on July 1, 1973.

(Approved May 4, 1973.)

A Bill for an Act Relating to Statutory Revision, Conforming Titles 1 to 27 of the Hawaii Revised Statutes to the Rules of Court and Titles 28 to 37 as

*Edited accordingly.

ACT 31

Amended by the Sixth Legislature, 1972 Regular Session, Effective July 1, 1973; Amending Sections 1-21, 1-29, 1-32, 11-175, 28-27, 91-14, 92-12, 132-12, 157-13, 172-3, 281-17, 346-13, 353-7, 353-96, 356-13, 360-2, 371-6, 371-12, 380-10, 380-14, 383-99, 403-180, 403-184, 403-192, 409-13, 416-95, 416-125, 417-23, 418-13, 431-103, 431-244, 431-669, 431-670, 431-677, 431-683, 431-686, 434-30, 435-12, 437-6, 439-20, 443-26, 444-18, 448-18, 452-20, 457-12, 458-10, 467-15, 471-11, and 485-19, Hawaii Revised Statutes.

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

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

“Sec. 1-21 “Oath.” The word “oath” includes a solemn affirmation.”

SECTION 2. Section 1-29, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 1-29 Computation of time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a Sunday or holiday and then it is also excluded. When so provided by the rules of court, the last day also shall be excluded if it is a Saturday.”

SECTION 3. Section 1-32, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 1-32 Acts to be done on holidays. Whenever any act of a secular nature other than a work of necessity or mercy is appointed by law or contract to be performed upon a particular day, which day falls upon a Sunday or holiday, the act may be performed upon the next business day with the same effect as if it had been performed upon the appointed day. When so provided by the rules of court, the act also may be performed upon the next business day with the same effect as if it had been performed upon the appointed day if the appointed day falls on a Saturday.”

SECTION 4. Section 28-27, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 28-27 Process addressed to whom. Any process of any court of record shall be addressed to the sheriff or his deputy, or to a chief of police, except as may be otherwise provided by law or rule of court, and the sheriff or his deputy, or a chief of police, or any officer serving under them shall execute the same at their peril, according to the tenor thereof, and they shall not be liable for any damages resulting from the execution of the process.”

SECTION 5. Section 91-14(d), Hawaii Revised Statutes, is amended to read as follows:

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

permit subsequent corrections or additions to the record when deemed desirable.”

SECTION 6. Section 157-13, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 157-13 General powers.** The department of agriculture through its board is hereby vested with the following powers:

- (1) 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 chapter 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.
- (2) 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 chapter; and by leave of a circuit court, to order the taking of 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 chapter, or the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of the district court of the circuit in which the person resides or of the circuit in which the person may be personally served, on application of the board or its authorized representatives, 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.
- (3) To control the intrastate shipment of milk including shipment of milk between counties.
- (4) To make and enforce all rules and regulations and all orders necessary to carry out this chapter.

The operation and effect of any provision of this chapter conferring a general power shall not be impaired or qualified by the granting of a specific power or powers.”

SECTION 7. Section 356-13, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 356-13 Hearings, witnesses, etc.** The Hawaii housing authority shall also have power to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to issue subpoenas requiring the attendance of

ACT 31

witnesses or the production of books and papers, and to order the examination of witnesses who are unable to attend before the authority, or excused from attendance, or by leave of court as provided by chapter 624, who are out of the State; and to make available to such agencies, boards, or commissions as are charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its territorial limits, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, safety, or welfare. Any of the investigations or examinations provided for in this chapter may be conducted by the authority or by a committee appointed by it, consisting of one or more commissioners, or by counsel, or by an officer or employee specially authorized by the authority to conduct it. Any commissioner, counsel for the authority, or any person designated by it to conduct an investigation or examination shall have power to administer oaths, take affidavits, and issue subpoenas or orders for the taking of depositions.”

SECTION 8. Section 380-10, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 380-10 Appeal.** Whenever any court of the State issues or denies any temporary injunction in a case involving or growing out of a labor dispute, an appeal shall lie as of right notwithstanding any provision of section 641-2. The appeal shall be heard and the temporary injunction order affirmed, modified, or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters of the same character.”

SECTION 9. Section 380-14(c), Hawaii Revised Statutes, is amended to read as follows:

“(c) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of section 377-7(5), (6), (7), (8), and (9), the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred. If, after the investigation, the board has reasonable cause to believe the charge is true, it shall petition any circuit court of the State within any circuit where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein the person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the board with respect to such matter. Upon the filing of any such petition the circuit court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law or rule of court; provided further, that no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable and the temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period; provided further, that the board shall not apply for any restraining order under section 377-7(5), (6), (7), (8), and (9) if a charge against the employer under section 377-6(2) has been filed and after the preliminary investigation, it has reason-

able cause to believe that the charge is true and that a complaint should issue. Upon filing of any such petition the courts shall cause notice thereof to be served upon any person involved in the charge and the person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony; provided further, that for the purposes of this subsection circuit courts shall be deemed to have jurisdiction of a labor organization (1) in the circuit in which the organization maintains its principal office, or (2) in any circuit in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make the organization a party to the suit.”

SECTION 10. Section 431-103(a), Hawaii Revised Statutes, is amended to read as follows:

“(a) Triplicate copies of legal process against an insurer for whom the insurance commissioner is attorney shall be served upon him by a person competent to serve a summons. At the time of service the plaintiff shall pay to the commissioner \$5, taxable as costs in the action. In the absence of the commissioner the process may be served upon the chief deputy, or the deputy in charge of the insurance function.”

SECTION 11. Section 431-244, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 431-244 Time limit for assessment.** Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with sections 431-221 to 431-250 if:

(a) While his policy is in force or within one year after its termination, he is notified by either the attorney or the insurance commissioner of his intentions to levy such assessment, or

(b) If an action to have a receiver, conservator, rehabilitator, or liquidator of the insurer appointed is commenced pursuant to section 431-669 while his policy is in force or within one year after its termination.”

SECTION 12. Section 431-669(b), Hawaii Revised Statutes, is amended to read as follows:

“(b) The insurance commissioner shall commence any such proceeding, the attorney general representing him, by a complaint setting forth the relief prayed for. The court shall either dismiss the complaint or grant the relief prayed for, in whole or in part, together with such other relief as the nature of the case and the interests of policyholders, creditors, stockholders, members, subscribers, or the public may require.”

SECTION 13. Section 431-670(a), Hawaii Revised Statutes, is amended to read as follows:

“(a) Upon application by the insurance commissioner at the commencement of the action or at any time thereafter, the court may with or without notice issue an injunction restraining the insurer, its officers, directors, stock-

ACT 31

holders, members, subscribers, agents, and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.”

SECTION 14. Section 431-677(a), Hawaii Revised Statutes, is amended to read as follows:

“(a) Any transfer, or lien upon, the property of an insurer which is made or created within four months prior to the commencement of an action under sections 431-651 to 431-686, with the intent of giving to any creditor or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class and which is accepted by the creditor having reasonable cause to believe that such a preference will occur, shall be voidable.”

SECTION 15. Section 431-683(a), Hawaii Revised Statutes, is amended to read as follows:

“(a) Upon the basis of the report provided for in section 431-682 including any amendments thereof, the court, ex parte, may levy one or more assessments against all members of the insurer who, as shown by the records of the insurer, were members (if a mutual insurer) or subscribers (if a reciprocal insurer) at any time within one year prior to the date of commencement of the action under section 431-669.”

SECTION 16. Section 431-686, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 431-686 Liability upon the assessment.** (a) On the return day of the order to show cause provided for in section 431-684 if the member or subscriber does not appear and serve verified objections upon the insurance commissioner, the court shall make an order adjudging that the member or subscriber is liable for the amount of the assessment against him together with \$10 costs, and that the commissioner may have judgment against the member or subscriber therefor.

(b) If on such return day the member or subscriber appears and serves verified objections upon the commissioner there shall be a full hearing before the court or a referee to hear and determine, who, after the hearing, shall make an order either negating the liability of the member or subscriber to pay the assessment or affirming his liability to pay the whole or some part thereof together with \$25 costs and the necessary disbursements incurred at the hearing, and directing that the commissioner in the latter case may have judgment therefor.

(c) The commissioner shall take such further proceedings as may be required in order to collect from each member or subscriber the amount for which he has been held liable.”

SECTION 17. Section 434-30(b), Hawaii Revised Statutes, is amended to read as follows:

“(b) Service shall only be made upon the commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a

society is served upon the commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of the service to a society. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of \$2."

SECTION 18. Section 437-6(5)(C), Hawaii Revised Statutes, is amended to read as follows:

"(C) Depositions of witnesses residing within or without the State may be taken by the board as provided in chapter 624. In any case of disobedience to, or neglect of any such subpoena served on any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated by the board, any circuit judge of any judicial circuit wherein such disobedience, neglect, or refusal occurs, on application of the executive secretary or any person so authorized by the board may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein."

SECTION 19. Section 443-26, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 443-26 Denial, suspension, or revocation of license; procedure; appeal. The board shall not deny any application for an original or renewal license or initiate any disciplinary action against any licensee except for probable cause. Before denying, suspending, or revoking any license, the charges against the licensee shall be investigated by the board. If action for denial, suspension, or revocation is determined upon, a hearing shall be held in accordance with chapter 91. The hearing on the charges shall be held at such time and place as the board prescribes. The board may issue subpoenas and bring before it any person or relevant book or writing in this State, swear witnesses and take the testimony of any person by deposition as provided by chapter 624, with the same fees and mileage as prescribed by law in judicial proceedings in courts of record of the State in civil cases. All evidence shall be under oath. Any party to any hearing shall have the right of subpoena to compel the attendance of witnesses and to cause the production of any books and writings in his behalf. If the board determines that any applicant is not qualified to receive a license, a license shall not be granted, and if the board determines that any licensee is guilty of a violation of any of the provisions of this chapter, his license may be suspended or revoked by the board; provided that four members of the board concur in such determination. Any order denying a license, or suspending or revoking a license shall be rendered no later than fifteen days after the conclusion of the hearings. Any person aggrieved thereby may appeal to the circuit court of the county in which the applicant resides, or where the licensee has his principal place of business in the manner provided in chapter 91."

SECTION 20. Section 457-12(c), Hawaii Revised Statutes, is amended to read as follows:

ACT 31

“(c) When publication of the notice is necessary, the date of the hearing shall not be less than ten days after the last date of the notice. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, which shall be served in the same manner as subpoenas of circuit courts. At the hearing the board shall administer oaths as may be necessary for the proper conduct of the hearing. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient legal evidence to sustain it. At the hearing the accused shall have the right to appear either personally or by counsel, or both, in his or her own behalf, to cross-examine witnesses, and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may refuse to issue a license to the applicant or may revoke, suspend a license or otherwise discipline a licensee. A revoked or suspended license may be reissued after one year in the discretion of the board.”

SECTION 21. Sections 11-175, 92-12, 132-12, 172-3, 281-17, 346-13, 353-7, 353-96, 360-2, 371-6, 371-12, 383-99, 403-180, 403-184, 403-192, 409-13, 416-95, 416-125, 417-23, 418-13, 435-12, 437-6, 439-20, 444-18, 448-18, 452-20, 458-10, 467-15, 471-11, and 485-19, Hawaii Revised Statutes, are amended by deleting the words shown in the second column below, opposite the section number or numbers, wherever the same appear in the designated section or sections, and inserting in lieu thereof the words shown in the third column, if any are shown:

SECTION NUMBERS	WORDS TO BE DELETED	WORDS TO BE INSERTED
11-175	circuit courts at chambers	circuit courts
92-12, 281-17, 346-13, 353-7, 371-6, 383-99, 403-180, 403-192, 416-95, 418-13, 437-6, 452-20	circuit judge at chambers	circuit court
132-12, 353-7, 353-96, 360-2, 371-12, 403-180, 435-12, 439-20, 444-18, 448-18, 458-10, 467-15, 471-11	circuit judges at chambers	circuit courts
172-3	circuit judges in chambers	circuit courts
172-3 (form of notice)	AT CHAMBERS	—
172-3 (form of notice)	sitting at chambers	—

SECTION NUMBERS	WORDS TO BE DELETED	WORDS TO BE INSERTED
403-180, 403-184, 403-192	the circuit judge pre- siding at chambers in	—
403-192	section 634-59	sections 634-59(3) and 634-63
409-13	circuit judge, sitting at chambers	circuit court, sitting without a jury
416-125, 417-23	circuit court at chambers	circuit court
417-23	power at chambers	power
485-19	equity courts	circuit courts sitting without a jury

SECTION 22. In sections 1 to 20, statutory material to be repealed is bracketed, and new material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the under-scoring.*

SECTION 23. This Act shall take effect on July 1, 1973.

(Approved May 4, 1973.)

ACT 32

H. B. NO. 37

A Bill for an Act Relating to Sureties, Amending Section 78-20, Hawaii Revised Statutes.

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

SECTION 1. Section 78-20, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 78-20 Sureties. Whenever by any law, regulation, ordinance, rule or order of court, or any rule of any department of the state government or of any subdivision thereof, any person shall be required to give any written bond or undertaking for the performance of any contract or the provisions of any license, or for the indemnity or security of any person, party or any officer, there shall be attached to the bond or undertaking an affidavit of each of the sureties thereon, duly verified by oath, from which it shall appear that the sureties have property situate within the State subject to execution and that the sureties taken together are worth in the property the amount of the penalty specified in the bond or undertaking, over and above all of their debts and liabilities. In default of the justification no bond or undertaking shall be accepted. Notwithstanding any provision requiring two or more sureties, if any such bond or undertaking is executed by the principal and by any corporation, organized for the purpose of becoming surety on such bonds, authorized under the laws of the United States or of the State to act as surety, and doing busi-

*Edited accordingly.

ACT 33

ness in the State under the provisions of the laws of the United States or of the State, if a foreign corporation, and under the laws of the State, if a Hawaiian corporation, the corporation may be accepted as sole surety on the bond, whenever, in the opinion of the officer or officers whose duty it is to approve the bond, the rights of all parties in interest will be fully protected. When the surety on any such bond is a corporation authorized to do a surety company business, no justification shall be required.

Nothing herein shall be deemed to prevent the deposit of cash or other security in lieu of any surety or sureties, when permitted by the law, regulation, ordinance, rule or order concerned."

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

SECTION 3. This Act shall take effect on July 1, 1973.

(Approved May 4, 1973.)

ACT 33

H. B. NO. 39

A Bill for an Act Relating to the Practice of Law, Amending Section 605-13, Hawaii Revised Statutes.

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

SECTION 1. Section 605-13, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 605-13 District courts, cases involving military vehicles. Any legal officer of the United States military forces, to the extent that he is authorized or required by his respective branch of service, may without license represent military personnel in the district courts in any case which arises out of the driving of a military vehicle."

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

SECTION 3. This Act shall take effect on July 1, 1973.

(Approved May 4, 1973.)

ACT 34

H. B. NO. 47

A Bill for an Act Relating to the Dissemination of Information in Cases of Hazardous Conditions in Foods, Drugs, Devices, or Cosmetics.

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

*Edited accordingly.

SECTION 1. Section 328-22, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 328-22 Duties of department. The department of health shall inquire carefully into the quality of any food, drug, device, or cosmetic manufactured, sold, or kept or exhibited or offered for sale by any person; and it may in a lawful manner procure samples thereof, submit the same to careful examination and report the result of such analysis of all or any such food, drugs, devices, or cosmetics as are adulterated, impure, or unwholesome, in contravention of the laws of the State, to the director; and he shall make complaint with the necessary evidence through the proper authorities, against such person; provided, that nothing in this part shall require the department to report for the institution of proceedings under this part, minor violations of this part, whenever it believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning; provided further, that whenever the department believes that the public interest will be adequately served by the issuance of a warning to the general public by virtue of the degree of adulteration, impurity, or unwholesomeness in contravention of the laws of the State present in any food, drugs, devices, or cosmetics which constitute a hazardous condition, it shall issue a warning through all available news media including television, radio, newspaper, and other available methods of communication. When the hazardous condition has been corrected, the department shall issue a statement to be made through all available news media that conditions as corrected have returned to a safe and normal level.

The department shall investigate complaints on the information of any person who lays before it satisfactory evidence of the same.”

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 4, 1973.)

ACT 35

H. B. NO. 121

A Bill for an Act Relating to Deposits of Legal Tender, etc., to Accompany Bids on Public Contracts.

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

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

“Sec. 103-28 Deposits of legal tender, etc., to accompany bid. All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit,

*Edited accordingly.

ACT 36

cashier's check or certified check on a bank that is insured by the Federal Deposit Insurance Corporation, for or in a sum equal to five per cent of the amount bid, payable at sight to the officer advertising for tenders; provided, that when the amount bid exceeds \$50,000, the legal tender, certificate of deposit, cashier's check or certified check shall be for \$2,500 plus two per cent of the amount in excess of \$50,000. A certificate of deposit, cashier's check or certified check may be utilized only to a maximum of \$20,000.

A bid deposit for a bid requiring a deposit in excess of \$20,000 shall only be in the form of legal tender or a surety bond conforming to the requirements of section 103-31."

SECTION 2. Section 103-31, Hawaii Revised Statutes, is amended to read:

"Sec. 103-31 Bond may be substituted for deposits, etc. In lieu of the deposit of legal tender, certificate of deposit, cashier's check or certified check, a bid may be accompanied by a surety bond executed to the officer calling for bids by the bidder as principal, and by any corporation organized for the purpose of becoming surety on bonds, authorized under the laws of the United States or of the State to act as surety, and doing business in the State under the laws of the United States or of the State, if a foreign corporation, and under the laws of the State, if a Hawaiian corporation, as surety, in a penal sum of equal amount, conditioned upon the bidder entering into the contract and furnishing satisfactory security within ten days after the award or within such further time as the officer may allow, if the bidder is awarded the contract."

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

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

(Approved May 4, 1973.)

ACT 36

H. B. NO. 124

A Bill for an Act Relating to Appropriate Bargaining Units.

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

SECTION 1. Section 89-6(c), Hawaii Revised Statutes, is hereby amended to read as follows:

"(c) No elected or appointed official, member of any board or commission, representative of a public employer, including the administrative officer, director, or chief of a State or county department or agency, or any major division thereof as well as his deputy, first assistant, and any other top-level managerial and administrative personnel, individual concerned with

*Edited accordingly.

confidential matters affecting employee-employer relations, part-time employee working less than twenty hours per week, temporary employee of three months duration or less, employee of the executive office of the governor, household employee at Washington Place, employee of the executive office of the mayor, staff of the legislative branch of the State, city and county of Honolulu and counties of Hawaii, Maui and Kauai, employee of the executive office of the lieutenant governor, inmate, kokua, patient, ward or student of a state institution, student help, or any commissioned and enlisted personnel of the Hawaii national guard, shall be included in any appropriate bargaining unit or entitled to coverage under this chapter.”

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

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

(Approved May 4, 1973.)

ACT 37

H. B. NO. 127

A Bill for an Act Relating to Ordinary Disability Retirement.

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

SECTION 1. Section 88-75, Hawaii Revised Statutes, is amended to read:

“**Sec. 88-75 Ordinary disability retirement.** Upon the application of a member in service or on leave without pay or of the head of his department, any member who has had ten or more years of credited service shall be retired by the board of trustees on an ordinary disability retirement allowance if the medical board after a medical examination of the member certifies that:

- (1) He is mentally or physically incapacitated for the further performance of duty;
- (2) The incapacity is likely to be permanent; and
- (3) The member should be retired.

Retirement shall become effective upon the date specified by the board, which date shall be no earlier than thirty days after the date of filing of application.”

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

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

(Approved May 4, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Fish and Game.

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

SECTION 1. Section 187-8, Hawaii Revised Statutes, is amended to read:

“Sec. 187-8 Enforcement of fish and games laws. The department of land and natural resources shall have charge, direction and control of all matters relating to the preserving, protecting, propagating, importing, and distributing of fish and marine life, and game birds and game animals within the State and the waters subject to its jurisdiction, and the enforcement of the laws relating to such work.

The department of land and natural resources may appoint fish and game agents, including but not limited to fish and game agents on a voluntary basis and without pay, to enforce fish and game laws, and to perform such duties and to enforce such other laws as may be provided by law.

The term ‘fish and game agents’ shall mean and include all personnel appointed by the department to enforce fish and game laws, and to perform such duties and to enforce such other laws as may be provided by law, whether called fish and game officer, deputy fish and game warden, volunteer deputy fish and game warden, fish and wildlife enforcement officer, volunteer fish and wildlife enforcement officer, or by any other name or title.

The fish and game agents of the department shall be provided with suitable badges or insignia of office by the department, and shall have all powers of police officers, including the power to serve and execute warrants and to arrest offenders, throughout the State, in all matters relating to the enforcement of the fish and game laws.”

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 4, 1973.)

A Bill for an Act Relating to Vital Statistics Registration.

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

SECTION 1. Chapter 338, Hawaii Revised Statutes, is amended by adding a new section to read:

“Sec. 338- Establishment of new certificates of births, when. (a) The director of health shall establish a new birth certificate for a person born in this

*Edited accordingly.

State upon receipt of a certified copy of a court determination of paternity together with a request from the natural mother or person having legal custody of said child that such new certificate be prepared. The surname of the child shall be that of the mother unless the decree or request provided otherwise.

(b) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has examined the person and has found that the sex item on the person's birth certificate was entered incorrectly.

(c) A new certificate of birth shall be prepared by the director of health for a person born in the State upon receipt of an affidavit by a physician that he has performed an operation on the person and that by reason of the operation the sex designation on such person's birth record should be changed. The director of health may make a further investigation or require any further information he deems necessary.

(d) When a new certificate of birth is established under this section, it shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence supporting the preparation of the new certificate shall be sealed and filed. Such sealed document shall be opened only by an order of the director of health or a court of record."

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

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

(Approved May 4, 1973.)

ACT 40

H. B. NO. 160

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

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

SECTION 1. Section 297-6, Hawaii Revised Statutes, is amended to read:

"Sec. 297-6 District superintendents. The superintendent of education, with the approval of the board of education, shall appoint in the several counties district superintendents for schools."

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

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

(Approved May 4, 1973.)

*Edited accordingly.

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

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

SECTION 1. Section 297-5, Hawaii Revised Statutes, is repealed.

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

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

(Approved May 4, 1973.)

A Bill for an Act Relating to Agricultural Cooperative Associations.

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

SECTION 1. Section 421-4, Hawaii Revised Statutes, is amended to read:

"Sec. 421-4 Articles of association. Articles of association shall be signed and acknowledged by each of the incorporators, if natural persons, and by the president and secretary of associations, before any officer authorized to take acknowledgments, and shall contain the following particulars:

- (1) The name of the association;
- (2) The place of its principal office, which shall be in the State;
- (3) The purposes and powers of the association;
- (4) The proposed duration of the association;
- (5) The names and addresses of persons who are to act as the initial directors and officers of the association;
- (6) The names and post office addresses of the incorporators, and if organized with capital stock, a statement of the number of shares subscribed by each, which shall not be less than one, and the class of shares for which each subscribed;
- (7) Whether organized with or without capital stock, and if organized with capital stock the total authorized number of par value shares and the par value of each share, and if the privilege of subsequent extension of the authorized capital stock is asked for, the limit of the extension; and if more than one class of stock is authorized, a description of the classes of shares, the number of shares in each class, the relative rights, preferences, and restrictions granted to or imposed upon the shares of each class, and the dividends to which each class shall be entitled;
- (8) If organized without capital stock, whether the property rights and interest of each member are equal or unequal, if unequal, the rule by which the rights and interests shall be determined.

*Edited accordingly.

The articles may also contain any other provision, consistent with law for regulating the association's business or the conduct of its affairs, the establishment of voting districts, the election of delegates to represent the districts, and the members residing therein, for voting by proxy, and the issuance, retirement, and transfer of membership and stock."

SECTION 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 4, 1973.)

ACT 43

H. B. NO. 187

A Bill for an Act Relating to Lowering the Age of Majority.

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

SECTION 1. Section 431-438, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 431-463, Hawaii Revised Statutes, is amended to read:

"**Sec. 431-463 Form of policy.** (a) A policy of accident and sickness insurance shall neither be delivered nor issued for delivery to any person in this State unless:

- (1) The entire money and other considerations therefor are expressed therein; and
- (2) The time at which the insurance takes effect and terminates is expressed therein or determinable therefrom; and
- (3) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed seventeen years, and any other person dependent upon the policyholder; and
- (4) The style, arrangement, and overall appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower case unspaced alphabet length not less than one hundred and twenty-point (the text shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); and

*Edited accordingly.

- (5) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections 431-465 to 431-487, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as exceptions, or exceptions and reductions, provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction shall be included with the benefit provision to which it applies; and
- (6) Each policy form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and
- (7) It does not contain any provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the insurance commissioner.

(b) If any policy is issued by an insurer domiciled in this State for delivery to a person residing in a territory, district, or another state of the United States, and if the official having responsibility for the administration of the insurance laws of such state, district, or territory shall have advised the commissioner that the policy is not subject to approval or disapproval by the official, the commissioner may by ruling require that the policy meet the standards set forth in subsection (a) of this section and in sections 431-464 to 431-487."

SECTION 3. Section 431-594, Hawaii Revised Statutes, is amended to read:

"Sec. 431-594 Spouses and dependents of insured individuals. (a) Any other provision herein to the contrary notwithstanding insurance under any group life insurance policy issued pursuant to groups provided in sections 431-572, 431-574, 431-575, 431-576, 431-577, 431-578, 431-579, and 431-580 may be extended to insure the spouse and dependent of the insured individual of such groups in amounts of insurance equivalent to the amount of coverage of the insured individual, provided that in the case of a dependent other than a spouse of the insured individual the amount of insurance for the dependent shall not be in excess of fifty per cent of the coverage of the insured individual or \$2,000 whichever is lower, and provided further that in the case of a dependent whose age at death is under six months, the amount shall not be in excess of \$100.

(b) A dependent shall be a child under eighteen years of age of the insured individual, or an insured individual's child under twenty-three years of age who is attending an educational institution and relying upon the insured individual for financial support, or any child of an insured individual regardless of age who is incapable of self-sustaining employment by reason of mental retardation or physical handicap and is chiefly dependent upon the insured individual for support and maintenance. The premiums for the insurance of the spouse or dependent may be paid by the insured individual, by an employer

of the insured individual, or by the employer and the insured individual jointly, or by the policy holder of the group.

(c) For purposes of this section, the term 'individual' shall be deemed to include a person or a member of any group provided in sections 431-572, 431-574, 431-575, 431-576, 431-577, 431-578, 431-579, and 431-580."

SECTION 4. Section 434-11, Hawaii Revised Statutes, is amended to read:

"Sec. 434-11 Qualifications for membership. A society may admit to benefit membership any person not less than fifteen years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who applies for additional benefits more than six months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society. Any person admitted prior to attaining the full age of eighteen years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority has been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs."

SECTION 5. Section 434-16, Hawaii Revised Statutes, is amended to read:

"Sec. 434-16 Benefits on lives of children; designation of beneficiary. (a) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than eighteen years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with section 434-15(a). A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

(b) A society may provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and may provide in all other respects for the regulation, government, and control of such certificates, and all rights, obligations, and liabilities incident thereto and connected therewith."

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

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

(Approved May 4, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Qualifications for License as an Elevator Mechanic.

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

SECTION 1. Section 448H-6, Hawaii Revised Statutes, is amended to read:

"Sec. 448H-6 Qualifications for license. No person shall be licensed as an elevator mechanic unless he has satisfactorily passed the examination administered by the board, and satisfactorily completed at least two years of training under the supervision of a licensed, registered or journeyman elevator mechanic."

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

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

(Approved May 4, 1973.)

A Bill for an Act Relating to Motor Vehicle Odometers.

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

SECTION 1. Section 291-38, Hawaii Revised Statutes, is amended to read:

"Sec. 291-38 Tampering with motor vehicle odometer to cause registration of other than true mileage, etc.; penalty. (a) It is unlawful for any person:

- (1) To advertise for sale, to sell, to rent, to lease, to use or to install on any part of a motor vehicle or on an odometer in a motor vehicle any device which causes the odometer to register any mileage other than the true mileage driven. For the purposes of this section, the true mileage driven is that mileage driven by the car as registered by the odometer within the tolerances established under chapter 486-9.
- (2) To operate a motor vehicle on any street or highway knowing that the odometer of the vehicle is disconnected or nonfunctional.
- (3) To disconnect, turn back, advance or reset the odometer of any motor vehicle with the intent to alter the number of miles indicated on the odometer gauge.

(b) Any person who violates this section shall be fined not more than \$200.

(c) This section shall not apply to the installation, maintenance, repair or replacement of taxi meters, provided, however, that before any person

*Edited accordingly.

undertakes such activity he shall obtain an endorsement of the manufacturer's certificate of accuracy from the division of weights and measures, department of agriculture, which endorsement shall indicate the number of miles registered on the odometer prior to the installation, maintenance, repair or replacement of the taxi meter."

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 4, 1973.)

ACT 46

H. B. NO. 216

A Bill for an Act Relating to Feeding Stuffs.

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

SECTION 1. Chapter 144 of the Hawaii Revised Statutes is amended as follows:

1. By repealing Section 144-6.
2. By amending Section 144-11 to read:

"**Sec. 144-11 Rules and regulations.** The department is charged with the enforcement of this chapter, and is empowered, subject to chapter 91, to promulgate and adopt rules and regulations with respect to:

- (1) Providing for inspection fees;
- (2) Providing for penalties for deficiencies of official samples;
- (3) Determining responsibilities and procedures for payment of registration, inspection and penalty fees;
- (4) Such other matters as may be necessary in order to secure the efficient administration of this chapter."

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

SECTION 3. This Act shall take effect on January 1, 1974.

(Approved May 7, 1973.)

ACT 47

H. B. NO. 218

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

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

SECTION 1. Section 386-32(b), Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

ACT 47

“(b) Temporary partial disability. Where a work injury causes partial disability, not determined to be permanent, which diminishes the employee’s capacity for work, the employer, beginning with the first day of the disability and during the continuance thereof, shall pay the injured employee weekly benefits equal to sixty-six and two-thirds per cent of the difference between his average weekly wages before the injury and his weekly earnings thereafter, but not more than \$50 a week.”

SECTION 2. Section 386-34, Hawaii Revised Statutes, is amended to read:

“**Sec. 386-34 Payment after death.** Where an employee is entitled to weekly income and indemnity benefits for permanent total or permanent partial disability and dies from any cause other than the compensable work injury, payment of any unpaid balance of the benefits to the extent that the employer is liable therefor, but not to exceed the amount prescribed under section 386-32(a) for other cases, shall be made to his dependents as provided herein. If, at the time of the death, employee is entitled to any benefits from the special compensation fund, the benefits shall also be paid to his dependents as provided herein.

- (1) To a dependent widow or widower, for the use of the widow or widower and the dependent children, if any. The director of labor and industrial relations may from time to time apportion such compensation among the widow or widower and any dependent children.
- (2) If there be no dependent widow or widower, but one or more dependent children, then to such child or children to be divided equally among them if more than one.
- (3) If there be no dependent widow, widower, or child, but there be a dependent parent, then to such parent, or if both parents be dependent, to both of them, to be divided equally between them; or if there be no such parents, but a dependent grandparent, then to such grandparent, or if more than one, then to all of them to be divided equally among them.
- (4) If there be no dependent widow, widower, child, parent, or grandparent, but there be a dependent grandchild, brother, or sister, then to such dependent, or if more than one, then to all of them to be divided equally among them.
- (5) If there be no such dependents, the unpaid balance of the compensation shall be paid in a lump sum into the special compensation fund.”

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

SECTION 4. This Act shall take effect on July 1, 1973.

(Approved May 7, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Investigators in the Department of the Attorney General.

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

SECTION 1. Section 28-11, Hawaii Revised Statutes, is amended to read:

“Sec. 28-11 Investigators, appointment and powers. (a) The attorney general shall appoint and commission one or more investigators as the exigencies of the public service may require. Persons appointed and commissioned under this section shall have and may exercise all of the powers and authority of a police officer or of a deputy sheriff. These investigators shall consist of personnel whose primary duty will be to conduct investigations as directed by the attorney general.

(b) The attorney general may also appoint persons whose primary function will be to provide security coverage for the governor and other public officials of this State, to be known as security investigators, who shall have and may exercise all the powers and authority of the investigators appointed under subsection (a). When not providing security coverage for the governor or other public officials, the security investigators will conduct other investigations as directed by the attorney general. The positions of security investigators shall be exempt from chapter 76.”

SECTION 2. Personnel presently employed by the office of the governor and performing security functions for the governor are hereby transferred to the department of the attorney general, provided that no employee transferred by this Act shall suffer any loss of salary, seniority or any other employee benefit or privilege as a consequence of this Act.

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 7, 1973.)

A Bill for an Act Relating to Cancellation and Surrender of Leases of Public Lands.

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

SECTION 1. Section 171-61, Hawaii Revised Statutes, is amended to read:

“Sec. 171-61 Cancellation, surrender. When public land is disposed of with a building requirement and, thereafter, prior to the erection of the build-

*Edited accordingly.

ACT 50

ing, the land becomes or is discovered to be unfit for the erection of the building, or by change of conditions it becomes impossible or impractical to erect the building, the board of land and natural resources may cancel the disposition, repossess the land, and return to the party from the special land and development fund, notwithstanding the order of priority set forth, the aggregate amount of principal and interest theretofore paid by the party.

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

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

(Approved May 7, 1973.)

ACT 50

H. B. NO. 329

A Bill for an Act Relating to Tax Exemption for Leprosy Patients.

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

SECTION 1. Section 246-30, Hawaii Revised Statutes, is amended to read:

"Sec. 246-30 Person affected with leprosy. Any person who has been declared by authority of law to be a person affected with leprosy in the communicable stage and is admitted to a hospital for isolation treatment, shall, so long as he is so hospitalized, and thereafter for so long as such person has been so declared to be therefrom temporarily released, shall, so long as he remains or continues under temporary release, be exempted from real property taxes on all real property owned by him on the date when he was declared to be a person so affected with leprosy, up to, but not exceeding, a taxable value of \$15,000."

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

*Edited accordingly.

terial 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, upon its approval, shall take effect on July 1, 1973.

(Approved May 7, 1973.)

ACT 51

H. B. NO. 338

A Bill for an Act Relating to Tax Appeals.

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

SECTION 1. Section 232-17, Hawaii Revised Statutes, is amended to read:

"Sec. 232-17 Appeals from boards of review to tax appeal court. An appeal shall lie to the tax appeal court from the decision of a board of review by the filing, by the taxpayer, the county, or the tax assessor, of a written notice of appeal in the office of the tax appeal court within thirty days after the filing of the decision of the board of review and, in the case of any appealing taxpayer, the payment of the costs of court in the amount fixed by section 232-22. The taxpayer shall also file a copy of the notice of appeal in the assessor's office and, in case of an appeal from a decision involving a county as a party, with the county clerk. If an appeal is taken by a county, a copy of the notice of appeal shall be filed in the assessor's office and a copy shall be served upon the taxpayer or taxpayers concerned. A notice of appeal shall be sufficient if it states that the taxpayer, county, or assessor appeals from the decision of the board of review to the tax appeal court and may be amended at any time. The appeal shall bring up for determination all questions of fact and all questions of law, including constitutional questions involved in the appeal.

In case of an appeal by the assessor, a copy of the notice of appeal shall be forthwith delivered or mailed to the taxpayer concerned or to the clerk of the county concerned in the manner provided in section 232-7 for giving notice of decisions.

An appeal shall be deemed to have been taken in time if the notice thereof and costs, if any, and the copy or copies of the notice shall have been deposited in the mail, postage prepaid, properly addressed to the tax appeal court, tax assessor, taxpayer or taxpayers, and county, respectively, within the period hereinabove provided."

SECTION 2. Section 232-19, Hawaii Revised Statutes, is amended to read:

"Sec. 232-19 Appeals to supreme court; procedure. Any taxpayer or county aggrieved or the assessor may appeal to the supreme court from the

*Edited accordingly.

ACT 51

decision of the tax appeal court by filing a written notice of appeal with the tax appeal court and depositing therewith the costs of appeal within thirty days after the filing of the decision. The appeal shall be considered and treated for all purposes as a general appeal and shall bring up for determination all questions of fact and all questions of law, including constitutional questions, involved in the appeal. A notice of appeal may be amended at any time up to the final determination of the tax liability by the last court which an appeal may be taken. The supreme court shall enter a judgment in conformity with its opinion or decision.

All such appeals shall be speedily disposed of and in the hearing and disposition thereof the same shall be given preference over other litigation in the discretion of the court.”

SECTION 3. Section 235-114, Hawaii Revised Statutes, is amended to read:

“**Sec. 235-114 Appeals.** Any person aggrieved by any assessment of the tax or liability imposed by this chapter may appeal from the assessment in the manner and within the time hereinafter set forth. Appeal may be made either to the district board of review or to the tax appeal court.

If the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer or employer, and if heard by the board an appeal shall lie from the decision thereof to the tax appeal court and to the supreme court in the manner and with the costs provided by chapter 232. The supreme court shall prescribe forms to be used in the appeals which shall be as nearly identical as practicable with the forms prescribed or permitted by law in the case of property tax appeals; provided, that the forms shall show the amount of taxes or liability upon the basis of the taxpayer’s computation of his taxable income or the employer’s computation of his liability, the amount upon the basis of the assessor’s computation, the amount upon the basis of the decisions of the board of review and tax appeal court, if any, and the amount in dispute. If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the supreme court as is provided in chapter 232.

Any taxpayer or employer appealing from any assessment of income taxes or liability shall lodge with the assessor or assistant assessor a notice of the appeal in writing, stating the ground of his objection to the additional assessment or any part thereof, which notice of appeal shall be filed at any time within thirty days subsequent to the date when the notice was mailed properly addressed to the taxpayer or employer at his last known residence or place of business. Except as otherwise provided, the manner of taking the appeal, the costs applicable thereto, and the hearing and disposition thereof, including the distribution of costs and of taxes paid by the taxpayer pending the appeal, shall be as provided in chapter 232.”

SECTION 4. Statutory material to be repealed is bracketed. New ma-

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

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

(Approved May 7, 1973.)

ACT 52

H. B. NO. 478

A Bill for an Act Relating to Commercial Employment Agencies.

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

SECTION 1. Section 373-11, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 373-11 Prohibitions. No employment agency licensed under this chapter and no agent or employee of an employment agency shall do, make, or cause to be made or done any of the following acts herein prohibited and every such employment agency, its agents, and employees shall do and perform every act, duty, or requirement hereinafter prescribed.

- (1) No employment agency shall cause to be printed, published, or circulated any false, fraudulent, or misleading information, notice, or advertisement, nor shall an employment agency give or cause to be made or given any false promise, misrepresentation, or misleading statement or information.
- (2) No employment agency shall send out any applicant for employment without having first obtained either orally or in writing a bona fide job order from the prospective employer.
- (3) No employment agency shall knowingly send out any applicant for employment to any place where a strike, walk-out, or other labor dispute exists without first furnishing the applicant with a written statement as to the existence of the labor dispute, and the employment agency shall retain on file for two years after the date thereof, a copy of the statement of fact, signed by the applicant so sent.
- (4) No employment agency shall divide or share, or offer to divide or share with any employer, his employees, agents, or representatives, any fee, charge, or compensation received from any applicant. No employment agency shall cause or attempt to cause the discharge of any person not an employee of the employment agency for the purpose of obtaining other employment through the agency for such person.
- (5) No employment agency shall send out any minor applicant for employment without making an investigation of the nature of the employment or engagement and the duties thereof and reputation of the employer. No employment agency shall wilfully or knowingly send or direct any applicant for employment to any employment of

*Edited accordingly.

an immoral character. No employment agency shall wilfully or knowingly procure or place or attempt to place any minor in any employment in any place where intoxicating liquors are served or sold.

- (6) No employment agency shall wilfully or knowingly place or assist in placing any applicant in employment in violation of any law of this State or any lawful order, rule, or regulation prescribed by the director of labor and industrial relations.
- (7) No employment agency shall require an applicant to pay any advance fee or any other fee, deposit, or compensation other than as prescribed in this chapter.
- (8) No employment agency shall display, on any sign or window or in any publication the name "United States Employment Service" or "State of Hawaii Employment Service."
- (9) No employment agency or any person connected therewith shall receive or require any applicant to execute any power of attorney, promissory note, negotiable instrument, assignment of wages or salary, note authorizing a confession of judgment, or any instrument or document relating to the liability of the applicant, unless this instrument or other document has been approved both as to form and content by the director or his authorized representative."

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 7, 1973.)

ACT 53

H. B. NO. 482

A Bill for an Act Relating to Eligibility for Unemployment Compensation Benefits.

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

SECTION 1. Section 383-29, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) An unemployed individual shall be eligible to receive benefits with respect to any week only if the department of labor and industrial relations finds that:

- (1) Claim. He has made a claim for benefits with respect to such week in accordance with such regulations as the department may prescribe.
- (2) Registration. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the department may prescribe, except that the department may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular

*Edited accordingly.

jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; provided that no such regulation shall conflict with section 383-21.

- (3) Availability. He is able to work and is available for work; provided, that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with this paragraph if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have been suitable prior to the beginning of such illness and disability has been offered the claimant.
- (4) Waiting period. He has been unemployed for a waiting period of one week within his benefit year, provided that no individual shall be required to serve a waiting week if the first week of his unemployment occurring within a benefit year is immediately preceded by a week of unemployment in the preceding benefit year for which benefits are payable. Notwithstanding any provisions of this section to the contrary, an individual shall be eligible to receive benefits for the waiting period of one week if he is entitled to benefits for each of the twelve consecutive weeks following his waiting period. No week shall be counted as a waiting period:
 - (A) If benefits have been paid with respect thereto;
 - (B) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 383-30, except for the requirements of this paragraph (4).
- (5) Wages for insured work; weeks of employment.
 - (A) In the case of an individual who has established a benefit year prior to January 3, 1965, he has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which, in column B of the schedule, appears his weekly benefit amount.
 - (B) In the case of an individual who has established a benefit year after January 2, 1965, but prior to January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least the amount appearing in column C of the schedule in section 383-22 on the line on which in column B of the schedule, appears his weekly benefit amount.
 - (C) In the case of an individual whose benefit year begins on or after January 2, 1966, he has had during his base period a total of fourteen or more weeks of employment as defined in section 383-1(19) and has been paid wages for insured work during his base period in an amount equal to at least thirty times his weekly benefit amount as determined under section 383-22(b).

- (D) For the purposes of this paragraph (5), wages and weeks of employment shall be counted for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the dates on which the employing unit by which such wages or other remuneration as provided in section 383-1(19) were paid has satisfied the conditions of section 383-1(9) with respect to becoming an employer.”

SECTION 2. Statutory material to be repealed is bracketed. 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 7, 1973.)

ACT 54

H. B. NO. 656

A Bill for an Act Relating to Arrest and Court Records.

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

SECTION 1. Chapter 378, Hawaii Revised Statutes, is amended as follows:

(a) Section 378-1, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 378-1 Definitions.** As used herein:

- (1) “Person” means one or more individuals, and includes partnerships, associations, or corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.
- (2) “Employment agency” means any person undertaking to procure employees or opportunities to work.
- (3) “Labor organization” means any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.
- (4) “Employer” means any person having one or more persons in his employment, and includes any person acting as an agent of an employer, directly or indirectly.
- (5) “Employment” means any service performed by an individual for another person under any contract of hire, express or implied, oral or written, whether lawfully or unlawfully entered into.
- (6) “Arrest and court records” include any information about an individual having been questioned, apprehended, taken into custody or detention, held for investigation, charged with an offense, served a summons, arrested with or without a warrant and tried, pursuant to any law enforcement or military authority. Convictions are not included in this definition.”

*Edited accordingly.

SECTION 2. Section 378, Hawaii Revised Statutes, is amended as follows:

(a) Section 378-2, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 378-2 Discriminatory practices made unlawful; offenses defined.

It shall be unlawful employment practice or unlawful discrimination:

- (1) For an employer to refuse to hire or employ or to bar or discharge from employment, any individual because of his race, sex, age, religion, color, ancestry, or arrest and court record which does not have a substantial relationship to the functions and responsibilities of the prospective or continued employment, provided that an employer may refuse to hire an individual for good cause relating to the ability of the individual to perform the work in question;
- (2) For an employer to discriminate against any individual in compensation or in the terms, conditions, or privileges of employment because of race, sex, age, religion, color, ancestry, or arrest and court record;
- (3) For any employer or employment agency to print, circulate, or cause to be printed or circulated any statement, advertisement, or publication or to use any form of application for employment or to make any inquiry in connection with prospective employment, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, sex, age, religion, color, ancestry, or arrest and court record unless based on a bona fide occupational qualification;
- (4) For any labor organization to exclude or expel from its membership any person or to discriminate in any way against any of its members, employer, or employees because of race, sex, age, religion, color, ancestry, or arrest and court record;
- (5) For any employer, labor organization, or employment agency to discharge, expel, or otherwise discriminate against any person because he has opposed any practice forbidden by this part or because he has filed a complaint, testified, or assisted in any proceeding respecting the employment practices and discrimination prohibited under this part;
- (6) For any person whether an employer, employee, or not, to aid, abet, incite, compel, or coerce the doing of any of the practices forbidden by this part, or to attempt to do so;
- (7) For any employer or labor organization to refuse to enter into an apprenticeship agreement, as defined in section 372-2, because of the race, sex, age, religion, color, or ancestry of an apprentice; provided that no apprentice shall be less than sixteen years of age.”

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

*Edited accordingly.

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

(Approved May 7, 1973.)

A Bill for an Act Relating to Fees for Service of Process.

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

SECTION 1. Section 607-4(d), Hawaii Revised Statutes, as amended, is further amended to read:

"Sec. 607-4 District court costs. * * *

(d) Sheriff's or police officer's fees:

- (1) For serving any criminal summons, warrant, attachment, or other criminal process, \$5 from and after the effective date of this Act until July 1, 1974, and \$6 thereafter.
- (2) For serving any civil summons, warrant, attachment, or other civil process, \$3.
- (3) For every copy of an attachment and inventory of the property attached, served upon the defendant, \$1.50.
- (4) For serving any execution, 12 cents for every \$1 collected up to \$50, and 7 cents for every \$1 over \$50.
- (5) For serving subpoena or garnishee summons, \$2 for each person.
- (6) For every mile of travel, more than one, in serving any process, 12 cents; provided that (A) no such allowance shall be made where such serving officer uses a conveyance furnished him by the State, or any political or municipal subdivision thereof; (B) where the serving officer serves more than one person in the course of one trip, he shall not charge, in the aggregate for all such services, more than the mileage for the entire trip; and (C) as far as practicable, in order to minimize the mileage fees for such service, the sheriff or other chief of the serving officers, where service of process is to be made upon an island other than that upon which is situated the court issuing such process, shall cause such process to be transmitted to a deputy, the chief of police or other serving officer upon the island of service, who shall make such service upon receipt of such process; and such service shall be valid, notwithstanding that the process may be addressed to the officer actually making such service or to his superior."

SECTION 2. Section 607-8, Hawaii Revised Statutes, as amended, is further amended by amending the second paragraph thereof (only) to read:

"Sec. 607-8 Sheriff's or serving or levying officer's fees in circuit or supreme courts. * * *

For serving criminal summons or any other criminal process except a subpoena, for each person served therewith . . . \$5 from and after the effective date of this Act until July 1, 1974, and \$6 thereafter."

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

terial 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 7, 1973.)

ACT 56

H. B. NO. 1326

A Bill for an Act Relating to the Establishment and Administration of a State-wide Emergency Medical Services Program.

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

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

"Sec. 321- Emergency medical services. (a) The department of health shall be solely responsible for the coordination of a comprehensive statewide emergency medical services program that will include but not be limited to quick identification of and response to all medical emergencies and injuries; sustain life through proper emergency measures, both at the scene and while in transit to an appropriate medical facility; evaluate the coordination, transportation, and communications necessary to take the injured to an appropriate medical facility within the shortest practicable time, without creating additional hazards; and insure quality of emergency and intensive care given at the medical facility.

(b) The director of health may adopt rules and regulations and standards, to include but not be limited to ambulances, hospitals, and emergency facilities, and all related emergency care personnel, pursuant to chapter 91 to effectuate the purposes of this section."

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

(Approved May 7, 1973.)

ACT 57

H. B. NO. 1333

A Bill for an Act Relating to an International Marine Exposition in Hawaii.

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

SECTION 1. Section 4 of Act 131, Session Laws of Hawaii, 1972, is amended to read:

"Sec. 4 Powers and duties. The commission shall:

(1) Make a detailed study to implement the holding of a proposed international marine exposition in the State of Hawaii in the latter half of 1977, or the first half of 1978, and in either event encompassing January, 1978.

(2) Choose an exposition site or sites and concept prior to the end of calendar year 1973.

*Edited accordingly.

ACT 58

(3) Formulate and submit to the governor plans for an independent nonprofit corporation which will assist the commission in the planning and development of the international marine exposition.

(4) Coordinate and direct the planning and promotion of the international marine exposition.

(5) Insure compliance with the Federal international exposition regulations and bureau of international exposition regulations.

(6) Direct and coordinate events during the international marine exposition in 1977 and 1978."

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

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

(Approved May 7, 1973.)

ACT 58

H. B. NO. 1521

A Bill for an Act Relating to Pupil Transportation Safety.

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

SECTION 1. Section 296-47, Hawaii Revised Statutes, is repealed.

SECTION 2. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read:

"Sec. 286- Pupil transportation safety. (a) As used in this section 'school vehicle' means any publicly or privately owned motor vehicle used to transport pupils to and from school except a motor vehicle used for:

(1) The transportation of pupils attending schools above the twelfth grade or pupils over eighteen years of age;

(2) The transportation of pupils in a privately owned passenger car provided that such transportation is provided without compensation of any kind; or

(3) The transportation of pupils together with other passengers as a part of the regularly scheduled operation of a common carrier.

(b) The department of education shall have primary administrative responsibility and authority to determine, adopt and execute safety standards and safety regulations relating to the transportation of pupils by a school vehicle.

(c) The department of education shall adopt necessary rules and regulations governing:

(1) School vehicle and school vehicle equipment design, construction and identification;

(2) School vehicle driver training and qualification;

*Edited accordingly.

- (3) School vehicle passenger safety instruction;
- (4) School vehicle operation safety;
- (5) School vehicle passenger loading and unloading area safety;
- (6) School vehicle maintenance safety; and
- (7) Special school vehicle safety inspections.

(d) Any person operating a school vehicle who fails to comply with any rule or regulation adopted pursuant to this section shall be fined not more than \$500 or imprisoned not more than six months, or both.

(e) The executive officer of each county or his authorized representative shall be responsible for enforcement of the regulations adopted by the department of education pursuant to subsection (c). 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 vehicles for purposes of this section."

SECTION 3. In order to implement this Act, the Superintendent of Education may initiate organizational changes and reclassify existing positions subject to approval by the Governor.

SECTION 4. 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 5. This Act shall take effect upon its approval.

(Approved May 7, 1973.)

ACT 59

H. B. NO. 1523

A Bill for an Act Relating to the Establishment of a Nonprofit Corporation for the Construction and Operation of a Large Optical Telescope on Mauna Kea.

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

SECTION 1. **Purpose.** The purpose of this Act is to create a nonprofit corporation for the construction and operation of a large optical telescope on Mauna Kea on the island of Hawaii. The object for which this corporation is organized is to increase our knowledge and understanding of the universe by researching and studying the celestial bodies that surround the Earth.

SECTION 2. **Means.** (a) Notwithstanding any other law to the contrary, the director of regulatory agencies shall grant a charter of incorporation to the Centre National de la Recherche Scientifique of France, the National Research Council of Canada, and the University of Hawaii to be known as the France-Canada-Hawaii Telescope Corporation, upon their filing a petition in conformity with section 416-20 for the establishment and conduct of a private nonprofit corporation to design, construct, install, and operate a large optical telescope and the laboratories, equipment and installation necessary for its

*Edited accordingly.

ACT 60

operation on Mauna Kea on the Island of Hawaii, including the performance of services ancillary thereto; provided that the corporation shall be under the general management and control of the board of directors which:

- (1) Shall consist of not less than five directors who shall be named by the members of the corporation in the manner provided for by the by-laws, provided at least one of the directors is named by the University of Hawaii;
- (2) Shall exercise all the powers of the corporation except such as are conferred by law or by the bylaws of the corporation upon the members of the corporation;
- (3) Shall have the power to function whenever there are sufficient directors present to form a quorum as may be provided for in the by-laws;
- (4) Shall make its decisions in the manner provided for by the bylaws, provided at least one of the directors named by each of the members of the corporation joins in that majority.

(b) Any provision of the charter or the bylaws of the corporation inconsistent with the foregoing provisions shall be of no effect.

(c) Except as hereinabove provided, the corporation created under the authority of this section shall be subject to all general laws enacted in regard to nonprofit corporations.

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

(Approved May 7, 1973.)

ACT 60

S. B. NO. 59

A Bill for an Act Relating to Maternity Leave.

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

SECTION 1. Section 76-34, Hawaii Revised Statutes, is repealed.

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

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

(Approved May 8, 1973.)

ACT 61

S. B. NO. 97

A Bill for an Act Relating to Temporary Disability Insurance.

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

*Edited accordingly.

SECTION 1. Section 392-3, Hawaii Revised Statutes, is amended to read:

“Section 392-3 Definitions generally. As used in this chapter, unless the context clearly requires otherwise:

- (1) ‘Benefit year’ with respect to any individual means the one-year period beginning with the first day of the first week of disability with respect to which the individual first files a valid claim for temporary disability benefits. A subsequent benefit year is the one-year period following a preceding benefit year, beginning either (A) with the first day of the first week of disability with respect to which the individual files a subsequent claim for temporary disability benefits, or (B) with the first work-day following the expiration of the preceding benefit year if a disability for which temporary disability benefits are payable during the last week of the preceding benefit year continues and the individual is eligible for further benefit payments.
- (2) ‘Contributions’ mean the amounts of money authorized by this chapter to be withheld from employees’ wages for the payment of temporary disability benefits.
- (3) ‘Department’ means the department of labor and industrial relations.
- (4) ‘Director’ means the director of labor and industrial relations.
- (5) ‘Disability’ means total inability of an employee to perform the duties of his employment caused by sickness, pregnancy, termination of pregnancy, or accident other than a work injury as defined in section 386-3.
- (6) ‘Employer’ means any individual or type of organization, including the State, any of its political subdivisions, any instrumentality of the State or its political subdivisions, any partnership, association, trust, estate, joint stock company, insurance company, or corporation whether domestic or foreign or receiver or trustee in bankruptcy, or the legal representative of a deceased person, who has one or more individuals in his employment during any day or portion of a day.
- (7) ‘Employment’ and ‘employed’ means service, including service in interstate commerce, performed for wages under any contract of hire, written or oral, express or implied, with an employer, except as otherwise provided in sections 392-4 and 392-5.
- (8) ‘Wages’ means all remuneration for services from whatever source, including commissions and bonuses, and the cash value of all remuneration in any medium other than cash but not including tips or gratuities paid directly to any individual by a customer of his employer and not accounted for by the individual to his employer. The director may issue regulations for the reasonable determination of the cash value of remuneration in any medium other than cash. Wages do not include the amount of any payment specified in section 383-11.
- (9) ‘Weekly benefit amount’ means the amount payable under this chapter for a period of continuous disability throughout a calendar week. If the period of disability or the initial or terminal portion thereof

ACT 62

is shorter than a calendar week, the benefit amount payable for that portion shall be the weekly benefit amount multiplied by a factor consisting of a quotient having the number of work-days lost during the portion of the week for the numerator and the number of regular work-days of the employee during a calendar week for the denominator."

SECTION 2. Section 392-6, Hawaii Revised Statutes, is amended to read:

"Section 392-6 Individual in current employment. 'Individual in current employment' means:

- (1) An individual who performed regular service in employment immediately or not longer than two weeks prior to the onset of the sickness or to the accident causing disability and who would have continued in or resumed employment except for such disability.
- (2) An individual who performed regular service in employment immediately or not longer than two weeks prior to becoming totally disabled from performing the duties of her employment because of pregnancy or termination of pregnancy and who would have continued in or resumed such employment except for such disability."

SECTION 3. Section 392-21, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) Any individual in current employment who suffers disability resulting from accident, sickness, pregnancy, or termination of pregnancy, except accident or disease connected with or resulting from employment as defined in section 386-3 or any other applicable workmen's compensation law, shall be entitled to receive temporary disability benefits in the amount and manner provided in this chapter."

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

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

(Approved May 8, 1973.)

ACT 62

S. B. NO. 134

A Bill for an Act Relating to Temporary Disability Insurance.

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

SECTION 1. Section 392-72, Hawaii Revised Statutes, is amended to read:

"Sec. 392-72 Appeals, filing and hearing. (a) If a person disputes the

*Edited accordingly.

amount of benefits, paid under part III or part IV, or the denial of benefits, the claimant may file an appeal, in the form and manner prescribed by regulation of the director, at the office of the department in the county in which the claimant resides or in the county in which the claimant was employed prior to his disability, within twenty days after the date of payment of such disputed benefits or the denial thereof. Notice of the appeal shall be served upon the employer or insurer or the special fund for disability benefits in the form and manner prescribed by regulations of the director.

(b) The appeal shall be heard in the county in which the appeal is filed; provided that the director may by regulation provide for good cause for the holding of a hearing in another county and may provide for the taking of depositions. Unless the appeal is withdrawn with the permission of the referee, the referee after affording the parties reasonable opportunity for a fair hearing shall make findings and conclusions and on the basis thereof affirm, modify, or deny the disputed benefits. All parties shall be promptly notified of the decision of the referee and shall be furnished with a copy of the decision and the findings and conclusions in support thereof and the decision shall be final and shall be binding unless a proceeding for judicial review is initiated pursuant to section 392-75; provided that, within the time provided for taking an appeal and prior to the filing of a notice of appeal, the referee may reopen the matter, upon application of the director or any party, or upon his own motion, and thereupon may take further evidence or may modify his decision, findings, or conclusions. In the event the matter is reopened, the referee shall render a further decision in the matter, either reaffirming or modifying his original decision, and notice shall be given thereof in the manner hereinbefore provided. The time to initiate judicial review shall run from the notice of such further decision if the matter has been reopened."

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

SECTION 3. This Act shall take effect upon approval.

(Approved May 8, 1973.)

ACT 63

S. B. NO. 722

A Bill for an Act Relating to Failure to Return a Rental Motor Vehicle.

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

SECTION 1. Chapter 8, Hawaii Penal Code, Title 37, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**Sec. Failure to return a rental motor vehicle; penalty.** A person commits the offense of failure to return a rental motor vehicle when he

*Edited accordingly.

intentionally does not return the motor vehicle to the person, or his agent, from whom the vehicle was rented within forty-eight hours after the time stated on the rental agreement, unless the person renting the vehicle gives notice that he will not be able to return the vehicle in the stated time and extends the time in which the vehicle will be returned.

Failure to return a rental motor vehicle is a misdemeanor.”

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

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

(Approved May 8, 1973.)

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

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

SECTION 1. Section 386-41, Hawaii Revised Statutes, is amended to read:

“**Sec. 386-41 Entitlement to and rate of compensation.** (a) Funeral and burial allowance. Where a work injury causes death, the employer shall pay funeral expenses not to exceed \$1,000 to the mortician and burial expenses not to exceed \$500 to the cemetery selected by the family or next of kin of the deceased or in the absence of such family or next of kin, by the employer. Such payments shall be made directly to the mortician and cemetery; provided that when the deceased has a pre-paid funeral and burial plan such payments for funeral and burial expenses, not to exceed the foregoing limits, shall be made directly to the surviving spouse or to the decedent's estate if there is no surviving spouse.

(b) Weekly benefits for dependents. In addition, the employer shall pay weekly benefits to the deceased's dependents at the percentages of the deceased's average weekly wages specified below, taking into account not more than \$168.75 and not less than \$30 per week:

To the dependent widow or widower, if there be no dependent children, fifty per cent.

To the dependent widow or widower, if there be one or more dependent children of the deceased, sixty-six and two-thirds per cent. The compensation to the widow or widower shall be for the use and benefit of the widow or widower and of the dependent children, and the director of labor and industrial relations may from time to time apportion the compensation between them in such way as he deems best.

If there be no dependent widow or widower, but a dependent child, then

*Edited accordingly.

to the child forty per cent, and if there be more than one dependent child, then to the children in equal parts sixty-six and two-thirds per cent.

If there be no dependent widow, widower, or child, but there be a dependent parent, then to the parent, if wholly dependent fifty per cent, or if partially dependent twenty-five per cent; if both parents be dependent, then one-half of the foregoing compensation to each of them; if there be no dependent parent, but one or more dependent grandparents, then to each of them the same compensation as to a parent.

If there be no dependent widow, widower, child, parent or grandparent, but there be a dependent grandchild, brother, or sister, or two or more of them, then to such dependents thirty-five per cent for one dependent, increased by fifteen per cent for each additional dependent, to be divided equally among the dependents if more than one.

(c) Maximum weekly amounts. The sum of all weekly benefits payable to the dependents of the deceased employee shall not exceed sixty-six and two-thirds per cent of his average weekly wages, computed by observing the limits specified in subsection (b). If necessary, the individual benefits shall be proportionally reduced.

(d) Liability to special compensation fund in the absence of dependents. If there be no dependents who are entitled to benefits under this section, the employer shall pay the sum of \$8,775 for any one death into the special compensation fund, pursuant to an order made by the director. The employer, pursuant to an order made by the director, shall pay any remaining balance into the special compensation fund, if the weekly benefits to which dependents are entitled terminate without totalling the sum of \$8,775."

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 8, 1973.)

ACT 65

S. B. NO. 1382

A Bill for an Act Relating to the Security Guards of the State of Hawaii.

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

SECTION 1. Section 121-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 121-9 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.

*Edited accordingly.

ACT 66

He shall supervise all of the forces comprising the military components of the department of defense of the State. The 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.

The adjutant general is authorized to confer the powers of police officers, including the power to arrest, to employees of the department who are engaged as security guards for national guard and civil defense facilities; provided, that such powers shall remain in force and effect only while the security guards are in the actual performance of their duties as security guards."

SECTION 2. Chapter 28, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 28- Security guards; appointment and powers. Employees of the department of the attorney general engaged as security guards, upon specific authorization and direction of the attorney general, shall have all of the powers of police officers, including the power of arrest; provided that such powers shall remain in force and effect only while the security guards are in actual performance of their duties as security guards which duties shall include off-duty employment when such employment is for other state departments or agencies."

SECTION 3. All employees of the department of defense who are engaged as security guards assigned to the Capitol Security Complex shall be transferred to the department of the attorney general without change in civil service status, reduction in salary range, loss of vacation or sick leave allowances, seniority, prior service credits, or other employee benefits or privileges, and without the necessity of examination; provided that subsequent changes in status may be made pursuant to applicable personnel laws.

SECTION 4. All records, equipment, files, supplies, books, papers, documents, maps, and other property, pertaining to or used by the security guards transferred by section 3, shall be transferred to the department of the attorney general without cost to the department of the attorney general.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect on July 1, 1973.

(Approved May 8, 1973.)

ACT 66

H. B. NO. 1156

A Bill for an Act Amending the Hawaiian Homes Commission Act, 1920.

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

*Edited accordingly.

SECTION 1. Section 208 of the Hawaiian Homes Commission Act, 1920, is amended to read:

“Sec. 208. Conditions in leases. Each lease made under the authority granted the department by the provisions of section 207 of this title, and the tract in respect to which the lease is made, shall be deemed subject to the following conditions, whether or not stipulated in the lease:

(1) The original lessee shall be a native Hawaiian, not less than twenty-one years of age. In case two lessees either original or in succession marry, they shall choose the lease to be retained, and the remaining lease shall be transferred or cancelled in accordance with the provisions of succeeding sections.

(2) The lessee shall pay a rental of one dollar a year for the tract and the lease shall be for a term of ninety-nine years.

(3) The lessee shall occupy and commence to use or cultivate the tract as his home or farm within one year after the lease is made. The lessee of agricultural lands shall plant and maintain not less than five, ten, fifteen and twenty trees per acre of land leased and the lessee of pastoral lands shall plant and maintain not less than two, three, four, and five trees per acre of land leased during the first, second, third and fourth years, respectively, after the date of lease. Such trees shall be of types approved by the department and at locations specified by the department's agent. Such planting and maintenance shall be by or under the immediate control and direction of the lessee. Such trees shall be furnished by the department free of charge.

(4) The lessee shall thereafter, for at least such part of each year as the department shall by regulation prescribe, so occupy and use or cultivate the tract on his own behalf.

(5) The lessee shall not in any manner transfer to, or mortgage, pledge, or otherwise hold for the benefit of, any other person or group of persons or organizations of any kind, except a native Hawaiian or Hawaiians, and then only upon the approval of the department, or agree so to transfer, mortgage, pledge, or otherwise hold, his interest in the tract. Such interest shall not, except in pursuance of such a transfer, mortgage, or pledge to or holding for or agreement with a native Hawaiian or Hawaiians approved of by the department, or for any indebtedness due the department or for taxes, or for any other indebtedness the payment of which has been assured by the department, including loans from governmental agencies where such loans have been approved by the department, be subject to attachment, levy, or sale upon court process. The lessee shall not sublet his interest in the tract or improvements thereon.

(6) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may in its discretion pay such taxes and have a lien therefor as provided by section 216 of this act.

(7) The lessee shall perform such other conditions, not in conflict with any provision of this title, as the department may stipulate in the lease: provided, however, that an original lessee shall be exempt from all taxes for the first seven years from date of lease.

(8) The department may assure the repayment of loans to lessees from

ACT 67

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 payable or for the amount of the debt. In no event shall the aggregate amount assured by the department exceed \$2,000,000."

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

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

(Approved May 8, 1973.)

ACT 67

S. B. NO. 140

A Bill for an Act Relating to Assistance to Displaced Persons.

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

SECTION 1. Chapter 111, Hawaii Revised Statutes, is amended in the following particulars:

1. By amending section 111-3 to read:

"**Sec. 111-3 Relocation payments.** (a) Except as provided in subsection (f) below, if any state agency displaces persons described herein, it shall make fair and reasonable relocation payments to such displaced persons as required by this chapter.

(b) A relocation payment to a displaced person shall be for his or its actual and reasonable moving expenses.

(c) Optional payments (dwelling). Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (b) of this section may receive: (1) a moving expense allowance determined according to a schedule established by the state agency involved not to exceed \$200; and (2) a dislocation allowance in the amount of \$100.

(d) Optional payments (business and farm operations). Any displaced person who moves or discontinues his business or farm operations who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section may receive a fixed relocation pay-

*Edited accordingly.

ment in an amount equal to the average annual net earnings of the business or farm operation, or \$5,000, whichever is the lesser. In the case of a business, no payment shall be made under this subsection unless the state agency involved is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage; and (2) it is not part of a commercial enterprise having at least one other establishment, not being acquired by the state agency which is engaged in the same or similar business.

(e) In lieu of the payments authorized by subsections (b), (c), and (d), the state agency may at its option and at its expense undertake to move as applicable the personal effects or business or farm operation to the site to which the displaced person is to be relocated.

(f) If any state agency displaces any person as a result of zoning code enforcement, that person shall be entitled to benefits under this section unless the displaced person is in any way responsible for the violation. The state agency shall have the right to recover from the party responsible for a zoning code violation any monies paid out under HRS, Chapter 111."

2. By adding a new section to be numbered and to read:

"Sec. 111- Reimbursement procedure. (a) The state agency shall make a written demand for the amount due under this chapter from any person responsible for a zoning violation. Such amount shall be recoverable by the state agency in the same manner as a debt due.

(b) If the owner of real property from which persons are forced to move because of zoning code enforcement is the person responsible for the zoning violation, and he fails to pay the state agency within sixty days after written demand, the state agency may claim a lien against the real property from which persons are displaced. This lien shall be in addition to any other remedy the state agency may have. Such lien may be foreclosed in the same manner as liens for real property taxes and in accordance with sections 246-55 to 246-61.

(c) Payments in accordance with this section to the state agency by the party responsible for the zoning violation shall not relieve the party from complying with the notices ordering compliance with codes issued by the state agency."

3. By amending section 111-12 to read:

"Sec. 111-12 Appeals. Any person aggrieved by a state agency's determination concerning eligibility for an amount of relocation payments authorized by this chapter or by a determination that the party is responsible for a zoning code violation may appeal such determination to the circuit court of the circuit in which the displaced person or party then resides. The appeal shall be made pursuant to the Administrative Procedure Act set forth in chapter 91."

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 May 10, 1973.)

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

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

SECTION 1. Section 171-37, Hawaii Revised Statutes, is amended to read:

“Sec. 171-37 Lease restrictions; intensive agricultural and pasture uses.

In addition to the restrictions provided in section 171-36, the following restrictions shall apply to all leases for intensive agricultural and pasture uses:

- (1) The lease term shall not exceed thirty-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 thirty-five years, but not in excess of seventy-five years, and except in the case of a tree-crop orchard lease the term of which shall not be in excess of forty-five years.
- (2) 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 thirty-five years, but not in excess of fifty-five years.
- (3) The land leased hereunder, or any portion thereof, shall be subject to withdrawal by the board at any time during the term of the lease with reasonable notice and without compensation, except as provided herein, for public uses or purposes, including residential, commercial, industrial, or resort developments, for constructing new roads or extensions, or changes in line or grade of existing roads, for rights-of-way and easements of all kinds, and shall be subject to the right of the board to remove soil, rock or gravel as may be necessary for the construction of roads and rights-of-way within or without the demised premises; provided, that upon the withdrawal, or upon the taking which causes any portion of the land originally demised to become unusable for the specific use or uses for which it was demised, the rent shall be reduced in proportion to the value of the land withdrawn or made unusable, and if any permanent improvement constructed upon the land by the lessee is destroyed or made unusable in the process of the withdrawal or taking, the proportionate value thereof shall be paid based upon the unexpired term of the lease; provided further, that no withdrawal or taking shall be had as to those portions of the land which are then under cultivation with crops until the crops are harvested, unless the board pays to the lessee the value of the crops. In the case of tree crops, the board shall pay to the lessee

the residual value of the trees taken and, if there are unharvested crops, the value of the crops also.

'Tree-crop,' as used in this section, shall be exclusive of papaya and banana."

SECTION 2. The definition of the term "Land license" as used in Section 171-1, Hawaii Revised Statutes, is amended to read:

"'Land license' means a privilege granted to enter land for a certain special purpose such as the removal of timber, soil, sand, gravel, stone, hapuu, and plants, but not including water rights, ground or surface, nor removal of minerals;"

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

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

(Approved May 10, 1973.)

ACT 69

S. B. NO. 129

A Bill for an Act Relating to the Importation of Plant and Animal Life, Seeds and Soils, and Repealing Part I, Chapter 150, Hawaii Revised Statutes.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

**"CHAPTER
HAWAII PLANT AND NON-DOMESTIC
ANIMAL QUARANTINE LAW**

PART I. GENERAL PROVISIONS

Sec. -1 Short title. This chapter may be cited as the 'Hawaii Plant Quarantine Law.'

Sec. -2 Definitions. As used in this chapter the term:

- (1) 'Department' means the department of agriculture.
- (2) 'Board' means the board of agriculture.
- (3) 'Chairman' means the chairman of the board of agriculture, or his duly authorized agents.
- (4) 'Inspector' means any employee or official of the department authorized by the board to administer and enforce the provisions of this law.
- (5) 'Inspect' means to examine material to ascertain the presence or absence of quarantine pests.

*Edited accordingly.

- (6) 'Pest' means any animal, insect, disease agent or other organism in any stage of development that is detrimental or potentially harmful to agriculture, or horticulture, or animal or public health, or natural resources including native biota or has an adverse effect on the environment as determined by the board.
- (7) 'Animal' means any invertebrate or vertebrate species of the animal kingdom including but not limited to mammal, bird, fish, reptile, mollusk, crustacean, insect, mite, nematode, protozoan and other invertebrate, other than common domestic animal such as dog and cat.
- (8) 'Insect' means an invertebrate animal belonging to the class Insecta, including beetle, bug, fly, and other arthropods, such as spider, mite, tick, centipede, and wood louse.
- (9) 'Bacteria' means any unicellular microorganism in the class Schizomycete, exhibiting both plant and animal characteristics, and including the three varieties of bacillus, coccus and spirillum, including agents of Rickettsia except those on or in living man or animal in Hawaii and those in or on processed foods, beverages or pharmaceuticals.
- (10) 'Fungus' means all nonchlorophyll-bearing thallophytes, including rusts, smuts, mildews, molds and yeasts, except those on or in living man or animal in Hawaii and those on or in processed food, beverages, or pharmaceuticals.
- (11) 'Virus' means any of a class of filterable, submicroscopic pathogenic agent, chiefly nucleoprotein in composition but often reducible to crystalline form, and typically inert except when in contact with certain living cells, except those on or in living man, or animal in Hawaii and those on or in processed food, beverages, or pharmaceuticals.
- (12) 'Label' means the written, printed, or graphic matter upon the container of any article as pertaining to plant quarantine laws and regulations.
- (13) 'Vehicle' means any automobile, truck, tractor and similar equipment.
- (14) 'Soil' means that part of the upper layer of earth in which plants can grow; this material may or may not contain organic matter and includes such planting media as deteriorated peat, except clean coral, sand, pottery and industrial clay, volcanic cinders and other similar soil-free material.
- (15) 'Import' means shipment to the State from any point outside of the State.

Sec. -3 Delegation of duties. All authority vested in the board or chairman by virtue of this chapter may with like force and effect be exercised by such employees of the department as the board or chairman may from time to time designate for the purpose.

Sec. -4 Effect on department of land and natural resources and the department of health. Nothing in this chapter shall be construed to amend or alter the functions, duties, and powers of the department of land and natural resources and the department of health relative to chapters 171, 187, 191, 321 and 328.

PART II. REGULATION OF IMPORTATION

Sec. -5 Conditions of importation. The importation of any of the following articles, viz., nursery-stock, tree, shrub, herb, vine, cut-flower, cutting, graft, scion, bud, seed, leaf, root, or rhizome; nut, fruit, or vegetable; grain, cereal, or legume in the natural or raw state; moss, hay, straw, dry-grass, or other forage; unmanufactured log, limb, or timber, or any other plant-growth or plant-product, unprocessed or in the raw state; soil, live bird, reptile, bacteria, fungus, nematode, virus, insect or other animal in any stage of development (that is in addition to the so-called domestic animal, the quarantine of which is provided for in other sections); box, vehicle, baggage, barrel, or crate or other container in which such articles have been transported or contained or any packing material used in connection therewith, into the State, shall be made and conducted in the manner and subject to the conditions hereinafter set forth:

- (1) Notification of arrival. Any person, who receives for transport, brings or causes to be brought to the State, as freight, air freight, baggage, or otherwise, for the purpose of debarkation or entry therein, or as ship's stores, any of the articles enumerated, shall, immediately upon the arrival thereof, notify the department, in writing, of the arrival, giving the waybill number, container number, name and address of the consignor, name and address of the consignee or his responsible agent in the State, marks, number of packages, description of contents of each package, port at which laden, and any other information that may be necessary to locate or identify the same, and shall hold such articles on the dock, pier, wharf, airport, air terminal, or other places, where they are first received or discharged, in such a manner that they will not spread or be likely to spread any infestation or infection of insects or diseases that may be present until inspection and examination can be made by the inspector, to determine whether or not any article, or any portion thereof, is infested, infected with or contains any pest.

In addition, by rules and regulations, the department shall designate restricted articles that shall require a permit to be obtained from the department in advance of importation. The restricted articles shall include, but not be limited to, fungi, bacteria, virus, or living insects. Failure to obtain such permits in advance shall result in the articles being refused entry, or confiscated or destroyed. Any expense or loss in connection therewith shall be borne by the owner or his responsible agent in the State.

- (2) Individual passengers, officers and crew.

- (A) It shall be the responsibility of the transportation company to distribute the State of Hawaii plant and animal declaration forms to each passenger, officer and crew member of any aircraft or vessel originating from the United States or its possession, or from any other areas not under the jurisdiction of the appropriate federal agency prior to arrival in order that the

passenger, officer and crew member can comply with the directions and requirement appearing thereon.

Any adult, guardian of minor or transiting passenger, officer and crew member bringing or causing to be brought for entry into the State the items listed on the form shall complete the declaration. Any person who defaces the declaration form required under this section, gives false information, or fails to declare restricted materials in his possession or luggage or fails to declare in cargo manifests shall be in violation of this section.

- (B) Such completed forms shall be collected by the transportation company and be delivered to the inspector at the first airport or seaport of arrival.
- (3) Plant and animal declaration form. Such forms will include directions for declaring domestic and other animals cited in chapter 142, in addition to the articles enumerated in this chapter.
- (4) Labels. Each and every case, box, package, crate, bale, or bundle containing any of the articles above enumerated, imported into the State, shall have plainly and legibly marked thereon, in a conspicuous manner and place, the name and address of the shipper or owner forwarding or shipping the same, the name or mark of the person to whom the same is forwarded or shipped or his responsible agent, the name of the country, state, or territory and locality therein where the product was grown or produced and a statement of the contents of the package. Upon failure to comply with this paragraph the importer or carrier shall be liable to suffer the penalty for the violation of this section.
- (5) Authority to inspect. Whenever he has good cause to believe that the provisions of this chapter are being violated, the inspector may:
 - (A) Enter any aircraft, ship, vessel, or other carrier, at any time after its arrival within the boundaries of the State, whether offport, offshore, at the dock, pier, wharf, airport or air terminal.
 - (B) Enter into or upon any dock, pier, or wharf, warehouse or depot, airport or air terminal, or any other place in the State, where any of the above-mentioned articles are moved or stored, for the purpose of ascertaining, by inspection and examination, whether or not any of the items listed in this section is infested or infested with any pest or contaminated with soil.
 - (C) Inspect any baggage and personal effects of disembarking passengers, officers and members of crews on aircraft, ships, vessels, or other surface craft arriving into the State to ascertain if they contain any of the articles or pests enumerated in this chapter.

Such baggage inspection shall be made at the discretion of the inspector, on the dock or on the ship, vessel, other surface craft or aircraft or in any quarantine or inspection area. No baggage or other personal effects of the passengers or crew members shall be released until said effects have been passed.

Whenever he has good cause to believe that the provisions of this chapter are being violated, the inspectors may require that any box, bale, crate, bundle, package, truck, bag, suitcase, or other container carried as ship's stores, cargo or otherwise, by any ship, vessel, other surface craft or aircraft, moving between the continental United States and Hawaii, or between the Hawaiian Islands be opened for inspection to determine whether any article or pest prohibited by this chapter or by regulations promulgated pursuant thereto is present. If any prohibited article or any pest or any plant, fruit or vegetable infested with plant pests is found, the department may order the return of the article to the place of origin or otherwise dispose of it or such part thereof as necessary to comply with this chapter.

Any expense or loss in connection therewith shall be borne by the owner or his responsible agent in the State.

- (6) Request for importation and inspection. In addition to requirements of the U.S. customs authorities concerning invoices or other formalities incident to importations into the State, the importer shall be required to file a written statement with the department, signed by himself or his responsible agent in the State, setting forth his desire to import certain of the articles above enumerated, into the State, and giving the following additional information: the kind (scientific name), quantity, and description of same; the locality where same were grown or produced; the certification that all animals to be imported are the progeny of captive populations; the port from which the same were last shipped; the name of the shipper; and the name of the consignee thereof. The statement shall also contain a request that the department by its duly authorized agent examine the articles described and an agreement by the importer to be responsible for all costs, charges, or expenses; also a waiver of all claims for damages incident to the inspection or the fumigation, disinfection, quarantine, or destruction of the articles, or any of them, as hereinafter provided for, if any treatment is adjudged necessary. Failure or refusal to file a statement, agreement, or waiver upon request shall be held to be a violation of this section and may, in the discretion of the department, give sufficient cause for refusing to permit the entry of the articles into the State.
- (7) Place of inspection. If, in the judgment of the inspector, it is deemed necessary or advisable to move any of the articles above enumerated or any portion thereof, to a place more suitable for inspection than the dock, pier, wharf, airport, air terminal, depot or other place where they are first received or discharged, authority therefore is granted, and all costs and expenses incident to the movement and transportation of the articles to such place shall be borne by the importer or his responsible agent in the State owning or having charge thereof.
- (8) Disinfection or quarantine. If upon inspection, any article so received or brought to the State for the purpose of debarkation or entry therein is found to be infested or infected, or there is reason-

able cause to presume that it is infested or infected and the infestation or infection can, in the judgment of the inspector, be eradicated, a treatment shall be given such article. The treatment shall be at the expense of the owner or his agent, and the treatment shall be as prescribed by the department. The article shall be held in quarantine at the expense of the owner or his responsible agent, at a satisfactory place approved by the department, for a sufficient length of time to determine that eradication has been accomplished. If the infestation or infection is of such nature or extent that it cannot be effectively and completely eradicated in the manner described above, or if it is a potentially destructive pest, or not widespread in the State, or after treatment it is determined that the infestation or infection is not completely eradicated, the article, or any portion thereof, together with all packing and containers, may, at the discretion of the inspector be destroyed or sent out of the State at the expense of the owner or his responsible agent in the State. Such destruction or exclusion shall not be made the basis of a claim against the department or the inspector for damage or loss incurred.

- (9) Disposition. At the time of arrival, or at any time thereafter, should any article be held for inspection, treatment or quarantine, the inspector shall upon completion of inspection, affix to the article or the container or to the delivery order in a conspicuous place thereon, a tag, label, or stamp to indicate the article has been inspected and passed. This action shall in effect be a permit to bring the article into the State.
- (10) What constitutes importation. The landing of any of the articles for the purpose of inspection or quarantine is not, nor shall it be construed to be, an importation in the sense of giving to the articles so landed any status, or the owner thereof any right or privilege, incident to articles which have actually been imported into the State; but in legal effect the articles so landed for the purpose of inspection shall be construed to be still without the State seeking entry thereinto, and shall not, in whole or in part, be considered suitable for importation into the State unless a tag, label, or stamp has been affixed thereon by the inspector as provided in section -5(9).
- (11) Exceptions to right to import. Nothing in this chapter contained shall permit the importation of any animal or article, from any particular place, if the same, or any of them, has, by special rule or regulation of the department been prohibited.
- (12) Ports of entry. None of the articles enumerated in this section shall be allowed entry into the State except through the air and sea ports in the State designated and approved by the board.
- (13) Enforcement; citation and summons; penalty. Any officer or employee of the department, authorized and designated by the board to enforce the provisions of this chapter, and all rules and regulations promulgated and adopted by the department pursuant thereto, may issue a citation to any person for violation of any provision of this chapter or of any rule or regulation promulgated and adopted pur-

suant thereto, and issue to him a summons summoning him to appear at a certain place at a time within seven days of such citation, to answer the charges against him.

- (A) Form of citation and summons. There shall be printed a form of citation and summons for use in citing violators of this chapter and regulations promulgated pursuant thereto. The form and contents of such citation and summons shall be as adopted or prescribed by the district courts.

In every case when a citation and summons are issued the original of the same shall be given to the accused; provided that, the district courts may prescribe the issuance to the accused of a carbon copy of the citation and summons and provide for the disposition of the original and any other copies. Every citation and summons shall be consecutively numbered and each carbon copy shall be consecutively numbered and each carbon copy shall bear the number of its respective original.

- (B) Administration of oath. When a complaint is made to any prosecuting officer of the violation of the provisions of this chapter or the rules and regulations promulgated and adopted pursuant thereto, the officer or employee who issued the citation and summons shall subscribe to the complaint under oath.
- (C) Penalty. Any person who violates any section of this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both.

Sec. -6 Soil, snakes, injurious insects, etc., importation prohibited.

All persons are prohibited from receiving for transportation, bringing, or causing to be brought to the State, for the purpose of debarkation or entry thereinto, any of the following named articles:

- (1) Soil, provided that limited quantities of soil may be imported into the State for experimental or other scientific purposes, under permit with conditions prescribed by the department.
- (2) Rocks, plants, plant products or any commodity with soil adhering thereto.
- (3) Any live snake, flying fox, fruit bat, Gila monster, or injurious insect or any other animal in any stage of development that is detrimental or potentially harmful to agriculture or horticulture or animal or public health, or natural resources including native biota or has an adverse effect on the environment as determined by the board; provided that a government agency may bring into and maintain in the State not more than two live, nonvenomous snakes of the male sex solely for the purposes of exhibition in a public zoological park, but only after the board is presented with satisfactory evidence that the sex of the snakes was established to be male prior to the shipment, and after the board gives written approval conditioned upon such terms as the board may deem necessary, which terms shall include the continuing supervision and control by the board and shall provide that the board may determine the manner in which such

snakes shall be disposed of or destroyed. In case of the death of one or both snakes, the government agency may import and maintain replacements subject to the above conditions.

- (4) The board shall maintain a list of animals and plants which may be imported into the State.

Sec. -7 Disposition. (a) Any plant, plant product or any commodity contaminated with soil which may be brought to the State contrary to section -6, shall be refused admittance and the same may, in the discretion of the inspector, be seized and treated, destroyed, or excluded at the expense of the owner or his responsible agent in the State.

(b) Any or all living creatures mentioned in section -6 brought to the State shall be seized immediately upon discovery and be destroyed, donated to a governmental zoo, or sent out of the State, at the discretion of the department; any expense or loss in connection therewith to be borne by the owner or his responsible agent. The foregoing shall not apply to any snake which is brought into the State by a governmental agency solely for the purpose of exhibition in a public zoological park pursuant to section -6(3).

(c) Whenever any living creature introduced or admitted under rules and regulations of the department escapes, or is found to be free from confinement, the department shall confiscate, capture or have it and its progeny captured at the expense of the owner. The department may destroy the creature, donate it to a government zoo, or send it out of the State after 5 days at the discretion of the department. Any expense or loss in connection therewith shall be borne by the owner or his responsible agent.

Sec. -8 Transporting in State. No fungi, bacteria, virus, living insects or soil, nursery stock, tree, sugarcane, shrub, plant, flower, vine, graft, scion, bud, seed, root, fruit, fruit pit, vegetable, leaf, nut, or moss shall be transported from one island within the State to another island therein, or to one locality from another on the same island or along the highways thereof, unless approved by the department.

Certain animals specified by rules and regulations of the department shall not be moved from one island to another island within the State or from one locality to another on the same island except by a permit issued by the department.

Sec. -9 Rules and regulations. The department shall have the authority to carry out and effectuate the purposes of this chapter by rules and regulations.

Sec. -10 Advisory committee on plants and animals. There shall be an advisory committee on plants and animals composed of the chairman of the board or his representative who shall be chairman of the committee, the chairman of the board of land and natural resources, the director of the office of environmental quality control, the director of department of health or their designees, and five other members with expertise in plants, animals or microorganisms, and who, by virtue of their vocation or avocation, also are thoroughly conversant with modern ecological principles and the variety of problems involved in the adequate protection of our natural resources. The latter

five members shall be chosen by the chairman. The Committee shall advise and assist the department in developing or revising laws and regulations to carry out and effectuate the purposes of this chapter and in advising the department in problems relating to the introduction, confinement or release of plants, animals and microorganisms.

The chairman may create ad hoc or permanent subcommittees as needed."

SECTION 2. Severability. If any provision of this chapter is declared invalid, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this chapter and applicability thereof to other persons and circumstances shall not be affected.

SECTION 3. Part I of Chapter 150, Hawaii Revised Statutes, is repealed.

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

(Approved May 11, 1973.)

ACT 70

H. B. NO. 315

A Bill for an Act Relating to the Hawaii Public Broadcasting Authority.

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

SECTION 1. **Purpose.** The purpose of this Act is to provide for the transfer of employees to the Hawaii public broadcasting authority, and to provide for a means to compensate the employees of the Hawaii public broadcasting authority.

SECTION 2. Section 314-10, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 314-10 Executive director and staff.** The board shall appoint an executive director who shall not be subject to chapters 76 and 77. The board shall, subject to approval of the governor, determine the salary of the executive director which shall not be more than eighty-five per cent of the salary of the director of regulatory agencies."

SECTION 3. Section 314-11, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 314-11 Transfer provisions.** Upon the appointment of not less than six members of the board of public broadcasting by the governor as provided in section 314-2, the board shall assume all responsibilities and functions heretofore performed by the state educational television council and the University of Hawaii board of regents with respect to educational television.

The board, in cooperation with the agencies affected by this chapter, shall submit to the seventh state legislature, twenty days before the regular session of 1973 convenes, (1) such proposals as it may deem necessary or desirable to effect the transfer of real property, personal property and personnel to carry out the purposes of this chapter, (2) a budget for the next fiscal bi-

ACT 70

ennium and program and financial plans as prescribed by chapter 37, (3) such other related matters as it may determine should properly be considered by the legislature at said regular session.

Pending the approval by the legislature of the transfer of real property, personal property and personnel to carry out the purposes of this chapter, all employees of the University of Hawaii division of educational television shall be temporarily assigned to the authority, and the University of Hawaii shall continue to be responsible for expenditures for personnel, property, facilities, equipment, and all other costs relating to the management, operations, and maintenance of the educational television network as authorized by appropriations of the legislature."

SECTION 4. Chapter 314, Hawaii Revised Statutes, is amended by adding the following new sections to be appropriately designated and to read as follows:

"Sec. 314- Transfer of personnel. All officers and employees of the University of Hawaii, division of educational television, are hereby transferred with their respective functions and duties to the Hawaii public broadcasting authority and shall (except for clerical employees employed under the provisions of chapters 76 and 77) upon their transfer continue to perform their regular duties.

No officer or employee employed prior to the effective date of this Act and still so employed upon transfer of functions by this chapter, shall suffer any loss of salary, vacation, or sick leave or other employee benefits as a consequence of this action, provided that subsequent changes in status may be made pursuant to applicable personnel laws."

"Sec. 314- Personnel categories. Personnel transferred to, assigned to, or hired by the Hawaii public broadcasting authority shall be placed in one of the following categories subject to review and approval by the director of personnel services:

- (1) Category (a)—Clerical, nonprofessional, and nontechnical;
- (2) Category (b)—Professional and technical; and
- (3) Category (c)—Student help."

"Sec. 314- Employment status. All employees of the Hawaii public broadcasting authority shall be employed in their respective categories as follows:

- (1) Category (a)—Clerical, nonprofessional, and nontechnical. All employees in this category shall be subject to chapters 76 and 77, provided that nonprofessional and nontechnical employees (except those in Category (c) who were employed prior to the effective date of this Act shall receive appropriate civil service status without necessity of examination.
- (2) Category (b)—Professional and technical. All employees in this category shall be exempt from chapters 76 and 77, provided that such exempt employment shall be subject to review by the director of personnel services to determine the propriety of continued exemption, such a review to be accomplished by December 31, 1973. Should

this review indicate that continuance of exempt status is warranted, such employment shall be subject to subsequent reviews on a periodic basis. Whenever employees are to be hired in this category, they shall be subject to review and approval of the director of personnel services in accordance with procedures concerning exempt hiring.

If the director determines that exempt status is not appropriate, such employees shall be subject to chapters 76 and 77, provided that such employees who were employed prior to the effective date of the Act and still so employed shall receive appropriate civil service status without necessity of examination.

All full time employees in this exempt category shall be hired on annual contract and shall be eligible for the state employees' retirement system and for other benefits generally applicable to officers and employees of the State. Contracts with such employees shall contain a clause providing for notification to the employee of renewal or nonrenewal ninety days prior to the expiration of the contract. Nonrenewals of such contracts shall be subject to review by the board of public broadcasting.

- (3) Category (c)—Student help. All employees in this category shall be exempt from chapters 76 and 77, provided that employment in this category shall be subject to review and approval by the director of personnel service.”

“**Sec. 314- Compensation.** Employees of the Hawaii public broadcasting authority shall be compensated in their respective categories as follows:

- (1) Category (a)—Clerical, nonprofessional and nontechnical. All employees in this category shall be compensated in accordance with chapter 77.
- (2) Category (b)—Professional and technical. All employees in this category shall be compensated in accordance with the University of Hawaii APT salary schedule until such time that an appropriate means of compensation is approved by the legislature. A proposal for an appropriate compensation plan shall be developed by the director of personnel services and submitted to the 1974 session of the legislature for approval.
- (3) Category (c)—Student help. All employees in this category shall be compensated in accordance with student help wage rates.”

SECTION 5. Material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.*

SECTION 6. This Act shall take effect on July 1, 1973.

(Approved May 11, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the Transfer of Personal Property to the Hawaii Public Broadcasting Authority.

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

SECTION 1. Purpose. The purpose of this Act is to transfer from the University of Hawaii to the department of regulatory agencies for use by the Hawaii public broadcasting authority all personal property now being used by Hawaii public television for the production and transmission of television programs.

SECTION 2. Transfer of personal property. Within ninety days of the effective date of this Act, all records, equipment, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the University of Hawaii for the production and transmission of educational television programs by the division of educational television shall be transferred to the department of regulatory agencies without cost or reimbursement and without compliance with any disposal procedures or requirements, any law to the contrary notwithstanding.

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

(Approved May 11, 1973.)

A Bill for an Act Relating to Serial Numbers and Identification Marks on Merchandise.

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

SECTION 1. Purpose. The purpose of this Act is to prohibit the defacing, removal or alteration of any factory or owner identification mark or serial number from any merchandise on which the same has been inscribed or marked, and thereby provide more effective protection to the public from theft and traffic of stolen merchandise.

SECTION 2. Chapter 708 (Hawaii Penal Code), title 37, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately numbered and to read as follows:

“Sec. 708- Removal of identification marks. A person commits the offense of removal of identification marks if he, with intent to cause interruption of the ownership of another, defaces, erases, or otherwise alters any serial number or identification mark placed or inscribed on any bicycle, firearm, movable or immovable construction tool or equipment, appliance, merchandise, or other article by the manufacturer or owner for the purpose of identifying the bicycle, firearm, movable or immovable tool or equipment, appliance, merchandise or other article or its component parts, with a value of more than \$50. A person removes identification marks if he attempts to or succeeds

in erasing, defacing, altering, or removing a serial number or identification mark or part thereof, on the property of another.

Removal of identification marks is a misdemeanor.

Sec. 708- Unlawful possession. It shall be unlawful for any person to possess any bicycle, firearm, movable construction tool or equipment, appliance, merchandise, or other article, or any part thereof knowing the serial number or identification mark placed on the same by the manufacturer or owner for the purpose of identification, has been erased, altered, changed or removed for the purpose of changing the identity of the foregoing items.

Unlawful possession is a misdemeanor.”

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

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

(Approved May 11, 1973.)

ACT 73

H. B. NO. 1246

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

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

SECTION 1. Section 88-51, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 88-51 Membership service generally.** Membership service includes:

- (1) Service by an employee rendered since becoming a member;
- (2) Service rendered prior to becoming a member but (A) subsequent to January 1, 1926, by an employee of the State or (B) subsequent to January 1, 1928, by an employee of any county;
- (3) Service as an employee of the federal government where the function carried on by said government has been transferred to the State or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the State or any county;
- (4) 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; provided that (A) the employee was a member of the system immediately preceding the time he renders such service; (B) the employee reenters 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

*Edited accordingly.

Civil Service Retirement Act (5 USCA 2251) based upon such service; provided further, that credit for such service shall not exceed eight years;

- (5) Service as an employee of the Hawaii territorial guard;
- (6) Service while engaged in professional improvement pursuant to an approved leave of absence for such purpose, with or without pay;
- (7) Service between the years 1941 and 1947 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 government service at the end of the wartime service; provided that these circumstances shall be verified by evidence satisfactory to board of trustees;
- (8) Service, not exceeding four years, in the military service of the United States during the period of 1941-1949 rendered by an employee who was employed by the Territory or county prior to his induction into the military and who subsequently returned to employment of the Territory or county following his discharge;
- (9) Service rendered prior to becoming a member as a full-time employee at the Leahi Hospital or Pahala Hospital, now known as Ka'u General Hospital.

Membership service shall only be credited for any period for which the member makes the required contributions to the system."

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

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

(Approved May 11, 1973.)

ACT 74

S. B. NO. 34

A Bill for an Act Relating to Unfair and Deceptive Collection Acts or Practices.

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

SECTION 1. Chapter 443, Hawaii Revised Statutes, as amended, is hereby amended by adding a new part to be appropriately designated and to read as follows:

"PART . PROHIBITED ACTS AND PRACTICES

Sec. 443-41 Threats or coercion. No collection agency shall collect or attempt to collect any money alleged to be due and owing by means of any threat, coercion, or attempt to coerce, including any conduct which is described as follows:

*Edited accordingly.

- (1) The use, or express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person;
- (2) The accusation or threat to falsely accuse any person of fraud or any crime or any conduct which, if true, would tend to disgrace such other person or in any way subject him to ridicule or any conduct which, if true, would tend to disgrace such other person or in any way subject him to the ridicule or contempt of society;
- (3) False accusations made to another person, including any credit reporting agency that a debtor or an alleged debtor has not paid a just debt, or threat to so make such false accusations;
- (4) The threat to sell or assign to another the obligation of a debtor or an alleged debtor with an attending representation or implication that the result of such sale or assignment would be that the debtor or alleged debtor would lose any defense to the claim or would be subjected to harsh, vindictive, or abusive collection attempt; and
- (5) The threat that nonpayment of an alleged claim will result in the arrest of any person.

Sec. 443-42 Harassment and abuse. No collection agency shall oppress, harass, or abuse any person in connection with the collection of or attempt to collect any claim alleged to be due and owing by that person or another in any of the following ways:

- (1) The use of profane or obscene language that is intended to abuse the hearer or reader;
- (2) The placement of telephone calls without disclosure of the caller's identity or with the intent to harass, or threaten any person at the called number; and
- (3) Causing expense to any person in the form of long distance telephone tolls, telegram fees, or other charge incurred by a medium of communication, by concealment of the true purpose of the notice, letter, message, or communication.

Sec. 443-43 Unreasonable publication. No collection agency shall unreasonably publicize information relating to any alleged indebtedness or debtor, in any of the following ways:

- (1) The disclosure, publication or communication of any false information relating to the indebtedness of a debtor or alleged debtor to any employer or his agent.
- (2) The disclosure, publication or communication of false information relating to the indebtedness of a debtor or alleged debtor to any relative or family member of the debtor or alleged debtor.
- (3) The disclosure, publication, or communication of any information relating to the indebtedness of a debtor or alleged debtor by publishing or posting any list of debtors, except for the publication of "stop lists" to point-of-sale locations where credit is extended, or by advertising for sale any claim to enforce payment thereof or in any other manner other than through proper legal action, process, or proceeding; and

- (4) The use of any form of communication to the debtor or alleged debtor, which ordinarily may be seen by any other person, that displays or conveys any information about the alleged claim other than the name, address and phone number of the collection agency.

Sec. 443-44 Fraudulent, deceptive, or misleading representations. No collection agency shall use any fraudulent, deceptive, or misleading representation or means to collect, or attempt to collect, claims or to obtain information concerning a debtor or alleged debtor, including any conduct which is described as follows:

- (1) The use of any company name while engaged in the collection of claims other than the true name of the collection agency;
- (2) The failure to clearly disclose in all written communication made to collect, or attempt to collect, a claim or to obtain, or attempt to obtain, information about a debtor or alleged debtor that the collection agency is attempting to collect a claim and that any information obtained will be used for that purpose;
- (3) Any false representation that the collection agency has in his possession information or something of value for the debtor or alleged debtor that is made to solicit or discover information about the debtor or alleged debtor;
- (4) The failure to clearly disclose the name and full business address of the person to whom the claim has been assigned for collection or to whom the claim is owed at the time of making any demand for money;
- (5) Any false representation or implication of the character, extent, or amount of a claim against a debtor or alleged debtor, or of its status in any legal proceeding;
- (6) Any false representation or false impression that any collection agency is vouched for, bonded by, affiliated with, or an instrumentality, agent, or official of, this State or any agency of federal, state, or local government;
- (7) The use or distribution or sale of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by a court, an official, or any other legally constituted or authorized authority, or which creates a false impression about its source, authorization, or approval;
- (8) Any representation that an existing obligation of the debtor or alleged debtor may be increased by the addition of attorney's fees, investigation fees; service fees, and any other fees or charges when in fact such fees or charges may not legally be added to the existing obligations; or
- (9) Any false representation or false impression about the status or true nature of, or the services rendered by, the collection agency or its business.

Sec. 443-45 Unfair or unconscionable means. No collection agency shall use unfair or unconscionable means to collect or attempt to collect any claim in any of the following ways:

- (1) The seeking or obtaining of any written statement or acknowledgment in any form that a debtor or alleged debtor's obligation is one incurred for necessities of life where the original obligation was not in fact incurred for such necessities;
- (2) The seeking or obtaining of any written statement or acknowledgment in any form containing an affirmation of any obligation by a debtor or alleged debtor who has been declared bankrupt, without clearly disclosing the nature and consequences of the affirmation and the fact that the debtor or alleged debtor is not legally obligated to make the affirmation;
- (3) The collection of or the attempt to collect from a debtor or alleged debtor all or any part of the collection agency's fee or charge for services rendered;
- (4) The collection of or the attempt to collect any interest or other charge, fee, or expense incidental to the principal obligation unless the interest or incidental fee, charge, or expense is expressly authorized by the agreement creating the obligation and legally chargeable to the debtor or alleged debtor; or unless such interest or incidental fee, charge or expense is expressly authorized by law; and
- (5) Any communication with a debtor or alleged debtor whenever it appears that he is represented by an attorney and the attorney's name and address are known.

Sec. 443-46 Rules and regulations. The collection agency board shall promulgate rules and regulations, pursuant to chapter 91, Hawaii Revised Statutes, for the purposes of administering and enforcing this part.

Sec. 443-47 Unfair competition, unfair or deceptive acts or practices. A violation of this part by a collection agency shall constitute unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce for the purpose of section 480-2."

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

(Approved May 15, 1973.)

ACT 75

S. B. NO. 276

A Bill for an Act Relating to Disqualification for Unemployment Compensation Benefits.

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

SECTION 1. Section 383-30, Hawaii Revised Statutes, is amended to read:

"Section 383-30 Disqualification for benefits. An individual shall be disqualified for benefits:

- (1) Voluntary separation. For any week in which he has left his work voluntarily without good cause and for not less than two or more than seven consecutive weeks of unemployment which immediately follow

- such weeks, as determined according to the circumstances in each case.
- (2) Discharge for misconduct. For the week in which he has been discharged for misconduct connected with his work and for not less than two or more than seven consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct.
 - (3) Failure to apply for work, etc. If he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or any duly authorized representative of the department of labor and industrial relations, or to accept suitable work when offered him. Such ineligibility shall continue for the week in which the failure occurred and for not less than two or more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances in each case.
 - (A) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (3)(B) of this section, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving his work under paragraph (1) of this section.
 - (B) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:
 - (i) If the position offered is vacant due directly to a strike, lock-out, or other labor dispute;
 - (ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
 - (iii) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.
 - (4) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed; provided that this paragraph shall not apply if it is shown that:
 - (A) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - (B) He does not belong to a grade or class of workers of which, im-

mediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment or other premises.

- (5) If the department finds that he has within the twenty-four calendar months immediately preceding any week of his unemployment made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact to obtain any benefits not due under this chapter, he shall be disqualified for the week in which the department makes the determination and for not more than the fifty-one weeks immediately following such week; provided, that no disqualification shall be imposed if proceedings have been undertaken against the individual under section 383-141.
- (6) Other unemployment benefits. For any week or part of a week with respect to which he has received or is seeking unemployment benefits under any other employment security law, except the agricultural unemployment compensation law, chapter 384, but this paragraph shall not apply (A) if the appropriate agency finally determines that he is not entitled to benefits under such other law, or (B) if benefits are payable to him under an act of Congress which has as its purpose the supplementation of unemployment benefits under a state law.”

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 15, 1973.)

ACT 76

S. B. NO. 908

A Bill for an Act Relating to Counsel for Indigent Criminal Defendants.

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

SECTION 1. Section 705C-1, Hawaii Revised Statutes, is amended to read:

“**Sec. 705C-1† Right to representation by public defender or other appointed counsel.** Any indigent person who is (1) arrested for, charged with or convicted of an offense or offenses punishable by confinement in jail or prison

†Revisor's note: Section 705C-1 was renumbered 722-1, pursuant to L 1972 c 9, §1.

*Edited accordingly.

ACT 77

or for which such person may be or is subject to the provisions of Chapter 571, Hawaii Revised Statutes; (2) threatened by confinement, against his will, in any psychiatric or other mental institution or facility, shall be entitled to be represented by a public defender. If, however, conflicting interests exist, or if the public defender for any other reason is unable to act, or if the interests of justice require, the court may appoint other counsel.

The appearance of the public defender in all judicial proceedings shall be subject to court approval.

The appearance of a public defender in all hearings before the board of paroles and pardons or other administrative body or agency shall be subject to the approval of the chairman of the board of paroles and pardons or the administrative head of the body or agency involved."

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 15, 1973.)

ACT 77

S. B. NO. 1002

A Bill for an Act Relating to the Acquisition of Land Having Value as a Resource to the State.

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

SECTION 1. **Purpose.** The State has provided for the regulation of land use and development throughout the State under the provisions of the land use law, and has provided through that law for the controlled regulation of land use and development of lands which have natural, environmental, recreational, scenic or historic value. However, these lands, though protected by the land use law, may in many instances require placement under public ownership and management in order that they can be made accessible to all of the people of the State. The purpose of this Act is to provide for the acquisition and management of such lands in those instances in which such acquisition and management are considered necessary by the State.

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

"Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Land" means the earth, water, and air, above, below, or on the surface, and includes easements and rights in land, and any improvement on land.

"Land having value as a resource to the State" includes land having natural, environmental, recreational, scenic, or historic value, and may also include park and trail systems which provide access to any such land.

*Edited accordingly.

SECTION 3. Resource land acquisition plan. The department may prepare and from time to time revise a plan for the acquisition of land having value as a resource to the State. This plan shall guide the board in acquiring such land in the exercise of its powers under this Act. In preparing this plan the department may institute studies relating to the need for such land, and shall consider any plan relating to the acquisition of such land which has been prepared by any state or county agency.

SECTION 4. Authority to acquire and convey. (a) Subject to the approval of the governor, the board may acquire, by purchase, gift or the exercise of the power of eminent domain as authorized by chapter 101, any land having value as a resource to the State. Such acquisition is hereby declared to be for a public use.

(b) The board may, subject to chapter 171 and with the approval of the governor, sell, lease, or otherwise convey any such land subject to terms and conditions which it deems appropriate and which will insure that the transferee will not use the land in a manner which is inconsistent with the purposes for which it was acquired by the board. Such terms and conditions shall run with the land and shall be binding on the transferee's heirs, successors, and assigns. The board may seek enforcement of such terms and conditions in any court of appropriate jurisdiction.

SECTION 5. Fund for the environment. (a) A fund for the environment, hereinafter called "Fund," is hereby established.

(b) The proceeds from the sale of any general obligation bonds, authorized and issued for purposes of this Act, shall be deposited in or credited to the Fund.

(c) Any net proceeds or revenue from the operation, management, sale, lease, or other disposition of land or the improvements on such land, acquired or constructed by the board under the provisions of this Act, shall also be deposited in or credited to the Fund.

SECTION 6. Acquisition of land. The board shall prepare an annual program for the purchase or acquisition by eminent domain of land having value as a resource to the State.

SECTION 7. Administration and management. The board shall, subject to chapter 171, administer, maintain, and manage any land acquired under the provisions of this Act, may charge such fees for the use of any such land as it considers to be reasonable, and may construct on such land any improvement which it deems to be necessary to carry out the purposes of this Act. The board may adopt and from time to time amend regulations implementing the provisions of this Act.

SECTION 8. Development of land acquired by the board. On the land acquired under this Act, the board may undertake any development which is consistent with the land use law and all other laws applicable to the land and development.

For purposes of this section, "development" includes (1) any building or mining operation; (2) any material change in use, intensity of use, or appear-

ACT 78

ance of any structure or land, or (3) the division of land into two or more parcels.

SECTION 9. Grants to counties. Subject to the approval of the governor, the board may make grants to counties from available funds for the purchase or acquisition by eminent domain of land having value as a resource to the State and approved for purchase or acquisition by the board. Any land so acquired by any county may, subject to chapter 171, be sold, leased, or otherwise disposed of with the prior written approval of the board.

SECTION 10. Proceeds of sale, lease or other disposition. Whenever any such land is sold by any county, that portion of the net proceeds (sale price less actual expenses of sale) of such sale equal to the proportion which the grant by the State bears to the original cost of the land or other property shall be paid to the State. In the event any such land or other property is leased, rented, or otherwise disposed of, that portion of the rental or proceeds equal to the proportion that the grant by the State bears to the original cost of the land or other property shall be paid to the State.

SECTION 11. General powers. In carrying out its functions under this Act the board may do all things necessary, useful, and convenient in connection with the acquisition, administration, maintenance, and management of lands having value as a resource to the State, subject to all applicable laws, and may provide any necessary assistance to any county in the acquisition of land having value as a resource to the State. The authority to acquire land which is conferred by this Act is in addition and supplemental to any authority to acquire land which is conferred on the board by any other Act.

SECTION 12. Federal and other grants. The board and any county may comply with any condition, regulation, restriction, or requirement imposed by the United States or any other governmental agency, or by any person in any program providing grants or other funds for the acquisition of land having value as a resource to the State.

SECTION 13. Effective date. This Act shall take effect upon its approval.

(Approved May 15, 1973.)

ACT 78

S. B. NO. 1043

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

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

SECTION 1. Section 386-21, Hawaii Revised Statutes, is amended to read:

"Sec. 386-21 Medical care, services and supplies. Immediately after a work injury sustained by an employee and so long as reasonably needed the employer shall furnish to the employee all medical care, services and supplies as the nature of the injury requires.

Whenever medical care is needed, the injured employee may select any

physician or surgeon who is practicing on the island where the injury was incurred to render such care. If the services of a specialist are indicated, the employee may select any such physician or surgeon practicing in the State. The director of labor and industrial relations may authorize the selection of a specialist practicing outside the State where no comparable medical attendance within the State is available. Upon procuring the services of such physician or surgeon, the injured employee shall give proper notice of his selection to the employer within a reasonable time after the beginning of the treatment. If for any reason during the period when medical care is needed, the employee wishes to change to another physician or surgeon, he may do so in accordance with rules prescribed by the director. If the employee is unable to select a physician or surgeon and the emergency nature of the injury requires immediate medical attendance, or if he does not desire to select a physician or surgeon and so advises the employer, the employer shall select the physician or surgeon. Such selection, however, shall not deprive the employee of his right of subsequently selecting a physician or surgeon for continuance of needed medical care.

The liability of the employer for required medical care, medical services and medical supplies shall be limited to the charges computed as set forth in the section. The director shall make determinations of such charges and promulgate fee schedules based upon such determinations as are set forth in this section. For the calendar year 1974 and for each succeeding calendar year thereafter said charges shall be limited to the amounts determined in Regulation XXXI of the department which became effective on August 13, 1971, and amendments thereto, adjusted to reflect increases or decreases in the Consumer Price Index for the Honolulu region prepared by the Bureau of Labor Statistics of the United States Department of Labor which have occurred in the four calendar quarters ending September 30 of the year preceding; provided however that for the period July 1, 1973 through December 31, 1973 the charges set forth in said Regulation XXXI shall be increased by the percentage increase in the Consumer Price Index for the Honolulu region which occurred during the period from August 1, 1971 to September 30, 1972.

The adjustments in charges provided for in this section shall be computed annually and rounded to the next higher multiple of ten cents in each case.

Notwithstanding the foregoing, the director shall review and if necessary revise said Regulation XXXI every three years said review and revision to be conducted in accordance with section 91-3, Hawaii Revised Statutes. The first review and revision shall be completed no later than December 1, 1974, to be effective January 1, 1975, and subsequent reviews and/or revisions shall be made at each three-year interval thereafter. In making such review and revisions and promulgating fee schedules pursuant thereto, the director shall establish reasonable fees for medical care, medical services and medical supplies and may take into consideration in making such determination the charges made in the State for similar treatment of injuries which are not compensable under this chapter. The director may at any time, in the foregoing manner, establish an additional fee schedule or schedules to cover charges for

ACT 79

medical care, medical services and medical supplies not previously regulated pursuant to the provisions of this section.

The liability of the employer may exceed the amount set forth in such fee schedule or schedules, only under conditions prescribed by the director.

If it appears to the director that the injured employee has wilfully refused to accept the services of a competent physician or surgeon selected as provided in this section, or has wilfully obstructed the physician or surgeon, or medical, surgical, or hospital services or supplies, the director may in his discretion consider such refusal or obstruction on the part of the injured employee to be a waiver by him in whole or in part of his right to medical care, services and supplies, and may in his discretion suspend the weekly benefit payments, if any, to which the employee is entitled so long as such refusal or obstruction continues.

Such funds as are periodically necessary to the department to implement the foregoing provisions may be charged to and paid from the special compensation fund provided by Section 386-151."

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

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

(Approved May 15, 1973.)

ACT 79

S. B. NO. 1308

A Bill for an Act Relating to Public Education.

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

SECTION 1. Sections 189-31, 189-32, 189-33, 189-34, and 189-35, Hawaii Revised Statutes, are repealed in their entirety.

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

(Approved May 15, 1973.)

ACT 80

S. B. NO. 1312

A Bill for an Act Relating to Podiatry.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER PODIATRISTS

Sec. -1 Definitions. As used in this chapter:

*Edited accordingly.

- (1) "Board" means board of medical examiners.
- (2) "Department" means department of regulatory agencies.
- (3) "Foot appliance" means any artificial apparatus used as a replacement for, an addition to, or in the treatment of the human foot whether it is medical, surgical, mechanical, manipulative, or electrical in nature.
- (4) "Podiatrist" means a person in the professional practice of podiatry.
- (5) "Podiatry" means the medical, surgical, mechanical, manipulative, and electrical diagnosis and treatment of the human foot, including the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot, but does not include any amputation, treatment of systematic conditions, or the use of any anesthetic except local anesthetic.

Sec. -2 License required. Except as otherwise provided by law, no person shall practice, offer to practice, advertise, or announce himself, either publicly or privately, as prepared or qualified to practice podiatry, either gratuitously or for pay, or use any sign or advertisement or otherwise use the term "podiatrist", "foot specialist", or any other term or terms indicating or implying that he is practicing podiatry, without having a valid unrevoked license obtained from the board of medical examiners, as prescribed in this chapter.

Sec. -3 Qualification for examination. No person shall be licensed to practice podiatry unless he has passed an examination and has been found to be possessed of the necessary qualifications as required by the board.

Before any applicant shall be eligible for such examination he shall furnish satisfactory proof to the board that:

- (1) He is a graduate in podiatry of a college approved by the American Podiatry Association Council on Education and by the board of medical examiners;
- (2) He has taken and satisfactorily completed in a college, a residence course of professional instruction in podiatry, which has been approved by the board;
- (3) He is a person of good moral character; and
- (4) He has passed the examinations in podiatry and related sciences which have been administered by the board.

Sec. -4 Examinations. (a) The board shall administer examinations which shall include, but not be limited to, examinations in the following areas: anatomy, histology and embryology, physiology, biochemistry, hygiene and public health, pathology, bacteriology, dermatology, syphilology, surgery and anesthesia, podiatry, therapeutics, physical medicine, podiatric medicine, pharmacology, materia medica, roentgenologic technique, and radiation safety.

(b) The examinations shall be held in Honolulu twice a year on the 15th of January and the 15th of July. If the 15th falls on a weekend or holiday, the examination shall be held on the weekday immediately before or after the 15th, whichever is convenient for the board.

(c) The board may accept the certificate of the National Board of Podiatry Examiners as approved by the American Podiatry Association in lieu of

and as equivalent to its own written examination. Every applicant for licensure upon the basis of the certificate, shall upon application, show the necessary qualifications required under this chapter and pay the same fees required of applicants for examination by the board.

(d) The written examination shall be secured from and corrected by the National Board of Podiatry Examiners. The oral examination shall be taken and recorded on tape and the tapes shall be held for one year. A practical examination shall also be required at a time and place prescribed by the board.

Sec. -5 Fees; expenses. No applicant shall be examined under this chapter until he has paid to the board of medical examiners a fee of \$25.00. Every person holding a license under this chapter shall reregister with the board each year, not later than January 31 and for such registration shall pay a fee of \$5.00. In addition, upon reregistering with the board, the licensee shall provide written proof of a minimum of twenty hours of postgraduate work or continuing education of podiatry taken during the previous year. Failure to comply with this section shall constitute a forfeiture of license, which may be restored only upon written application and payment to the board of a fee of \$25.00. All fees collected shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

Sec. -6 Revocation and suspension of license. Any license to practice podiatry may be revoked or suspended by the board of medical examiners at any time in a proceeding before the board for any one or more of the following acts or conditions on the part of the holder of the license:

- (1) Employing what is popularly known as a "capper" or "steerer",
- (2) Obtaining any fee on the assurance that a manifestly incurable disease can be permanently cured;
- (3) Wilfully betraying a professional secret;
- (4) Advertising one's podiatrist business with any untruthful and improbable statement;
- (5) False or fraudulent advertising;
- (6) Being convicted, whether on a plea of nolo contendere and whether or not sentence or the imposition or execution of sentence has been suspended, of a felony;
- (7) Being habitually intemperate;
- (8) Habitually using any habit-forming drug;
- (9) Procuring a license through fraud, misrepresentation, or deceit;
- (10) Violation of section 453-2;
- (11) Professional misconduct or gross carelessness or manifest incapacity in the practice of podiatry;
- (12) Engaging in the practice of podiatry other than as defined in section -1.

Sec. -7 Hearing; procedure. In any proceeding before the board of medical examiners for the revocation or suspension of a license to practice podiatry for any act or condition listed in section -6, the person whose license is sought to be revoked or suspended shall be given notice and opportunity for a hearing in accordance with chapter 91.

Sec. -8 Witnesses in such proceeding. In any proceeding related to

revocation or suspension of a license issued under this chapter, the board and each member of the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in the proceeding. The person whose license is sought in the proceeding to be revoked or suspended shall be entitled to require the board or any member of the board to subpoena and to administer oaths to any witness or witnesses who presents evidence relevant in the proceeding, and shall be entitled to examine any such witness and any other witness in the proceeding. The circuit court of the circuit in which the proceeding is held may enforce by proper proceeding the attendance and testimony of witnesses in the proceeding.

Sec. -9 Recalcitrant witnesses; contempt. If any person called before the board as a witness in any proceeding involving the revocation or suspension of a license, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to him by the board, a member of the board, or the person whose license is sought to be revoked or suspended in the proceeding, or disobey any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which the proceeding is held and the person shall be cited to appear before the circuit judge to show cause why he should not be punished for contempt of court.

Sec. -10 Perjury. Any person who wilfully and knowingly makes under oath any false statement in connection with any proceeding before the board shall be guilty of perjury and shall be subject to the penalty prescribed by law for perjury. Whenever the board is satisfied that the witness has committed perjury in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which the perjury took place, who shall prosecute the witness for perjury.

Sec. -11 Penalty. Any person who violates this chapter shall be guilty of a misdemeanor.

Sec. -12 Rules. The board of medical examiners shall adopt rules in accordance with chapter 91 for the administration of this chapter.

Sec. -13 Administration. The board of medical examiners shall be within the department of regulatory agencies for administrative purposes.

Sec. -14 Discrimination prohibited. No department, office, or agency of the state or county government, or any subdivision thereof, or any clinic, medical service, insurance carrier, or any board administering relief or foundations under the law of the State shall deny to the recipient or beneficiary of podiatric aid or services the freedom to choose podiatric care or services which are within the scope of activities of a podiatrist licensed under this chapter.

Sec. -15 Use of podiatrist; public programs. Whenever medical or surgical services within the scope of activities of a podiatrist licensed under this chapter are included in any program financed by 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

ACT 80

whether the services are to be performed by a duly licensed physician or by a duly licensed podiatrist.”

SECTION 2. Chapter 321, Hawaii Revised Statutes, is amended as follows:

1. Section 321-13 is amended by amending subsection (a) to read:

“(a) The department of health with the approval of the governor, may prescribe such rules or regulations as it deems necessary for the public health or safety respecting:

- (1) the occupations or practices of midwives, laboratory directors, laboratory technicians, physical therapists, tattoo artists, sanitarians, itinerant vendors of medicines or drugs or devices, and nursing home administrators;
- (2) the health, education, training, experience, habits, qualifications or character of persons to whom certificates of registration or permits for such occupations or practices may be issued;
- (3) the health, habits, character, practices, standards or conduct of persons holding such certificates or permits; or
- (4) the grounds or causes for revoking or suspending such certificates or permits.

Such rules or regulations shall have the force and effect of law.”

2. By amending section 321-14 to read:

“**Sec. 321-14 License to practice certain occupations.** It shall be unlawful for any person to practice any of the following listed occupations without a license so to do; any person wishing to obtain a license to engage in any of the listed occupations shall make application to the department of health, in accordance with such rules or regulations as shall be prescribed by the department under section 321-13, and any such application shall be accompanied by an examination fee for such license in accordance with the following schedule:

(1) Physical therapist	\$10
(2) Midwife	10
(3) Tattoo artist	50
(4) Laboratory director	25
(5) Laboratory technician	10
(6) Sanitarian	10
(7) Itinerant vendor of medicines or drugs or devices	25
(8) Nursing home administrator	25.”

3. By amending section 321-15 to read:

“**Sec. 321-15 Annual registration; fees, failure to register.** Every person holding a license to practice any occupation, listed in section 321-14 shall re-register with the department of health, in accordance with the rules and regulations of the department, on or before January 31 of each year and shall pay a reregistration fee as provided for in the following schedule:

(1) Physical therapist	\$2
(2) Midwife	2
(3) Tattoo artist	5

(4) Laboratory director 5
 (5) Laboratory technician 2
 (6) Sanitarian..... 2
 (7) Itinerant vendor of medicines or drugs or devices 5
 (8) Nursing home administrator 5.”

SECTION 3. (a) The licensing function for podiatrists is hereby transferred from the department of health to the department of regulatory agencies.

(b) The department of regulatory agencies shall succeed to all of the rights and powers exercised, and all the duties and obligations incurred by the department of health for the licensing of podiatrists which is transferred by this Act. All references in any law, rule, regulation, contract, or document to the department of health in connection with the function transferred by this Act shall apply to the department of regulatory agencies.

(c) All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, and other property heretofore made, used, acquired, or held by the department of health in the exercise of the functions transferred by this Act shall be transferred to the board of medical examiners within the department of regulatory agencies.

(d) Positions held by employees affected by the transfer of functions by this Act shall be allocated by the director of health to appropriate positions within the department of health and the employees shall be paid in accordance with the salary range to which the newly designated positions are assigned; provided that no employee shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits as a consequence of this Act.

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

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

(Approved May 15, 1973.)

ACT 81

H. B. NO. 1151

A Bill for an Act Relating to the Student Loan Assistance Program and Making an Appropriation to the State Higher Education Loan Fund.

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

SECTION 1. Section 304-93, Hawaii Revised Statutes, is amended to read:

“**Sec. 304-93 Repayment of loans.** All loans made under this part shall bear interest at three per cent simple interest. Repayment of principal and interest charges shall commence nine months after graduation or withdrawal

*Edited accordingly.

ACT 82

from the degree program and shall be paid in periodic installments within a ten year period. The board of regents may, upon application by the student and upon a showing of good cause, defer repayment of the loan and commencement of interest. Liability for repayment of a loan shall be cancelled upon the death or permanent total disability of the borrower.

“The university may spend out of the state higher education loan fund up to one per cent of the total amount of loans in force for the collection of repayments. In addition, all interest collected shall revert to and be credited to the loan fund.”

SECTION 2. Appropriation. There is appropriated for the state higher education loan fund out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary, for the purposes of the student loan assistance program, as provided by sections 304-91 through 304-95, Hawaii Revised Statutes.

The sum appropriated shall be expended by the University of Hawaii for the purposes aforesaid.

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 15, 1973.)

ACT 82

H. B. NO. 1194

A Bill for an Act Relating to Planning and Development of Kauai.

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

SECTION 1. Findings and Declaration of Necessity. The Legislature finds and declares that: (a) a serious economic situation threatens Kauai, primarily resulting from the cessation of sugar production at Kilauea and the announced closing of the remaining pineapple operations on Kauai; (b) an unemployment crisis will threaten Kauai if alternative employment is not available; (c) a Kauai Task Force has proposed several potentially viable industries for the area such as: a feed grain and forage production, a beef cattle feedlot, hog feeding, dairy farms, slaughtering, meat packing, meat processing, rendering, macadamia production and processing, guava production and processing, passion fruit production and processing, truck farming, aquaculture and others; (d) studies should be conducted to determine the technical and economic feasibility of these and other potentially viable industries.

SECTION 2. There is hereby appropriated out of the general revenues or general obligation bond fund of the State of Hawaii, to be expended by the governor, the sum of \$100,000, or so much thereof as may be necessary, to carry out the feasibility studies cited in section 1 of this Act.

*Edited accordingly.

SECTION 3. There is hereby appropriated out of the general revenues or general obligation bond fund of the State of Hawaii, to be expended by the governor, the sum of \$3,500,000, or so much thereof as may be necessary, for planning and economic development of Kauai. The governor's power to expend such moneys shall include, but not be limited to, the power to institute such loan programs as he deems appropriate.

SECTION 4. There is hereby appropriated out of the general revenues or general obligation bond fund of the State of Hawaii, to be expended by the governor, the sum of \$500,000, or so much thereof as may be necessary, for the development of an irrigation water system on Kauai.

SECTION 5. The director of finance is authorized to issue general obligation bonds of the State in the amount of \$4,100,000 to be used for the purposes of this Act.

SECTION 6. The authorizations in sections 2, 3, 4, and 5 of this Act shall lapse on June 30, 1974.

SECTION 7. If any portion of this Act or its application to any circumstances is held invalid for any reason, the remainder thereof shall not be affected thereby.

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

(Approved May 15, 1973.)

ACT 83

H. B. NO. 1299

A Bill for an Act Relating to Planning and Development of Molokai.

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

SECTION 1. **Findings and Declaration of Necessity.** The legislature finds and declares that: (a) the announced termination of pineapple operations in 1975 by Dole Company and Del Monte Corporation poses a serious economic threat to Molokai; (b) potentially viable industries for the area include: grain production and milling, tropical fruit processing, livestock production, slaughterhouse, meat packing, aquaculture, visitor facilities and others; (c) feasibility studies must be conducted to determine the technical and economic feasibility of these and other potentially viable industries; (d) the housing needs of the residents of Maunaloa and Kualapuu must be expeditiously met; and (e) implementation of the planning and development of Molokai must commence to include, but not be limited to, development of those industries found to be feasible, housing programs, and manpower training programs.

SECTION 2. There is hereby appropriated out of the general revenues or the general obligation bond fund of the State of Hawaii, to be expended by the governor, the sum of \$200,000, or so much thereof as may be necessary, to carry out the feasibility studies and the planning and development of Molokai.

SECTION 3. The director of finance is authorized to issue general ob-

ACT 84

ligation bonds of the State in the amount of \$200,000 to be used for the purposes of this Act.

SECTION 4. The authorization in Section 2 of this Act shall lapse on June 30, 1974.

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

(Approved May 15, 1973.)

ACT 84

H. B. NO. 1334

A Bill for an Act Relating to Planning and Development of North Kohala.

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

SECTION 1. Section 3 of Act 197 of the Session Laws of Hawaii 1972 is amended to read:

“There is hereby appropriated out of the general revenues or the general obligation bond fund of the State of Hawaii, to be expended by the Governor, the sum of \$3,700,000, or so much thereof as may be necessary, for planning and development of North Kohala.”

SECTION 2. Section 6 of Act 197 of the Session Laws of Hawaii 1972 is amended to read:

“The authorization in Sections 2 and 3 of this Act shall lapse on June 30, 1974.”

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

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

(Approved May 15, 1973.)

ACT 85

H. B. NO. 1552

A Bill for an Act Relating to Criminal Injuries Compensation.

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

SECTION 1. Section 351-32, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 351-32 Violent crimes.** (a) The crimes to which part III of this chapter applies are the following offenses enumerated and all other offenses in which any enumerated offense is necessarily included: sections

-501,	-502,	-701,	-702,	-703,	-704,	-710,	-711,
-713,	-714,	-715,	-720,	-721,	-722,	-724,	-730,
-731,	-732,	-733,	-734,	-735,	-736,	-737,	-820,

and -821.

*Edited accordingly.

(b) For the purposes of this part, the operation of a motor vehicle, boat, or aircraft that results in an injury or death shall not constitute a crime, unless the injuries were intentionally inflicted through the use of such vehicle, boat, or aircraft.”

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 15, 1973.)

ACT 86

H. B. NO. 1847

A Bill for an Act Relating to Execution of Sale of Property.

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

SECTION 1. Section 651-32.1, Hawaii Revised Statutes, is repealed.

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

SECTION 3. This Act shall take effect upon approval.

(Approved May 15, 1973.)

ACT 87

H. B. NO. 2026

A Bill for an Act Relating to Labor Union Mutual Benefit Societies.

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

SECTION 1. Chapter 433, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 433- Union mutual benefit societies. A labor union mutual benefit society, which is also regulated by Public Law 85-836, shall be covered by this chapter, but the insurance commissioner may waive any of the specific requirements of this chapter if he is satisfied that the labor union members and their dependents belonging to the mutual benefit society will not be adversely affected by the waiver.

Any labor union mutual benefit society shall file with the insurance commissioner annually a copy of the report filed under Public Law 85-836 and a complete financial report prepared by a certified public accountant.”

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 May 15, 1973.)

A Bill for an Act Enacting the Uniform Child Custody Jurisdiction Act.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately numbered and to read as follows:

**“CHAPTER
UNIFORM CHILD CUSTODY JURISDICTION ACT**

Sec. -1 Purposes of chapter; construction of provisions. The general purposes of this chapter are to:

- (1) Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;
- (2) Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;
- (3) Assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this State decline the exercise of jurisdiction when the child and his family have a closer connection with another state;
- (4) Discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;
- (5) Deter abductions and other unilateral removals of children undertaken to obtain custody awards;
- (6) Avoid relitigation of custody decisions of other states in this State insofar as feasible;
- (7) Facilitate the enforcement of custody decrees of other states;
- (8) Promote and expand the exchange of information and other forms of mutual assistance between the courts of this State and those of other states concerned with the same child; and
- (9) Make uniform the law of those states which enact it.

(b) This chapter shall be construed to promote the general purposes stated in this section, and shall apply only between those states which have enacted the same or similar legislation.

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

- (1) “Contestant” means a person, including a parent, who claims a right to custody or visitation rights with respect to a child;

- (2) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person;
- (3) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect and dependency proceedings;
- (4) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;
- (5) "Home state" means the state in which the child immediately preceding the time involved lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;
- (6) "Initial decree" means the first custody decree concerning a particular child;
- (7) "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court;
- (8) "Physical custody" means actual possession and control of a child;
- (9) "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody; and
- (10) "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

Sec. -3 Jurisdiction. (a) A court of this State which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if:

- (1) This State (A) is the home state of the child at the time of commencement of the proceeding, or (B) had been the child's home state within six months before commencement of the proceeding and the child is absent from this State because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this State; or
- (2) It is in the best interest of the child that a court of this State assume jurisdiction because (A) the child and his parents, or the child and at least one contestant, have a significant connection with this State, and (B) there is available in this State substantial evidence concerning the child's present or future care, protection, training, and personal relationships; or
- (3) The child is physically present in this State and (A) the child has been abandoned or (B) it is necessary in an emergency to protect

the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

- (4) (A) It appears that no other state would have jurisdiction under prerequisites substantially in accordance with paragraphs (1), (2), or (3), or another state has declined to exercise jurisdiction on the ground that this State is the more appropriate forum to determine the custody of the child, and (B) it is in the best interest of the child, that this court assume jurisdiction.

(b) Except under paragraphs (3) and (4) of subsection (a), physical presence in this State of the child, or of the child and of the contestants, is not alone sufficient to confer jurisdiction on a court of this State to make a child custody determination.

(c) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

Sec. -4 Notice and opportunity to be heard. Before making a decree under this chapter, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this State, notice and opportunity to be heard shall be given pursuant to section -5.

Sec. -5 Notice to persons outside this State; submission to jurisdiction. (a) Notice required for the exercise of jurisdiction over a person outside this State shall be given in a manner reasonably calculated to give actual notice, and may be:

- (1) By personal delivery outside this State in the manner prescribed for service of process within this State;
- (2) In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;
- (3) By any form of mail addressed to the person to be served and requesting a receipt; or
- (4) As directed by the court, including publication, if other means of notification are ineffective.

(b) Notice under this section shall be served, mailed, or delivered, or last published at least twenty days before any hearing in this State.

(c) Proof of service outside this State may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this State, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(d) Notice is not required if a person submits to the jurisdiction of the court.

Sec. -6 Simultaneous proceedings in other states. (a) A court of this State shall not exercise its jurisdiction under this chapter if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conform-

ity with this chapter, unless the proceeding is stayed by the court of the other state because this State is a more appropriate forum or for other reasons.

(b) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under section -9 and shall consult the child custody registry established under section -16 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(c) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with sections -19 through -22. If a court of this State has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

Sec. -7 Inconvenient forum. (a) A court which has jurisdiction under this chapter to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(b) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(c) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

- (1) If another state is or recently was the child's home state;
- (2) If another state has a closer connection with the child and his family or with the child and one or more of the contestants;
- (3) If substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;
- (4) If the parties have agreed on another forum which is no less appropriate; and
- (5) If the exercise of jurisdiction by a court of this State would contravene any of the purposes stated in section -1.

(d) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(e) If the court finds that it is an inconvenient forum and that a court

of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(f) The court may decline to exercise its jurisdiction under this chapter if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(g) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this State, necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses. Such payment required by the court shall be made to the clerk of the court for remittance to the proper party.

(h) Upon dismissal or stay or proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(i) Any communication received from another state informing this State of a finding of inconvenient forum because a court of this State is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this State shall inform the original court of this fact.

Sec. -8 Jurisdiction declined by reason of conduct. (a) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction if this is just and proper under the circumstances.

(b) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(c) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorneys' fees, incurred by other parties or their witnesses.

Sec. -9 Information under oath to be submitted to the court. (a) Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare whether:

(1) He has participated (as a party, witness, or in any other capacity) in

any other litigation concerning the custody of the same child in this or any other state;

- (2) He has information of any custody proceeding concerning the child pending in a court of this or any other state; and
- (3) He knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(b) If the declaration as to any of the above items is in the affirmative the declarant shall give additional information as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(c) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which he obtained information during this proceeding.

Sec. -10 Additional parties. If the court learns from information furnished by the parties pursuant to section -9 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the dependency of the proceeding and of his joinder as a party. If the person joined as a party is outside this State he shall be served with process or otherwise notified in accordance with section -5.

Sec. -11 Appearance of parties and the child. (a) The court may order any party to the proceeding who is in this State to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child.

(b) If a party to the proceeding whose presence is desired by the court is outside this State with or without the child the court may order that the notice given under section -5 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(c) If a party to the proceeding who is outside this State is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

Sec. -12 Binding force and res judicata effect of custody decree. A custody decree rendered by a court of this State which has jurisdiction under section -3 binds all parties who have been served in this State or notified in accordance with section -5 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this chapter.

Sec. -13 Recognition of out-of-state custody decrees. The courts of

this State shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this chapter or which was made under factual circumstances meeting the jurisdictional standards of the chapter, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this chapter.

Sec. -14 Modification of custody decree of another state. (a) If a court of another state has made a custody decree, a court of this State shall not modify that decree unless (1) it appears to the court of this State that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this chapter or has declined to assume jurisdiction to modify the decree and (2) the court of this State has jurisdiction.

(b) If a court of this State is authorized under subsection (a) and section -8 to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section -22.

Sec. -15 Filing and enforcement of custody decree of another state. (a) A certified copy of a custody decree of another state may be filed in the office of the clerk of any family court of this State. The clerk shall treat the decree in the same manner as a custody decree of the family court of this State. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this State.

(b) A person violating a custody decree of another state which makes it necessary to enforce the decree in this State may be required to pay necessary travel and other expenses, including attorneys' fees, incurred by the party entitled to the custody or his witnesses.

Sec. -16 Registry of out-of-state custody decrees and proceedings. The clerk of each family court shall maintain a registry in which he shall enter the following:

- (1) Certified copies of custody decrees of other states received for filing;
- (2) Communications as to the pendency of custody proceedings in other states;
- (3) Communications concerning a finding of inconvenient forum by a court of another state; and
- (4) Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this State or the disposition to be made by it in a custody proceeding.

Sec. -17 Certified copies of custody decree. The clerk of the family court of this State, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

Sec. -18 Taking testimony in another state. In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another

state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony may be taken.

Sec. -19 Hearings and studies in another state; orders to appear.

(a) A court of this State may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this State; and to forward to the court of this State certified copies of the transcript of the record of hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties.

(b) A court of this State may request the appropriate court of another state to order a party to custody proceedings pending in the court of this State to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

Sec. -20 Assistance to courts of other states. (a) Upon request of the court of another state the courts of this State which are competent to hear custody matters may order a person in this State to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this State or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the clerk of the court to the requesting court.

(b) A person within this State may voluntarily give his testimony or statement in this State for use in a custody proceeding outside this State.

(c) Upon request of the court of another state a competent court of this State may order a person in this State to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

Sec. -21 Preservation of documents for use in other states. In any custody proceeding in this State the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches eighteen years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.

Sec. -22 Request for court records for another state. If custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this State, the court of this State upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section -21.

Sec. -23 International application. The general policies of this chap-

ACT 89

ter extend to the international area. The provisions of this chapter relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody, rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

Sec. -24 Priority. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this chapter the case shall be given calendar priority and handled expeditiously.

Sec. -25 Short title. This chapter may be cited as the Uniform Child Custody Jurisdiction Act.

Sec. -26 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of the Chapter which can be given effect without the valid provision or application, and to this end the provisions of this chapter are severable."

SECTION 2. This Act shall take effect on July 1, 1973.

(Approved May 15, 1973.)

ACT 89

H. B. NO. 180

A Bill for an Act Relating to Mortgage Brokers.

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

SECTION 1. Section 454-1, Hawaii Revised Statutes, is amended by adding a new subsection to read:

"**Sec. 454-1(8)** "Institutional investor" means and includes

(a) banks, savings and loan institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit sharing trusts, any of the class of persons permitted to qualify as foreign lenders under section 207-11, or other financial institutions or institutional buyers, whether acting for themselves or as fiduciaries;

(b) the United States or any foreign government, any state or territory thereof, or any agency or corporate or other instrumentality of the United States, a foreign government, or of any state, territory or political subdivision thereof."

SECTION 2. Chapter 454, Hawaii Revised Statutes, is amended by adding a new section to read:

"**Sec. 454- Restrictions.** Notwithstanding any exemption provision contained in chapter 485, no mortgage broker or mortgage solicitor licensed under this chapter shall directly or indirectly sell, offer to sell or negotiate mortgage loans to more than twenty-five persons, other than institutional investors, during a period of twelve consecutive months. Each mortgage broker and mortgage solicitor shall respond to all appropriate inquiries and investigations conducted by the mortgage commissioner in this regard."

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

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

(Approved May 15, 1973.)

ACT 90

H. B. NO. 133

A Bill for an Act Relating to Passenger Car Odometers.

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

SECTION 1. Chapter 292, Hawaii Revised Statutes, is amended as follows:

a. By amending section 292-1 to read:

“Sec. 292-1 Purpose. The purpose of this chapter is to assure the accuracy of the odometer-speedometer system installed in certain passenger cars introduced for sale, rent or lease; held for sale, rent or lease; offered for sale, rent or lease; sold or re-sold in the State of Hawaii.”

b. By amending section 292-4 to read:

“Sec. 292-4 Certificate requirement. Irrespective of any other general or specific law, regulation, or ordinance pertaining to passenger cars or their registration, inspection, fees, taxes, or licensing, no person shall introduce into the State for sale, rent or lease; hold for sale, rent or lease; offer for sale, rent or lease; sell, or resell, including barter or exchange, any passenger car unless such passenger car has installed an operable mileage measuring system and the mileage measuring system is described in detail on the manufacturer’s accompanying certificate of accuracy.

The certificate of accuracy shall contain an endorsement reflecting the condition of accuracy of the mileage measuring system, the exact odometer reading to the nearest mile and the odometer error referenced to a standard statute mile of 5280 feet as prescribed by the National Bureau of Standards.

The original endorsement shall be the responsibility of the manufacturer who may delegate this function to his authorized agent. Such delegation of authority does not negate the manufacturer’s responsibility for supplying a correct certificate of accuracy, properly endorsed as required herein.”

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

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

(Approved May 15, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Taxation, Amending Chapter 237 of the Hawaii Revised Statutes.

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

SECTION 1. The purpose of this bill is to treat the deaf and totally disabled persons in the same manner under Hawaii's tax laws as the blind person. Act 90, Session Laws of Hawaii 1970, attempted to grant similar tax treatment to deaf and totally disabled persons by providing for the same exemptions granted the blind person under Hawaii's income and property tax laws. Inadvertently, however, provisions were not included to provide equal treatment under the general excise tax law. This measure would correct this oversight so that the deaf and totally disabled persons would be treated in a like manner as the blind person under all of the pertinent tax laws.

SECTION 2. Section 237-17, Hawaii Revised Statutes, is amended to read as follows:

"Section 237-17 Persons with impaired sight, hearing, or who are totally disabled. Anything in section 237-13 to the contrary notwithstanding, the privilege tax levied, assessed, and collected on account of the business or other activities of individuals who are blind, deaf, or totally disabled, or corporations all of whose outstanding shares are owned by individuals who are blind, deaf, or totally disabled shall not exceed one-half of one per cent of the proceeds, sales, income, or other receipts subject to tax. For the purpose of this (section) chapter "blind," "deaf," or "totally disabled" is defined as in section 235-1. The impairment of sight or hearing, or the disability, shall be certified to by the department of health or by any state or county medical officer duly authorized by the department of health for this purpose."

SECTION 3. Section 237-24(13), Hawaii Revised Statutes, is amended to read as follows:

"(13) An amount up to, but not in excess of, \$2,000 a year of gross income received by any blind, deaf, or totally disabled person engaging, or continuing, in any business, trade, activity, occupation, or calling within the State;"

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

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

(Approved May 15, 1973.)

A Bill for an Act Relating to Limitation of Actions in Medical Malpractice Cases.

*Edited accordingly.

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

SECTION 1. Chapter 657, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

“Sec. 657- Medical torts; limitation of actions; time. No action for injury or death against a chiropractor, clinical laboratory technologist or technician, dentist, naturopath, nurse, nursing home administrator, dispensing optician, optometrist, osteopath, physician or surgeon, physical therapist, podiatrist, psychologist, or veterinarian duly licensed or registered under the laws of the State, or a licensed hospital as the employer of any such person, based upon such person’s alleged, professional negligence, or for rendering professional services without consent, or for error or omission in such person’s practice, shall be brought more than two years after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, but in any event not more than six years after the date of the alleged act or omission causing the injury or death. This time limitation shall be tolled for any period during which the person has failed to disclose any act, error, or omission upon which the action is based and which is known or through the use of reasonable diligence should have been known to him.”

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 15, 1973.)

ACT 93

H. B. NO. 997

A Bill for an Act Relating to Mental Institutions.

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

SECTION 1. Sections 333-26, 333-27, 333-30, 333-31, 333-35, and 333-35.5, Hawaii Revised Statutes, are amended to read as follows:

“Sec. 333-26 Commitment of mentally retarded persons; application, certificate. The family court shall have jurisdiction to order commitments to Waimano training school and hospital and no person sought to be committed shall be entitled to a jury trial of the issues raised by any application for commitment. Any adult relative or the guardian or the custodian of the individual sought to be committed, or any authorized agent of an organization approved under sections 346-16 and 346-17 or of any governmental department or bureau, may file in the family court of the circuit in which the individual resides, or in the family court of the first circuit, an application for the commitment of the individual to Waimano training school and hospital. The application shall be verified and there shall be attached thereto a certificate executed and veri-

*Edited accordingly.

fied by the members of a committee consisting of a physician, a clinical psychologist, and a social worker, all qualified by professional training and experience to make the findings and diagnoses authorized in sections 333-24 and 333-25, certifying that the individual sought to be committed has been examined by the members of the committee and has been found to come within sections 333-24 and 333-25, and that the individual should be committed to Waimano training school and hospital. The examinations shall include the administration of psychological tests and psychological evaluations appropriate as an aid in the diagnosis of mental retardation and the certificate shall include the report of the result of the tests and evaluations as well as the statement of the facts which are alleged to bring the individual within section 333-24. Appropriate forms for the application, certificate, and statement hereinabove referred to shall be furnished by the department of health.

Sec. 333-27 Hearing of application; notice, duties of attorney general; appeal. The court shall, not less than ten days after the filing of the application, conduct a hearing thereon which shall be conducted in the presence of the person sought to be committed. A copy of the application together with notice of the time and place of the hearing thereon shall be personally served upon the person sought to be committed and upon any parent, guardian, or custodian who has not joined in the application, not less than ten days prior to the hearing. If personal service upon the parent, guardian, or custodian cannot be effected within the State, service may be made as provided in sections 634-59, 634-60, and 634-63, or 634-60.5, whichever is applicable.

At the request of the director of health or of any person authorized to file an application as hereinabove provided, the attorney general shall prepare, file, and present applications under this chapter, provided that, in the second and fifth circuits the respective county attorneys, and in the third circuit the corporation counsel, at the request of the attorney general shall prepare, file, and present such applications within their respective circuits.

Every order of commitment entered under this part prior to the procedures required of the director under section 333-30, and every final order of commitment entered under the section, shall contain a specific finding of the facts which bring the individual sought to be committed within this part. Any such order shall be subject to appeal, as set forth in section 641-2, by the individual sought to be committed, or by the guardian or custodian or any adult relative of the individual; provided, that unless specifically so ordered by the supreme court, no such appeal shall operate as a stay of the order of commitment, which shall be executed notwithstanding the appeal, subject to the release of the individual sought to be committed by order of the supreme court at any stage of the appeal.

Sec. 333-30 Observation and reexamination; certification; finality of order. No person committed to Waimano training school and hospital shall be detained therein for a period of more than sixty days unless, prior to the expiration of sixty days from the date of admission, or within such further period as may be allowed by the court, the director of health has caused the person to be observed and examined by one or more qualified physicians and clinical psychologists other than the signers of the certificate referred to in section 333-

26 and has filed in the court in which the application for commitment was filed a certificate signed by the examiners and setting forth the results of the observation and examination, and certifying that the person is in need of continued care, custody, and treatment in Waimano training school and hospital. Upon the filing of the certificate, the court may make a final order of commitment and the person shall thereafter remain at Waimano training school and hospital until discharged, conditionally released, granted leave, or transferred in accordance with this part; provided, that if the court is not satisfied that a final order of commitment should be entered on the basis of the certificate mentioned in this section, it may order a rehearing of the original application, upon the same terms and conditions as set forth in section 333-27 and may require such further examination and such further certificate as it may deem necessary in order to protect the rights of the alleged mentally retarded person, before entering the final order.

Sec. 333-31 Absolute discharge; conditional release; leave of absence; transfer. The director of health shall file in the proceeding in which the order of commitment was entered a verified petition for the absolute discharge of any committed person whom the director finds to be no longer within section 333-24. Such a finding may be made only upon the basis of a certificate executed and verified by the members of a committee constituted as provided in section 333-26, setting forth the opinion of the members of the committee, that the patient or ward no longer comes within section 333-24 and the reasons for the opinion. The petition shall include the finding and the certificate upon which the same is based. The court may require a hearing of the petition. Upon reading and filing the petition, or after a hearing thereof, the court may enter an order finding that the allegations of the petition are true and setting aside the order of commitment. Every patient or ward discharged as herein provided shall be provided with a copy of the order. Upon the discharge of any patient coming within section 333-29, at any time prior to the expiration of the period during which the patient could legally have been detained at the institution to which the patient was previously committed or sentenced, the patient shall be returned to the custody of the institution.

The director may grant a conditional release to any patient committed as hereinabove provided whom the director finds to be potentially capable of self-support and self-management in the community, or whom the director finds, as result of the availability of other care, does not, at the time of the finding require institutional care, supervision, control, treatment, and training at Waimano training school and hospital. The conditional release may involve, but shall not be limited to family or foster care or employment placements and shall be subject to such terms and conditions as may be imposed by the director. The conditional release may be terminated at any time upon the finding of the director that the continuation thereof will not serve the best interests of the ward or of his family or of the community. Every conditional release shall be reviewed annually by the director.

The director may grant to any patient a temporary leave of absence, upon such terms and conditions as he may deem advisable, in any case in which the director shall find that the leave will promote the best interests of

the patient. The temporary leave of absence shall not extend beyond a period of one hundred and twenty consecutive days. No conditional release or temporary leave of absence shall be granted to any patient coming within section 333-29 by reason of prior commitment to or imprisonment in a correctional institution prior to the expiration of the period during which the patient could legally have been detained at the institution to which the patient was previously committed or sentenced, unless the director shall find that the conduct of the patient within the Waimano training school and hospital is subversive to the maintenance of discipline and order therein, or is harmful to the program or to the other patients, in which event the director may grant the conditional release or temporary leave of absence and return the person to the correctional institution.

Sec. 333-35 Voluntary admission of minors. Upon the written application of a parent or guardian or other person or agency having legal custody, the director of health may permit the admission to Waimano training school and hospital of any minor who comes within sections 333-24 and 333-25, even though no application for commitment under this part has been filed; provided, that no such minor shall be entitled as a matter of right either to be admitted or to remain at the Waimano training school and hospital. No minor admitted under this section shall be detained at the Waimano training school and hospital for a period of more than thirty days after a parent or guardian or any adult relative of the admitted minor shall have submitted to the director a written demand for release or discharge, unless an application for commitment under this part has been filed in a court having authority to order the commitment. The period of thirty days may be extended for not more than an additional thirty days by a court having jurisdiction to order commitments upon the court's finding that the extension is for the best interests of the minor. No such voluntary admission shall be permitted for any minor with respect to whom an application for commitment has previously been denied after presentation to a court having jurisdiction, without the specific written authorization of the court, which authorization may be made subject to such conditions as may be deemed by the court to promote the best interests of the minor.

Any court-appointed guardian of the person of a minor, before entering into any agreement with the director concerning the voluntary admission of the minor, shall report the plan to the court that appointed the guardian and shall thereafter be guided by the directions of the court.

No person admitted under this section shall be detained at the Waimano training school and hospital after the person has reached his eighteenth birthday unless, prior thereto, an application for commitment has been filed under this part.

Admission under this section shall be subject to such reasonable conditions and regulations as may be established by the director and any person or persons legally liable for the support of the minor may be required to pay to the Waimano training school and hospital such reasonable sums as may be determined by the directors as contributions towards the support, maintenance and treatment of the minor therein.

Sec. 333-35.5 Voluntary admission of adults. Upon the written applica-

tion of a parent or guardian or other person or agency having custody, the director of health may permit the voluntary admission to Waimano training school and hospital of any adult who comes within sections 333-24 and 333-25, and on whose behalf an application for commitment under this part has been filed; provided that no such adult shall be entitled as a matter of right to be admitted or to remain at the Waimano training school and hospital.

No adult admitted under this section shall be detained at the Waimano training school and hospital for a period of more than sixty days. The period of sixty days may be extended for not more than an additional thirty days by a court having jurisdiction to order commitments upon the court's finding that the extension is for the best interests of the adult.

Admission under this section shall be subject to such reasonable conditions and regulations as may be established by the director."

SECTION 2. Sections 334-1 and 334-83, Hawaii Revised Statutes, are amended to read as follows:

"Sec. 334-1 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 part thereof which provides inpatient or outpatient care, custody, diagnosis, treatment, or rehabilitation services for mentally ill persons or for persons habituated to the excessive use of drugs or alcohol or intoxicated persons.

"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 or surgeon licensed by the State to practice medicine, including a physician and surgeon granted a limited and temporary license under section 453-3(1), (2), and (5) or a resident physician and surgeon granted a limited and temporary license under paragraph (4) 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.

ACT 94

“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.

“Intoxicated person” means a person who is deprived of reasonable self-control because of intake of alcohol or because of any substance which includes in its composition volatile organic solvents.

Sec. 334-83 Hearing. The court may take testimony and may examine the patient, 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.”

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

SECTION 4. This Act shall take effect upon approval on July 1, 1973.

(Approved May 15, 1973.)

ACT 94

H. B. NO. 1170

A Bill for an Act Relating to Highway Safety, Amending Section 286-156, Hawaii Revised Statutes.

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

SECTION 1. Section 286-156, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 286-156 Hearing before a district judge.** A hearing to determine the truth and correctness of an affidavit submitted to a district judge shall be held within twenty days after the district judge has received the affidavit.

The district judge shall hear and determine:

- (1) 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 highways while under the influence of intoxicating liquor;
- (2) Whether the person was lawfully arrested;
- (3) Whether the arresting officer had informed the person of the sanctions of section 286-155; and
- (4) Whether the person refused to submit to a test of his breath or blood.”

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

*Edited accordingly.

terial 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 15, 1973.)

ACT 95

H. B. NO. 1254

A Bill for an Act Relating to Electricians and Plumbers.

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

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

“Sec. 448E-1 Definitions. As used in this chapter, unless otherwise indicated by the content:

- (1) “Board” means the board of electricians and plumbers.
- (2) “Journeyman electrician” means any person who has been licensed by the board as a journeyman electrician to perform electrical work.
- (3) “Journeyman plumber” means any person who has been licensed by the board as a journeyman plumber to direct and supervise the performance of plumbing work and to perform plumbing work.
- (4) “Journeyman specialty electrician” means any person who has been licensed by the board as a journeyman specialty electrician to perform electrical work related to installing, repairing, altering, and maintaining but not the attachment of lighting and power circuits to, the following: electronic equipment, sound public address systems, and communication systems, other than equipment and systems for a single-family or two-family dwelling; master or community radio and television receiving antenna systems; sound recording systems, other than systems for a single-family or two-family dwelling; burglar and fire alarm systems; low voltage remote control, other than a control for a single-family or two-family dwelling; and low voltage communication signal systems.
- (5) “Master plumber” means any person who has been licensed by the board as a master plumber to direct and supervise the performance of plumbing work and to perform plumbing work.
- (6) “Motion picture operator” means any person who has been licensed by the board for the purpose of operating a movie projector using 16 mm, 35 mm film or larger or video tape solely for commercial theater purposes.
- (7) “Supervising electrician” means any person who has been licensed by the board as a supervising electrician to direct and supervise the performance of electrical work and to perform electrical work.
- (8) “Supervising specialty electrician” means any person who has been

*Edited accordingly.

licensed by the board as a supervising specialty electrician to direct and supervise the performance of electrical work related to installing, repairing, altering, and maintaining, but not the attachment of lighting and power circuits, to the following: electronic equipment, sound public address systems, other than equipment and systems for a single-family or two-family dwelling; master or community radio and television receiving antenna system; sound recording systems other than systems for a single-family or a two-family dwelling; burglar and fire alarm systems; low voltage remote control, other than control for a single-family or two-family dwelling; and low voltage communication signal systems.

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

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

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

(Approved May 15, 1973.)

ACT 96

H. B. NO. 1770

A Bill for an Act Relating to Products and Commodities.

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

SECTION 1. Chapter 148, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"**Sec. 148- Labeling of pork products.** Notwithstanding any law to the contrary, the board of agriculture shall require retailers to label pork produced in the State of Hawaii "Island Produced Pork" to distinguish the same from pork produced elsewhere."

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 15, 1973.)

ACT 97

S. B. NO. 90

A Bill for an Act Relating to Licensing of Certain Occupations.

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

*Edited accordingly.

SECTION 1. Section 321-14, Hawaii Revised Statutes, is amended to read:

“**Sec. 321-14 License to practice certain occupations.** It shall be unlawful for any person to practice any of the following listed occupations without a license so to do; any person wishing to obtain a license to engage in any of the listed occupations shall make application to the department of health, in accordance with such rules or regulations as shall be prescribed by the department under section 321-13, and any such application shall be accompanied by an examination fee for such license in accordance with the following schedule:

- (1) Podiatrist \$25
- (2) Physical therapist 10
- (3) Midwife 10
- (4) Tattoo artist 50
- (5) Laboratory director 25
- (6) Laboratory technician 10
- (7) Sanitarian 10
- (8) Itinerant vendor of medicines or drugs or devices 25
- (9) Nursing home administrator 25

Where examination materials are purchased from a professional organization or examination service, the department may charge the applicant for the cost of such materials, such charges to be over and above the fees listed above.”

SECTION 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 approval.
(Approved May 15, 1973.)

ACT 98

S. B. NO. 192

A Bill for an Act Relating to Blue Collar Compensation.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 77-5, Hawaii Revised Statutes, is amended to read:

“**Sec. 77-5 Compensation plan for blue-collar positions.** The salary schedule prescribed in section 77-13 shall not apply to positions in recognized trades or crafts or other skilled mechanical crafts, or unskilled, semiskilled, or skilled manual labor occupations, including positions of foremen, inspectors and supervisors in positions having trades, crafts, or laboring experience and knowledge as the paramount requirement, commonly known as blue-collar positions.

- (1) The provision of section 77-4 where it is not inconsistent with the provisions of this section shall be applicable.

*Edited accordingly.

(2) Salary structure

- (A) The salary schedules applicable to blue-collar positions shall be comprised of fifteen salary grades with each grade consisting of five increment steps.
- (B) A salary schedule for nonsupervisory blue-collar positions, hereafter to be referred to as the wage board schedule, shall be established.
- (C) A salary schedule for supervisory blue-collar positions, hereafter to be referred to as wage board supervisory schedule, shall be established for each of the following levels:
 - (i) Working foreman;
 - (ii) Foreman I;
 - (iii) Foreman II;
 - (iv) Foreman III; and,
 - (v) General foreman.

(3) Wherever payment is made on the basis of an annual, weekly, hourly, or daily rate, the rate shall be computed as provided for under section 77-13(e).

(4) Implementation of compensation plan.

- (A) The conference of personnel directors shall compile and recommend to the public employees compensation appeals board a tentative compensation plan based upon such factors as the kind and subject matter of work, level of difficulty and responsibility, and qualification requirements for classes deemed covered by this section by October 15 of every odd-numbered year.

Full opportunity for consultation with the persons and organizations including employee organizations shall be afforded.

- (B) The appeals board referred to in section 77-4 shall provide for the publication of the tentative compensation plan. All petitions for appeal against the compensation plan, including the pricing of classes or whether the class should be included or excluded from the blue-collar plan, shall be filed with the appeals board within twenty days from the date of publication of the tentative plan.

The board shall meet biennially to hear appeals from affected persons and parties concerning the tentative compensation plan and may hold public hearings as well. At least one appeal hearing shall be held in each jurisdiction.

Final 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 January of every even-numbered year.

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 the cost thereof for its information and approval. The effective

date of the approved plans shall be July 1 of every even-numbered year.

- (5) The nonsupervisory and supervisory wage board schedules approved by the legislature in the regular session of 1970 are hereby continued as follows:

**WAGE BOARD SCHEDULE
NONSUPERVISORY**

WB	1	2	3	4	5
1	373	390	411	432	454
	2.15	2.25	2.37	2.49	2.62
2	400	419	440	462	485
	2.31	2.42	2.54	2.67	2.80
3	407	428	449	471	495
	2.35	2.47	2.59	2.72	2.86
4	436	458	481	505	530
	2.52	2.64	2.78	2.91	3.06
5	468	491	516	542	569
	2.70	2.83	2.98	3.13	3.28
6	498	523	549	576	605
	2.87	3.02	3.17	3.32	3.49
7	530	556	584	613	644
	3.06	3.21	3.37	3.54	3.72
8	560	588	617	648	680
	3.23	3.39	3.56	3.74	3.92
9	595	626	657	690	725
	3.43	3.61	3.79	3.98	4.18
10	623	654	687	721	757
	3.59	3.77	3.96	4.16	4.37
11	653	686	720	756	794
	3.77	3.96	4.15	4.36	4.58
12	685	719	755	793	833
	3.95	4.15	4.36	4.58	4.81
13	715	751	789	828	869
	4.13	4.33	4.55	4.78	5.01
14	747	784	823	864	907
	4.31	4.52	4.75	4.99	5.23
15	778	817	858	901	946
	4.49	4.71	4.95	5.20	5.46

**WAGE BOARD SCHEDULE
SUPERVISORY**

Effective		1	2	3	4	5
Grade Foreman						
Supervised Level						
I	WF	409	430	451	474	498
		2.36	2.48	2.60	2.74	2.87
F I		447	468	492	517	543
		2.58	2.70	2.84	2.98	3.13
F II		484	508	534	561	589
		2.79	2.93	3.08	3.23	3.40
F III		520	546	574	603	633
		3.00	3.15	3.31	3.48	3.65

ACT 98

Effective Grade Supervised	Foreman Level	1	2	3	4	5
2	GF	558	586	615	646	678
		3.22	3.38	3.55	3.73	3.91
	WF	440	463	485	509	534
		2.54	2.67	2.80	2.94	3.08
	F I	480	504	529	555	583
		2.77	2.91	3.05	3.20	3.36
	F II	520	546	574	603	633
		3.00	3.15	3.31	3.48	3.65
	F III	560	588	617	648	680
		3.23	3.39	3.56	3.74	3.92
3	GF	600	629	662	695	730
		3.46	3.63	3.82	4.01	4.21
	WF	449	471	494	519	545
		2.59	2.72	2.85	2.99	3.14
	F I	489	513	539	566	594
		2.82	2.96	3.11	3.27	3.43
	F II	530	556	584	613	644
		3.06	3.21	3.37	3.54	3.72
	F III	570	600	629	660	693
		3.29	3.46	3.63	3.81	4.00
GF	612	641	674	708	743	
	3.53	3.70	3.89	4.08	4.29	
4	WF	480	504	529	556	584
		2.77	2.91	3.05	3.21	3.37
	F I	523	550	577	606	636
		3.02	3.17	3.33	3.50	3.67
	F II	567	595	625	657	690
		3.27	3.43	3.61	3.79	3.98
	F III	610	641	673	707	742
		3.52	3.70	3.88	4.08	4.28
	GF	654	687	722	758	796
		3.77	3.96	4.17	4.37	4.59
5	WF	515	540	568	596	626
		2.97	3.12	3.28	3.44	3.61
	F I	562	589	619	650	683
		3.24	3.40	3.57	3.75	3.94
	F II	608	638	671	705	740
		3.51	3.68	3.87	4.07	4.27
	F III	655	687	722	759	797
		3.78	3.96	4.17	4.38	4.60
	GF	702	737	774	813	854
		4.05	4.25	4.47	4.69	4.93
6	WF	548	575	604	634	666
		3.16	3.32	3.49	3.66	3.84
	F I	598	628	659	691	726
		3.45	3.62	3.80	3.99	4.19
	F II	647	680	714	749	786
		3.73	3.92	4.12	4.32	4.53
	F III	697	732	769	806	846
		4.02	4.22	4.44	4.65	4.88
	GF	747	785	824	864	907
		4.31	4.53	4.75	4.99	5.23

Effective Grade Supervised	Foreman Level	1	2	3	4	5
7	WF	583	612	642	674	708
		3.36	3.53	3.70	3.89	4.08
	F I	636	667	701	736	773
		3.67	3.85	4.04	4.25	4.46
	F II	689	723	759	797	837
		3.98	4.17	4.38	4.60	4.83
	F III	742	778	818	858	901
		4.28	4.49	4.72	4.95	5.20
	GF	795	834	876	920	966
		4.59	4.81	5.05	5.31	5.57
8	WF	616	647	679	713	749
		3.55	3.73	3.92	4.11	4.32
	F I	672	706	740	778	817
		3.88	4.07	4.27	4.49	4.71
	F II	728	764	802	842	884
		4.20	4.41	4.63	4.86	5.10
	F III	784	823	864	907	952
		4.52	4.75	4.99	5.23	5.49
	GF	840	882	926	972	1,021
		4.85	5.09	5.34	5.61	5.89
9	WF	655	688	723	759	797
		3.78	3.97	4.17	4.38	4.60
	F I	714	751	787	826	867
		4.12	4.33	4.54	4.77	5.00
	F II	773	813	853	896	941
		4.46	4.69	4.92	5.17	5.43
	F III	834	875	919	965	1,013
		4.81	5.05	5.30	5.57	5.84
	GF	893	938	985	1,034	1,086
		5.15	5.41	5.68	5.96	6.27
10	WF	685	719	756	794	831
		3.95	4.15	4.36	4.58	4.81
	F I	748	785	825	866	909
		4.32	4.53	4.76	5.00	5.24
	F II	810	851	893	938	985
		4.67	4.91	5.15	5.41	5.68
	F III	872	916	962	1,010	1,061
		5.03	5.29	5.55	5.83	6.12
	GF	935	981	1,031	1,083	1,137
		5.39	5.66	5.95	6.24	6.56
11	WF	718	755	792	832	874
		4.14	4.36	4.57	4.80	5.04
	F I	784	823	864	907	952
		4.52	4.75	4.99	5.23	5.49
	F II	849	892	936	983	1,032
		4.90	5.15	5.40	5.67	5.95
	F III	914	960	1,008	1,058	1,111
		5.27	5.54	5.82	6.10	6.41
	GF	980	1,029	1,080	1,134	1,191
		5.65	5.94	6.23	6.54	6.87
12	WF	754	791	831	872	916
		4.35	4.56	4.79	5.03	5.28
	F I	822	863	906	952	1,000

ACT 98

Effective Grade Supervised	Foreman Level	1	2	3	4	5
		4.74	4.98	5.23	5.49	5.77
	F II	891	935	982	1,031	1,083
		5.14	5.39	5.67	5.95	6.25
	F III	959	1,007	1,057	1,110	1,166
		5.53	5.81	6.10	6.40	6.73
	GF	1,028	1,079	1,133	1,190	1,250
		5.93	6.23	6.54	6.87	7.21
13	WF	787	826	868	911	957
		4.54	4.77	5.01	5.26	5.52
	F I	858	901	947	994	1,044
		4.95	5.20	5.46	5.74	6.02
	F II	930	976	1,026	1,076	1,130
		5.37	5.63	5.92	6.21	6.52
	F III	1,001	1,051	1,105	1,159	1,217
		5.78	6.06	6.38	6.69	7.02
	GF	1,073	1,127	1,184	1,242	1,304
		6.19	6.50	6.83	7.17	7.52
14	WF	822	862	905	950	998
		4.74	4.97	5.22	5.48	5.76
	F I	896	941	988	1,037	1,089
		5.17	5.43	5.70	5.98	6.28
	F II	971	1,019	1,070	1,123	1,179
		5.60	5.88	6.17	6.48	6.80
	F III	1,046	1,098	1,152	1,210	1,271
		6.04	6.34	6.65	6.98	7.33
	GF	1,121	1,176	1,235	1,296	1,361
		6.47	6.79	7.13	7.48	7.85
15	WF	856	899	944	991	1,041
		4.94	5.19	5.45	5.72	6.01
	F I	934	980	1,030	1,081	1,135
		5.39	5.65	5.94	6.24	6.55
	F II	1,011	1,062	1,115	1,171	1,230
		5.83	6.13	6.43	6.76	7.10
	F III	1,089	1,144	1,201	1,261	1,324
		6.28	6.60	6.93	7.28	7.64
	GF	1,167	1,226	1,287	1,352	1,420
		6.73	7.07	7.43	7.80	8.19

(6) Subsequent implementation of the compensation plan. The compensation plan for positions covered under this section shall be reviewed and adjusted biennially in accordance with subsection (4) of this section."

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

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

(Approved May 15, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the Division of Weights and Measures of the Department of Agriculture.

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

SECTION 1. Section 486-1, Hawaii Revised Statutes, is amended to read:

“Sec. 486-1 Definitions. As used in this chapter unless the context otherwise requires:

- (1) ‘Advertising’ or ‘advertising medium,’ includes all publicity, mass media, signs, banners, posters, placards, labels, streamers, marks, brands, grades, descriptions, or displays.
- (2) ‘Commodity in package form’ means a weight or measure of a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in package form as defined in this section, but on which there is marked a selling price based on an established price per unit of weight or of measure, is a commodity in package form.
- (3) ‘Consumer package’ means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption or use by individuals for the purposes of personal care or in the performance of services ordinarily rendered in or about the household or in connection with personal possessions.
- (4) ‘Director,’ ‘deputy director,’ and ‘deputy to the chairman’ mean, respectively, the state director of weights and measures, the state deputy director of weights and measures, and the deputy to the chairman of the board of agriculture.
- (5) ‘Gasoline,’ means any petroleum product which conforms to the standards set forth in D-439 of American Society for Testing Materials except that (A) vapor pressure specification may be omitted, and (B) a distillation end point specification of 437 degrees F maximum shall be added.
- (6) ‘Holding tank,’ means any tank, other than vehicle tank, intended to hold, store, or otherwise contain, any product for commercial use, either as a measure per se as a container.
- (7) ‘Inspector’ means any qualified state officer or employee designated by the director as an inspector of weights and measures.
- (8) ‘Intrastate commerce’ means any and all commerce or trade begun, carried on, and completed wholly within the limits of the State.
- (9) ‘Introduced into intrastate commerce’ means the time and place at which the first sale and delivery of a commodity is made within the State, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

- (10) 'Label' means any written, printed or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a consumer package containing any consumer commodity, for purposes of branding, identifying, or giving information with respect to the commodity or to the contents of the package.
- (11) 'Lubricating oil,' means those products which are intended for use in internal combustion engines and which conform to the specifications of this chapter or the regulations promulgated pursuant to this chapter. In addition to all other requirements of this chapter: (A) Lubricating oil shall be free from water and suspended matter when tested by means of centrifuge, in accordance with the standard test therefor. (B) Lubricating oil containers shall be marked so as to include on the label a designation of the S.A.E. viscosity classification. The viscosity may also be expressed in Saybolt Seconds Universal (SSU) at 210 degrees F. The flash points for the various S.A.E. (Society of Automotive Engineers) classifications shall not be less than the following when tested in accordance with the Standard Test for flash point and fire point by means of the Cleveland open cup:

Viscosity Classification	Minimum Flash Degrees Fahrenheit
SAE 5W	305
SAE 10W	335
SAE 20W	345
SAE 20	345
SAE 30	355
SAE 40	375
SAE 50	400
Grade 60	435
Grade 70	470

- (C) Lubricating oil containers shall be marked so as to disclose whether the contents have previously been used for the lubricating of internal combustion engines or any gearing or shafting attached thereto, or for any other lubricating purposes, or have been re-run, filtered, redistilled, reclaimed, or re-refined.
- (12) 'Manufacturer' includes manufacturers, processors, producers, packers, refiners, importers, dealers, or agents at wholesale or retail level.
- (13) 'Nonconsumer package' means any commodity in package form other than a consumer package, and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.
- (14) 'Octane number or octane rating' means the Research Octane Number (RON) for fuel as defined by the American Society for Testing Materials.
- (15) 'Package' means any container or wrapper enclosing any commodity for sale, delivery or display, but does not include shipping containers or wrappings used solely for the transportation of that commodity.

- (16) 'Petroleum product' includes gasoline, liquefied petroleum gas when used as fuel, distillate, diesel fuel, kerosene, thinner, solvent, or any motor fuel or any oil represented as lubricating or motor oil.
- (17) 'Petroleum product dispenser' means a commercial measuring device subject to this chapter and includes but not limited to: lubricating oil bottles, measure-containers, containers, and mechanisms or machines designed to measure and deliver liquid by a definite volume. Means may or may not be provided (A) to indicate automatically or on a command signal, one of a series of unit prices or the total money value or cost of the liquid measured, or (B) to make deliveries corresponding to specific money values at a definite unit price.
- (18) 'Sell' and 'sale' include barter and exchange.
- (19) 'Standard test' or 'standard method,' means tests or methods conducted or prescribed in accordance with the latest published standard of: The American Society for Testing Materials, The United States of America Standards Institute, the National Bureau of Standards, or any test or method prescribed in this chapter or in accordance with regulations promulgated pursuant to this chapter.
- (20) 'State' means the State of Hawaii.
- (21) 'Vehicle tank,' means any tank, which is mounted on a vehicle and is intended for use as a commercial measure.
- (22) 'Weight certificate' means a certificate of quantity issued in compliance with this chapter and shall include certificates of weight, measure or count, and shall be prima facie evidence of the accuracy of the amount shown.
- (23) 'Weights and measures' mean all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any or all such instruments and devices."

SECTION 2. Section 486-6, Hawaii Revised Statutes, is amended to read:

"Sec. 486-6 State director, deputy director, deputy to the chairman, and inspectors of weights and measures. There is hereby established within the department of agriculture a division of weights and measures. The chairman of the board of agriculture shall be, ex officio, the state director of weights and measures. He shall appoint a deputy director who shall administer the division, and such technical and clerical personnel as are necessary to carry out this chapter. The deputy director shall be subordinate to the deputy to the chairman."

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

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

(Approved May 15, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Factory Built Housing.

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

SECTION 1. Section 359L-8, Hawaii Revised Statutes, is amended to read:

“Sec. 359L-8 Approval by other states. If the director of the department determines that the standards for construction and inspection of factory built housing prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under this chapter, and that such standards are actually enforced by such other state, he may provide by regulation that factory built housing which has been inspected and approved by such other state shall be deemed to have been approved by the department.

If the director does not so determine, he may approve such factory built housing if the manufacturer: (1) certifies in writing that the standards for construction and inspection of factory built housing prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under this chapter, and that such standards are actually enforced by such other state, and (2) files with the director of the department a bond to be approved by him in which the manufacturer shall be the obligor, in the sum of \$50,000 with one or more sureties whose liability as sureties need not exceed the sum in aggregate. The bond shall run to the State for the use of the State and of any person or persons who may have cause of action against the obligor of the bond under this chapter. The bond shall be conditioned that the obligor will faithfully conform to and abide by such standards for construction and inspection of such other state, and will pay to the State and to any person or persons all moneys that may become due or owing to the State or to any person or persons from the obligor under and by virtue of his failure to faithfully conform to and abide by such standards for construction and inspection of such other state.”

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

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

(Approved May 15, 1973.)

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

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

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

*Edited accordingly.

“Sec. 386-23.5 Services of attendant, allowance adjustments. (a) When the maximum allowed for procurement of services of an attendant as provided in section 386-23 is changed by law, any employee who has been totally and continuously disabled and has been awarded and is receiving a sum under this chapter to procure such services in an amount which is less than the new maximum allowed for this purpose shall be entitled, upon application, to a supplemental allowance calculated in accordance with the following provisions:

- (1) In any case where a totally disabled employee is receiving the maximum allowed at the time the award was made, the supplemental allowance shall be an amount which, when added to such award, will equal the new maximum allowance.
- (2) In any case where a totally disabled employee is receiving less than the maximum allowed at the time the award was made, the supplemental allowance shall be an amount equal to the difference between the amount the disabled employee is receiving and a percentage of the new maximum allowance by multiplying it by a fraction, the numerator of which is the amount he is receiving and the denominator of which is the maximum monthly allowance applicable at the time such award was made.

(b) As of the effective date of this section, any employee who has been totally and continuously disabled and has been awarded and is receiving a sum under this chapter to procure services of an attendant in an amount which is less than the maximum allowed for this purpose, shall be entitled, upon application, to an additional amount calculated in accordance with the following provisions:

- (1) In any case where a totally disabled person is receiving the maximum allowed under this chapter at the time the award was made, the supplemental allowance shall be an amount which, when added to such award, will equal the maximum allowance effective as of the date of this section.
- (2) In any case where a totally disabled person is receiving less than the maximum allowed under this chapter at the time the award was made, the supplemental allowance shall be an amount equal to the difference between the amount the disabled employee is receiving and a percentage of the maximum allowance as of the effective date of this section by multiplying it by a fraction, the numerator of which is the amount he is receiving and the denominator of which is the maximum monthly allowance applicable at the time such award was made.

(c) Any supplemental allowances awarded by the director pursuant to this section shall be paid to the employee from the special compensation fund.”

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 on July 1, 1973.

(Approved May 15, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the Revocation of Wills.

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

SECTION 1. Chapter 536, Hawaii Revised Statutes, is amended as follows:

(a) Section 536-11, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 536-11 By marriage. If, after the making of a will, the testator or testatrix marries and no provision is made in the will for such contingency, such marriage shall operate as a revocation of the will, and the will shall not be revived by the death of the testator or testatrix’s spouse.”

(b) Section 536-12, Hawaii Revised Statutes, is repealed.

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 15, 1973.)

A Bill for an Act Relating to Planning.

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

SECTION 1. **Purpose.** The purpose of this Act is to provide for the collection of data with respect to persons, foreign and national, entering and leaving the State to the end that information needed for proper state planning, in all its aspects, may be obtained. This information is to be obtained through a state census to be taken upon entry into, and departure from, the State.

SECTION 2. Chapter 201, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

“PART . PLANNING INFORMATION

Sec. 201- Definitions. As used in this part, unless the context clearly requires otherwise:

- (1) “Department” means the department of planning and economic development.
- (2) “Director” means the director of planning and economic development.
- (3) “Governmental agencies” means any of the departments, bureaus, authorities, boards, or commissions of the State or its political subdivisions.

*Edited accordingly.

- (4) "Head of household" means the person or the person and his spouse, upon whom others in a group of persons, who are related to the person or the person's spouse, by blood or marriage, are dependent upon for not less than fifty per cent of their support and maintenance.
- (5) "Household" means a group of persons, related by blood or marriage, no member of which is above the age of eighteen, other than for the head of the household or his spouse.

Sec. 201- Entry and exit census. The director shall distribute, collect, and organize and analyze the data obtained from, entry and exit census required under section 201- . In organizing and analyzing the data from the entry and exit census, the director shall consult with, and consider the informational needs of, all governmental agencies so that the information obtained from the census and processed by the department will provide meaningful inputs into the planning efforts and formulation of policy goals of all governmental agencies.

Sec. 201- Census preparation. (a) One or more forms, as appropriate, entitled "Entry or Exit Census" shall be prepared by the department. The form shall be completed by persons entering or leaving the State and shall be submitted to the director or his designated agent; provided that provisions for completion of the forms through the transportation carriers bringing persons into or taking persons out of, the State may be made; and provided further that if a person is a head of a household entering or leaving the State, the completion by him or his spouse of one or more forms, shall be deemed to fulfill the requirements for completion by all the members of his household. Persons entering the State on an in-transit basis, shall be exempted from completing this form.

(b) The forms prepared by the department shall seek such information as the respondents' age, sex, state or country of residence, number of dependents, occupation, purpose of entering or leaving the state, length of stay, island of stay, other islands intended to be visited, and any other information as may be required by the director and desirable to carry out the purposes of this chapter. The forms shall be designed to provide for the anonymity of the respondent.

(c) The forms prepared shall contain a brief statement of the purposes for which they have been distributed. The statement shall indicate the State's interest and concern in the planning process.

(d) The forms prepared shall be approved by the attorney general before use."

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

(Approved May 15, 1973.)

ACT 104

H. B. NO. 1093

A Bill for an Act Relating to Fees, Expenditures for Members of the Board of Veterinary Examiners.

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

ACT 105

SECTION 1. Section 471-12, Hawaii Revised Statutes, is amended to read:

“Sec. 471-12 Fees; expenditures. (a) Members of the board of veterinary examiners shall serve without pay, except that any member, while engaged in performing official duties away from the island on which he resides, shall be reimbursed for the actual expenses incurred by him in the performance of such duties.

(b) All fees received by the board shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.”

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

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

(Approved May 17, 1973.)

ACT 105

S. B. NO. 122

A Bill for an Act Relating to the Qualifications for License as a Pharmacist.

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

SECTION 1. Section 461-5, Hawaii Revised Statutes, is amended to read:

“Sec. 461-5 Qualifications for license. Any applicant for a license as a pharmacist shall be at least eighteen years of age, of good moral character and temperate habits, and a graduate of a school or college of pharmacy or department of a university, which school or college or department is recognized and approved by the American Council of Pharmaceutical Education. He shall file proof satisfactory to the board of pharmacy of a minimum of one year of practical experience in any state of the United States in a pharmacy under the supervision of a registered pharmacist, and he shall pass an examination to be given by the board. Service and experience in a pharmacy under the supervision of a registered pharmacist as required in this section shall be predominantly related to the selling of drugs, compounding prescriptions, preparing pharmaceutical preparations, and keeping records and making reports required under state and federal statutes.

Any registered pharmacist of any state or territory of the United States who has practiced pharmacy there for two years or more shall be eligible to take the examination if he is of good moral character and temperate habits.

In the event an applicant has no practical experience as required, he may take the examination and upon passing the same, he shall not receive his license until after the fulfillment of the practical experience required.”

*Edited accordingly.

SECTION 2. Section 461-7, Hawaii Revised Statutes, is amended to read:

“Sec. 461-7 Temporary license. An applicant for examination who is a registered pharmacist as specified in paragraph two of section 461-5 above, may be granted a temporary license by the board of pharmacy; provided that he shall first pass a preliminary examination with a grade of not less than seventy per cent covering State laws and public health regulations relating to drugs, poisons, and devices used in the practice of pharmacy in the State. A temporary license shall not entitle the holder thereof to a permanent license, and no permanent license shall be issued until he has passed the regular examination set forth under section 461-6. Only one temporary license shall be issued to the same applicant. A temporary license shall only remain in effect until the results of the next regular examination are announced, provided, that the board may extend any temporary license, upon written application, for good and just cause. Any applicant who fails to take or to pass the next regular examination shall surrender his temporary license. The board shall receive the sum of \$12 for the issuance of a temporary license.”

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

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

(Approved May 17, 1973.)

ACT 106

S. B. NO. 194

A Bill for an Act Relating to Unauthorized Disclosure of Information by Tax Return Preparers.

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

SECTION 1. Chapter 231, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“Sec. 231- Disclosure by return preparers. Any person who is engaged in the business of preparing, or providing services in connection with the preparation of tax returns or any person who for compensation prepares any such return for any other person and who discloses any information furnished to him for, or in connection with, the preparation of any such return or uses any such information for any purpose other than to prepare, or assist in preparing any such return, shall be guilty of misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Except as otherwise provided, this section shall not apply to a disclosure of information if such disclosure is made pursuant to section 231-3 or pursuant to an order of a court.”

*Edited accordingly.

ACT 107

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

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

(Approved May 17, 1973.)

ACT 107

S. B. NO. 930

A Bill for an Act Relating to Shoreline Setbacks.

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

SECTION 1. Chapter 205, Hawaii Revised Statutes, is amended in the following particulars:

1. By amending section 205-31 to read:

“**Sec. 205-31 Definitions.** As used in this part, unless the context otherwise requires:

- (1) ‘Agency’ means the planning department of each county.
- (2) ‘Shoreline’ means the upper reaches of the wash of waves, other than storm and tidal waves, usually evidenced by the edge of vegetation growth, or the upper line of debris left by the wash of waves.
- (3) ‘Shoreline area’ means all of the land area between the shoreline and the shoreline setback line.
- (4) ‘Shoreline setback line’ means that line established by the state land use commission or the county running inland from and parallel to the shoreline at a horizontal plane.”

2. By amending section 205-32 to read:

“**Sec. 205-32 Duties and powers of the commission and agency.** The commission shall establish setbacks along shorelines of not less than twenty feet and not more than forty feet inland from the upper reaches of the wash of waves other than storm and tidal waves. The agency shall promulgate rules and regulations within a period of one year after June 22, 1970, pursuant to chapter 91, and shall enforce the shoreline setbacks and rules and regulations pertaining thereto.”

3. By amending section 205-33 to read:

“**Sec. 205-33 Prohibitions.** (a) It shall be unlawful to remove sand, coral, rocks, soil, or other beach compositions for any purpose, except for reasonable domestic, non-commercial use, within the shoreline area or within 1,000 feet seaward of it or in ocean water of 30 or less feet in depth, except that any sand mining operation which has been legally in operation for a period of at least two years immediately prior to June 22, 1970, may be continued for a period not to extend beyond July 1, 1975. However, if during the period prior to July 1, 1975, the sand mining operation is substantially increased, it shall be unlawful to further continue such mining operation. This prohibition shall not

*Edited accordingly.

apply to the commercial mining of sand or other minerals, or taking of coral or rock in the territorial ocean when such mining or taking is located 1,000 or more feet from the shoreline or in ocean water of 30 or more feet in depth and has the written permission of all governmental agencies having jurisdiction thereof.

(b) Except as otherwise provided in this part, no structure or any portion thereof, including but not limited to seawalls, groins, and revetments, shall be permitted within the shoreline area; provided that any lawful non-conforming structure existing on June 22, 1970, shall be permitted; provided further that any structure which is necessary for safety reasons or to protect the property from erosion or wave damages shall be permitted. A structure not conforming to this section but for which a building permit application has been filed on or before June 22, 1970, shall also be permitted as a nonconforming structure, subject to the ordinances and regulations of the particular county.

(c) Any nonconforming structure, including but not limited to residential dwellings, agricultural structures, seawalls, groins, and revetments may be replaced or reconstructed within the shoreline area; provided that no non-conforming structure shall be substantially enlarged or changed to another nonconforming use within the shoreline area. If the use of any nonconforming structure is discontinued or held in abeyance for a period of one year, the further continuation of such use shall be prohibited.”

4. By amending section 205-35 to read:

“**Sec. 205-35 Functions of agency.** (a) The agency shall administer the provisions of this part. It shall review the plans of all applicants who propose any structure, activity, or facility which otherwise would be prohibited by this part.

The agency may require that the plans be supplemented by accurately mapped data showing natural conditions and topography relating to all existing and proposed structures, buildings and facilities.

The agency may also require reasonable changes in the submitted plans in order to obtain optimum compliance practicable.

(b) After reviewing the plans, the agency shall transmit the plans with its recommendations to the governmental body of the county authorized to grant variances from zoning requirements. Such governmental body shall grant a variance for such structure, activity, or facility if, after a hearing pursuant to chapter 91, it finds in writing, based on the record presented either: (1) that such structure, activity, or facility is in the public interest; or (2) that hardship will be caused to the applicant if the proposed structure, activity, or facility is not allowed on that portion of the land within the shoreline area. Any variance granted may be subject to such conditions as will cause the structure, activity, or facility to result in a minimum interference with natural shoreline processes. Such governmental body shall render written approval or disapproval within forty-five days after the hearing on the applicant’s plans, unless such period is extended by written agreement between the governmental body and the applicant.”

5. By amending section 205-36 to read:

“**Sec. 205-36 Exemptions.** Tunnels, canals, basins, and ditches, together

ACT 108

with associated structures used by public utilities as the term is defined in section 269-1, wharves, docks, piers and other harbor and water front improvements and any other maritime facility and water sport recreational facilities may be permitted within the shoreline area; provided that the plans therefor are submitted for review and are approved by the agency after a public hearing has been held and that the appropriate state body has found that the proposed structures will result only in a minimum interference with natural shoreline processes; provided further that any such structure constructed by a governmental body shall be exempt from the provisions of this part except as to the requirement that two public hearings shall be held by the governmental body charged with such construction, once when the project is first conceived and again when the project is substantially designed and planned, but prior to the letting of the contract."

6. By amending section 205-37 to read:

"Sec. 205-37 Conflict of other laws. In case of a conflict between the requirements of any other state law or county ordinance regarding shoreline setback lines, the more restrictive requirements shall apply in furthering the purposes of this part. Nothing herein contained shall be construed to diminish the jurisdiction of the state department of transportation over wharves, airports, docks, piers, small boat, or other harbors, and any other maritime or water sports recreational facilities to be constructed on state land by the State; provided that such plans are submitted for the review and information of the officer of the respective agency charged with the administration of the county zoning laws, and found not to conflict with any county ordinances, zoning laws, and building code."

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 17, 1973.)

ACT 108

S. B. NO. 1131

A Bill for an Act Relating to Temporary Disability Insurance.

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

SECTION 1. Section 392-5(9), Hawaii Revised Statutes, is amended to read:

"(9) Service performed in any calendar quarter in the employ of any nonprofit organization exempt from income tax under section 501 of the Internal Revenue Code of 1954, if (A) the remuneration for such service is less than \$50, or (B) the service is performed by a student who is enrolled and is regularly attending classes at a school, college, or university, or (C) the service

*Edited accordingly.

is performed by a duly ordained, commissioned, or licensed minister or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of nonsecular duties required by the order, or (D) the service is performed for a church by an employee who fails to meet the eligibility requirements of section 392-25;"

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

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

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

(Approved May 17, 1973.)

ACT 109

H. B. NO. 998

A Bill for an Act Amending Subsection (r) of Section 2A of Act 89, Session Laws of 1972, Relating to Chapter 634, Hawaii Revised Statutes.

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

SECTION 1. Subsection (r) of section 2A of Act 89, Session Laws of 1972, is amended to read as follows:

"(r) Sections 634-1 to 20, inclusive, 634-26, 634-27, 634-32, 634-41, 634-42, 634-44, 634-46, 634-48, 634-51, 634-57, 634-65, 634-81, 634-83 to 86, inclusive, and 634-91 to 98, inclusive, are deleted."

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 17, 1973.)

ACT 110

S. B. NO. 270

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

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

SECTION 1. Section 307-2, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 307-2 Board of directors; composition.** The affairs of the research corporation shall be under the general management and control of the board of

*Edited accordingly.

ACT 111

directors, hereinafter referred to as the "board." The board shall consist of nine members. The president and director of research of the University of Hawaii, and the director of planning and economic development of the State shall serve as ex officio voting members. The remaining six members shall be appointed by the governor. Confirmation of appointments shall not be required. All the members appointed by the governor, other than the ex officio members, shall serve for a term of four years, except that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year, each term commencing on January 1 and expiring on December 31. All members of the board shall serve without pay, but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of duties and responsibilities.

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

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

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

SECTION 3. This Act shall take effect on July 1, 1973.

(Approved May 17, 1973.)

ACT 111

S. B. NO. 883

A Bill for an Act Relating to Physician-Support Personnel and Physician's Assistants.

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

SECTION 1. Section 453-2, Hawaii Revised Statutes, is amended as follows:

"Section 453-2 License required; exceptions. Except as otherwise provided by law, no person shall practice medicine or surgery in the State either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce himself, either publicly or privately, as prepared or qualified to so practice, or shall append the letters "DR." to his name, with the intent thereby to imply that he is a practitioner of medicine or surgery, without having a valid unrevoked license or a limited and temporary license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall (1) apply to so-called Christian Scientists so long as they merely practice the religious tenets of their church without pretending

*Edited accordingly.

a knowledge of medicine or surgery; (2) prohibit service in the case of emergency or the domestic administration of family remedies; (3) apply to any commissioned medical officer in the United States army, navy, marine corps, or public health service, engaged in the discharge of his official duty, nor to any practitioner of medicine and surgery from another state when in actual consultation with a licensed practitioner of this State if the practitioner from another state, at the time of such consultation, is licensed to practice in the state in which he resides; provided, that the practitioner from another state shall not open an office, or appoint a place to meet patients, or receive calls within the limits of the State; and provided further, that the laws and regulations relating to contagious diseases are not violated; (4) prohibit services rendered by any physician-support personnel or any physician's assistant when such services are rendered under the direction and control of a physician licensed in this State, except for those specific functions and duties delegated by law to those persons licensed as optometrists under chapter 459, Hawaii Revised Statutes. Such direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician. Any physician who employs or directs such support personnel or physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of medicine when performed by such personnel or physician's assistant. The board of medical examiners shall, in conformity with chapter 91, promulgate rules and regulations regarding standards of medical education and training governing physician-support personnel and physician's assistants, such standards to equal but not to be limited by existing national educational and training standards."

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

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

(Approved May 17, 1973.)

ACT 112

S. B. NO. 910

A Bill for an Act Relating to Fees for Horizontal Property Regime Registration.

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

SECTION 1. Section 514-30, Hawaii Revised Statutes, is amended to read:

"**Sec. 514-30 Questionnaire and filing fee.** The notice of intention shall be accompanied by a fee of \$250 and by a verified copy of a questionnaire properly filled in. The questionnaire will be in such form and content as will require full disclosure of all material facts reasonably available."

*Edited accordingly.

ACT 112

SECTION 2. Section 514-34, Hawaii Revised Statutes, is amended to read:

“Sec. 514-34 Public reports and issuance fees. When the real estate 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 bylaws 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 514-3, 514-13, and 514-19.

No additional fee shall be imposed for the issuance by the commission of the first public report. The developer shall be assessed a fee of \$150 for the issuance of a subsequent public report and \$75 for the issuance of a supplementary public report.”

SECTION 3. Section 514-44, Hawaii Revised Statutes, is amended to read:

“Sec. 514-44 Request for public report or hearing by developer. If, within thirty days after notice of intention is properly filed pursuant to sections 514-29 and 514-30, a public report has not been issued by the real estate commission, the developer may, in writing, request of the commission that the report be prepared by a private consultant, and when requested by the commission, the director of regulatory agencies is authorized to contract with private consultants for the preparation of public reports prescribed in this chapter. The cost of preparation of public reports by private consultants shall be borne by the developer; provided, that upon payment of the cost of the first public report, the developer shall be reimbursed one-half of the filing fee paid under section 514-30, or upon payment of the cost of subsequent or supplementary public reports, the developer shall be reimbursed one-half of the respective fee assessed therefor under this chapter. If the commission does not request the director to let the contract, or if the director determines not to let the contract, or when a final or preliminary public report is not otherwise issued within a reasonable time after notice of intention is properly filed pursuant to sections 514-29 and 514-30, or when a substitute public report is not issued within a reasonable time after requested or required, or if the developer is materially grieved by the form or content of a public report, the developer may, in writing, request and shall be given a hearing by the real estate commission within a reasonable time after receipt of request.”

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

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

(Approved May 17, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Real Property Taxes.

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

SECTION 1. Section 248-2, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Notwithstanding any provision to the contrary, there shall be levied upon each individual parcel of real property taxable under chapter 246 a minimum real property tax of \$25 a year.”

SECTION 2. Section 246-47, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 246-47 Tax rolls; tax bills.** The tax collector shall prepare tax rolls for his district from the district assessment lists provided for by section 246-44, showing thereon, in each case, names and addresses of the assessed and amount of taxes which shall be not less than \$25 as provided for in section 248-2(h).

Each tax collector shall mail, postage prepaid, or deliver, each year on or before the billing dates as provided for by section 246-48, to all known persons assessed for real property taxes in his district for such year, respectively, tax bills demanding payment of taxes due from each of them respectively, but no person shall be excused from the payment of any tax or delinquent penalties thereon by reason of failure on his part to receive, or failure on the part of the tax collector so to mail or deliver such bill. The bill, if mailed, shall be addressed to the person concerned at his last known address or place of residence. Whenever any bill covers taxes for any real property owned, jointly or as tenants in common or otherwise, by more than one person, the bill shall be sent to each known co-owner but shall demand the full amount of the taxes due upon such real property.”

SECTION 3. Section 246-21, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 246-21 Nontaxable property.** For purposes of accountability, the director of taxation shall assess at the nominal sum of \$25 each parcel of real property in each district which is completely exempt from taxation.”

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

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

(Approved May 17, 1973.)

A Bill for an Act Relating to the Distribution of State Tax Funds.

*Edited accordingly.

ACT 115

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

SECTION 1. Section 248-6, Hawaii Revised Statutes, is amended to read:

“Sec. 248-6 Distribution of grants-in-aid of state general fund to the several counties. For the fiscal year beginning July 1, 1973, and for each fiscal year thereafter, each county shall receive from the State grants-in-aid at least equal to the cash amount distributed to the county pursuant to this section in the fiscal year which began on July 1, 1971.

The grants-in-aid for each county may consist of the following:

- (1) Grants-in-aid from the general fund collections of the general excise tax, use tax, and public service company tax, excepting only taxes collected from public utilities as defined in section 269-1.
- (2) Grants-in-aid made by the State to the county pursuant to incorporation of county functions as state functions, such grants-in-aid to be limited each year to the appropriations actually disbursed in the entire fiscal year preceding the incorporation.

The governor shall determine the source of a county's grants-in-aid based on each county's relative fiscal capacity and each county's relative fiscal need.

The state director of finance, on or before the 15th day of each month, shall compute and pay to the director of finance of each county the grants-in-aid provided by this section, to become a general realization of the county expendable as such, except as otherwise provided by law; provided that the state director of finance may make payments to the counties other than on a monthly basis.”

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

SECTION 3. This Act shall take effect on July 1, 1973.

(Approved May 17, 1973.)

ACT 115

H. B. NO. 327

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

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

SECTION 1. Section 232-3, Hawaii Revised Statutes, is amended to read:

“Sec. 232-3 Grounds of appeal, real property taxes. In the case of a real property tax appeal, no taxpayer or county shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption allowed, unless there is shown:

- (1) Assessment of the property exceeds by more than twenty per cent

*Edited accordingly.

the ratio of assessment to market value used by the director of taxation as the real property tax base, or

- (2) Lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved, or
- (3) Denial of an exemption to which the taxpayer is entitled and for which he has qualified, or
- (4) Illegality, on any ground arising under the Constitution or laws of the United States or the laws of the State (in addition to the ground of illegality of the methods used, mentioned in clause (2)).”

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, upon its approval, shall take effect on July 1, 1973.

(Approved May 17, 1973.)

ACT 116

H. B. NO. 1096

A Bill for an Act Relating to Time Required to Process Applications for Contractor's License.

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

SECTION 1. Section 444-16, Hawaii Revised Statutes, is amended to read:

“**Sec. 444-16 Action on applications.** Within one hundred and twenty days after the filing of a proper application for a license and the payment of the required fees, the contractors license board shall (1) conduct an investigation of the applicant, and in such investigation may post pertinent information, including but not limited to, the name and address of the applicant, and if the applicant is associated in any partnership, corporation, or other entity, the names, addresses, and official capacities of his associates; and (2) either issue a license to the applicant or else notify him in writing by registered mail of the board's decision not to grant the license and specifically notify applicant of his right to have a hearing within fifteen days on the board's decision. The hearing shall be conducted in accordance with section 444-18.”

SECTION 2. 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.*

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

(Approved May 17, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the Contractors License Board.

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

SECTION 1. Section 444-4, Hawaii Revised Statutes, is amended to read:

“Sec. 444-4 Powers and duties of board. In addition to any other duties and powers granted by this chapter the contractors license board shall:

- (1) Grant licenses to contractors pursuant to this chapter;
- (2) Make, amend, or repeal such rules and regulations as it may deem proper fully to effectuate this chapter and carry out the purpose thereof which purpose is the protection of the general public. All such rules and regulations shall be approved by the governor and the director of regulatory agencies, and when adopted pursuant to chapter 91, shall have the force and effect of law. 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. The rules and regulations may require contractors to make reports to the board containing such items of information as will better enable the board to enforce this chapter and rules and regulations, or as will better enable the board from time to time to amend the rules and regulations more fully to effectuate the purposes of this chapter. The rules and regulations may require contractors to furnish reports to owners containing such matters of information as the board deems necessary to promote the purpose of this chapter. The enumeration of specific matters which may properly be made the subject of rules and regulations shall not be construed to limit the board's general power to make all rules and regulations necessary fully to effectuate the purpose of this chapter;
- (3) Enforce this chapter and rules and regulations adopted pursuant thereto;
- (4) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules and regulations, and refuse to grant any license for any cause which would be ground for revocation or suspension of a license;
- (5) Publish and distribute pamphlets and circulars containing such information as it deems proper to further the accomplishment of the purpose of this chapter;
- (6) 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.”

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

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

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

(Approved May 17, 1973.)

ACT 118

H. B. NO. 1089

A Bill for an Act Relating to Environmental Quality.

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

SECTION 1. Chapter 342, Hawaii Revised Statutes, is amended in the following particulars:

1. By amending section 342-1 to read:

"Sec. 342-1 Definitions. As used in this chapter, unless the context otherwise requires:

- (1) 'Complaint' means any written charge filed with or by the department that a person is violating any provision of this chapter or any rule, regulation, or order promulgated pursuant to this chapter.
- (2) 'Department' means the department of health.
- (3) 'Director' means the director of health.
- (4) 'Party' means each person or agency named as party or properly entitled to be a party in any court or agency proceeding.
- (5) 'Permit' means authorization to discharge waste which, when granted, takes into account the public interest and contains a schedule of abatement approved by the director; or authorization to construct, modify, or operate any air pollution source; or authorization to emit excessive noise; or authorization to operate a sanitary landfill or open dump.
- (6) 'Person' means any individual, partnership, firm, association, public or private corporation, the State or any of its political subdivisions, trust estate or any other legal entity.
- (7) 'Pollution' means air pollution, water pollution, or excessive noise as hereinafter defined.
- (8) 'Treatment works' means any plant or other facility used for the purpose of controlling pollution.
- (9) 'Variance' means authorization to discharge waste when, after public hearing the director finds that the continuance of the function or operation causing the waste discharge to be in the public interest, the value of the continuance to outweigh the harm caused by the waste discharge, and which does not require an immediate schedule of abatement.
- (10) 'Waste' means sewage, industrial and agricultural waste, excessive noise, and all other liquid, gaseous, or solid substance, including

*Edited accordingly.

radioactive substance, whether treated or not, which may pollute or tend to pollute the atmosphere, lands or waters of this State.”

2. By amending section 342-6 to read:

“Sec. 342-6 Permits; procedures for. (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary in order for it to determine whether the proposed installation, alteration, or use will be in accord with applicable rules, regulations, and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if he determines that such will be in the public interest; provided that the permit may be subject to such reasonable conditions as the director may prescribe. The director, on application, shall renew a permit from time to time for a term not exceeding five years if he determines that such is in the public interest. The director may, on application, modify the conditions of a permit in any manner consistent with the public interest. The director shall not deny an application for the issuance, renewal, or modification of a permit without affording the applicant a hearing in accordance with chapter 91.

The director may, on his own motion or the application of any person, modify, suspend, or revoke any permit if, after a hearing in accordance with chapter 91, he determines that:

- (1) There is a violation of any condition of the permit; or
- (2) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts; or
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (4) Such is in the public interest.

The director shall insure that the public receive notice of each application for a permit to control water pollution. He may hold a public hearing before ruling on an application for a permit to control water pollution if he determines such public hearing to be in the public interest.

In determining the public interest, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director may by rule prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.

(d) The failure of the director to act on an application for the issuance of a permit or an application by a permit holder for the modification or renewal thereof within one hundred eighty days of the receipt of such application shall be deemed a grant of such application so long as the applicant acts consistently with the application and all plans, specifications, and other information submitted as a part thereof.

(e) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of his application so long as he acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as a part thereof.”

3. By amending section 342-7(e) to read:

“(e) Any variance granted pursuant to this section may be renewed from time to time on terms and conditions and for periods not exceeding ten years which would be appropriate on initial granting of a variance; provided that the applicant for renewal has met all of the conditions specified in the immediately preceding variance; and provided further, that the renewal, and the variance issued in pursuance thereof, shall provide for emission or discharge not greater than that attained pursuant to the terms of the immediately preceding variance at its expiration. No renewal shall be granted except on application thereof. Any such application shall be made at least one hundred eighty days prior to the expiration of the variance.”

4. By amending section 342-8(c) to read:

“(c) Any violation of an order issued by the director may at the discretion of the director subject the violator or violators to the penalties specified in section 342-11 and the injunction remedies specified in section 342-12.

“The director is authorized to impose the penalty specified in section 342-11(a) and section 342-11(c) and may institute a civil action in the name of the State to recover the civil penalty which shall be a government realization.

“In any proceeding to recover the civil penalty imposed, the director need only show that notice was given, a hearing was held or the time granted for requesting a hearing has run without such a request, the civil penalty was imposed, and that the penalty remains unpaid.”

5. By amending section 342-10 to read:

“**Sec. 342-10 Inspection of premises.** The director may in accordance with law enter and inspect any building or place, for the purpose of investigating an actual or suspected source of water, air, noise or other pollution and ascertaining compliance or noncompliance with this part, any rule, regulation or standard promulgated by the department, any permit or other approval granted by the department and to make reasonable tests in connection therewith. No confidential information secured pursuant to this section by any official or employee of the department within the scope and course of his employment in the prevention, control, or abatement of water, air, noise, or other pollution shall be disclosed by the official or employee except as it relates directly to air, water, noise, and other pollution and then, only in connection with his official duties and within the scope and course of his employment.”

6. By amending section 342-11 to read:

“**Sec. 342-11 Violations.** (a) Any person who violates this chapter or any rule or regulation promulgated by the department pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each day of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

(b) Any person who wilfully or negligently violates part III of this chap-

ter or any rule or regulation promulgated by the department pursuant to part III of this chapter shall be punished by a fine of not less than \$2,500 nor more than \$25,000, per day of violation or by imprisonment for not more than one year, or by both.

(c) Any person who denies, obstructs, or hampers the entrance and inspection by any duly authorized officer or employee of the department of any building or place which he is authorized to enter and inspect shall be fined not more than \$500. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action."

7. By amending section 342-31 to read:

"Sec. 342-31 Definitions. As used in this part, unless the context otherwise requires:

- (1) 'Coastal waters' means all waters surrounding the islands of the State from the coast of any island to a point three miles seaward from the coast, and, in the case of streams, rivers, and drainage ditches, to a point three miles seaward from their point of discharge into the sea and includes those brackish waters, fresh waters and salt waters that are subject to the ebb and flow of the tide.
- (2) 'Drainage ditch' means that facility used to carry storm run-off only.
- (3) 'Effluent' means the discharge of any substance into state waters, including, but not limited to, sewage, waste, garbage, feculent matter, offal, filth, refuse, any animal, mineral, or vegetable matter or substance, and any liquid, gaseous, or solid substances.
- (4) 'Effluent sources' include, but are not limited to, sewage outfalls, refuse systems and plants, water systems and plants, and industrial plants.
- (5) 'Sewerage system' means pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.
- (6) 'State waters' means all waters, fresh, brackish, or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, ground waters, and lakes; provided that drainage ditches, ponds, and reservoirs required as a part of a pollution control system are excluded.
- (7) 'Water pollution' means:
 - (A) Such contamination or other alteration of the physical, chemical or biological properties of any state waters, including change in temperature, taste, color, turbidity, or odor of the waters, or
 - (B) Such discharge of any liquid, gaseous, solid, radioactive, or other substances into any state waters, as will or is likely to create a nuisance or render such waters unreasonably harmful, detrimental or injurious to public health, safety or welfare, including harm, detriment, or injury to public water supplies, fish and aquatic life and wildlife, recreational purposes and agricultural and industrial research and scientific uses of such waters or as will or is likely to violate any water quality standards, ef-

fluent standards, treatment and pretreatment standards or standards of performance for new sources promulgated by the department.

- (8) 'Standard of performance' means a standard for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the director determines to be achievable through application of the best demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.
- (9) 'New source' means any source the construction of which is commenced after the adoption of regulations prescribing a standard of performance which will be applicable to such source."
8. By amending section 342-32 to read:

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

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

the name of the State for the prevention, control, or abatement of water pollution.

- (10) Require the owner or operator of any effluent source or any discharger of effluent to (A) establish and maintain records; (B) make reports; (C) install, use and maintain monitoring equipment or methods; (D) sample effluent and state waters; and (E) provide such other information as the department may require.
- (11) Require any permittee or holder of a variance to permit the director or his authorized representative upon the presentation of his credentials:
 - (A) To enter upon permittee's premises in which an effluent source is located or in which any records are required to be kept under the terms and conditions of the permit or variance; and
 - (B) To inspect any monitoring equipment or method required in the permit; and
 - (C) To sample any discharge of pollutants."

9. By amending section 342-33 to read:

"Sec. 342-33 Prohibition. No person, including any public body, shall use any state waters for the disposal of waste, engage in activity which causes state waters to become polluted, or violate any water quality permit or term or condition thereof without first securing approval in writing from the director.

No person, including any public body, shall knowingly establish, extend, or alter any system of drainage, sewage, or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of currents depended upon for dilution without first securing approval in writing from the director."

10. By amending section 342-34 to read:

"Sec. 342-34 Treatment works; construction grants. The director may make grants to any state or county agency of state funds as authorized and appropriated by the legislature for the construction of necessary treatment works to prevent the discharge of untreated or inadequately treated sewage or other waste into any state waters. He shall coordinate the granting of state funds with available federal funds for the same purpose. No grant shall be made for any project unless (1) the project conforms with the state water pollution control plan, (2) the project is certified by the director as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs, and (3) the application for the grant contains reasonable assurances that the applicant will provide for the proper and efficient operation and maintenance of the treatment works after its construction. If federal funds are available, the applicant shall be required to pay at least fifteen per cent of the estimated reasonable cost of such approved treatment works as defined by PL 92-500. If federal funds are not available, the director may make grants up to one hundred per cent of the estimated reasonable cost of the project."

11. By adding a new section to read:

"Sec. 342-35 Board membership. Notwithstanding any law to the contrary, no individual, board or body of this State which grants permits required

under this part shall be or include, as a member, any person who receives or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit; provided that for the purposes of this section, no agency, board or body of the State shall be considered a permit holder or applicant for a permit.”

SECTION 2. The director of health is hereby ordered and directed to make a grant of State funds, from funds already appropriated and authorized by Act 202, Session Laws of Hawaii 1972, part III, section 4, A-1, to the city and county of Honolulu for the construction of facilities necessary to divert sewage now entering Kaneohe Bay from the Kaneohe waste water treatment plant. Such grant shall be for such sums, not to exceed \$12,000,000, as may be necessary to successfully complete the construction of the needed diversionary facility, including mains and outfall. Any grant of State funds made by the director for this purpose is contingent upon the city and county of Honolulu meeting fifteen per cent of the cost of this project.

SECTION 3. **Severability.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

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

(Approved May 17, 1973.)

ACT 119

H. B. NO. 1337

A Bill for an Act Relating to the Development of Urban Design Plans for Each County.

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

SECTION 1. **Findings and purpose.** The legislature finds that the urban environment in the State has deteriorated; resort development is often scattered; the visual impact of new development is often ill considered; historic sites are often infringed upon; buildings of significant architectural, cultural or historic value are disappearing; and injudicious development mars the scenic landscape which is Hawaii's priceless asset. The purpose of this Act is to provide for the development of urban design plans for each county to facilitate quality design in future development and construction, both public and private.

SECTION 2. **Urban design plans.** Each county shall prepare one or more urban design plans to cover all areas designated for urban design review

*Edited accordingly.

in the county. The preparation of the design plan for each design area shall consider the following plan elements and design control measures:

- (1) The land uses permitted by the general plan and zoning;
- (2) Pedestrian and vehicular circulation systems;
- (3) Necessary and desirable public and private community facilities;
- (4) Historic sites, significant natural land and water features, and views and vistas which must be protected and enhanced;
- (5) Basic concepts of environmental character, including architectural character, by the following design controls:
 - (A) Height limitations should bear a relationship to the natural land features and views which are to be protected under the plan. Structure heights should not compete with natural land forms nor should buildings interrupt those views which should be available to other property owners or the public at large.
 - (B) Density controls should govern the number of hotel and dwelling units to prevent excessive concentrations of people which would alter the intended character and integrity of resort and historical areas.
 - (C) Maximum land and building coverage ratios should be developed to provide adequate open space around all structures and to allow for necessary ancillary uses related to the main use of the premises. Sufficient public or private green space should be provided to avoid the character of a "concrete jungle."
 - (D) Buildings and structures should be restrained from encroaching upon the shoreline and other designated land forms as well as street and road rights-of-way. Man-made features on the land should not be in conflict with natural formations along the shoreline.
 - (E) Basic building materials and colors should reflect the historical, cultural, and natural setting of the area. Structures, natural land forms, and plant material should blend as a unified design.
 - (F) Signs should be regulated with respect to location, size, color, lighting, and message. Signs should be treated as an integral unit in a design so as to be attractive and an accepted composition element.

SECTION 3. Implementation of design plans. Each county shall develop appropriate methods of implementing its design plans. It may program the design plan into a series of actions or projects with assigned priorities that will reflect a systematic method for ultimate design plan accomplishment. Each county shall submit an annual progress report in September of each year to the department of planning and economic development of the State of Hawaii. Each county, through its chief executive, may designate the county agency most appropriate to carry out the purposes of this Act. Citizen participation shall be encouraged during the preparation and implementation of urban design plans.

SECTION 4. Funding. Appropriate state and federal funds, as available, may be used to match county funds to prepare the urban design plans.

SECTION 5. **Effective date.** This Act shall take effect on July 1, 1973 and the first annual progress report shall be due in September 1974.

(Approved May 17, 1973.)

ACT 120

S. B. 137

A Bill for an Act Relating to Employment Security.

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

SECTION 1. Section 383-7, Hawaii Revised Statutes, is amended to read:

“**Sec. 383-7 Excluded service.** ‘Employment’ does not include the following service:

- (1) Agricultural labor as defined in section 383-9 if it is performed by an individual who is employed by an employing unit which had, in each of the current and the preceding calendar years, (A) no more than nineteen calendar weeks, whether consecutive or not, in which agricultural labor was performed by its employees, or (B) no more than nineteen individuals in its employ performing agricultural labor in any one calendar week, whether or not the same individuals performed the labor in each week;
- (2) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority performed in any calendar quarter by an individual if the cash remuneration paid by an employing unit for such service is less than \$225;
- (3) Service not in the course of the employing unit’s trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for the service is \$50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service. For the purposes of this paragraph, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit’s trade or business during a calendar quarter only if (A) on each of some twenty-four days during the quarter the individual performs such service for some portion of the day, or (B) the individual was regularly employed (as determined under clause (A)) by the employing unit in the performance of such service during the preceding calendar quarter;
- (4) (A) Service performed on or in connection with a vessel not an American vessel, if the individual performing the service is employed on and in connection with the vessel when outside the United States;
- (B) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including service performed as an

- ordinary incident thereto, except (i) the service performed in connection with a vessel of more than ten net tons (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States), and (ii) the service performed in connection with a vessel of ten net tons or less (determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States) by an individual who is employed by an employing unit which had in its employ one or more individuals performing the service for some portion in each of twenty calendar weeks all occurring, whether consecutive or not, in either the current or the preceding calendar year, and (iii) service performed in connection with the catching or taking of salmon or halibut for commercial purposes;
- (5) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;
 - (6) Service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by this chapter, except that to the extent that the Congress of the United States permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, all of the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services; provided that if this State is not certified for any year by the Secretary of Labor under section 3304(c) of the federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the department of labor and industrial relations from the fund in the same manner and within the same period as is provided in section 383-76 with respect to contributions erroneously collected;
 - (7) Service performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions; and any service performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, exempt from the tax imposed by section 3301 of the Internal Revenue Code of 1954;
 - (8) Service with respect to which unemployment compensation is payable under an unemployment system established by an act of Congress;
 - (9) (A) Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the federal Internal Revenue Code (other than an organization de-

- scribed in section 401(a) or under section 521 of such Code), if (i) the remuneration for such service is less than \$50, or (ii) the service is performed by a fully ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;
- (B) Service performed in the employ of a school, college, or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college, or university;
- (10) Service performed in the employ of a foreign government (including service as a consular or other officer or employee of a nondiplomatic representative);
- (11) Service performed in the employ of an instrumentality wholly owned by a foreign government;
- (A) If the service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and
- (B) If the United States Secretary of State has certified or certifies to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof;
- (12) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;
- (13) Service performed by an individual for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by the individual for the employing unit is performed for remuneration solely by way of commission;
- (14) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;
- (15) Service covered by an arrangement between the department and the agency charged with the administration of any other state or federal unemployment compensation law pursuant to which all services performed by an individual for an employing unit during the period covered by the employing unit's duly approved election, are deemed to be performed entirely within the agency's state;
- (16) Service performed by an individual who, pursuant to the Federal Economic Opportunity Act of 1964, is not subject to the federal laws relating to unemployment compensation;

- (17) Service performed by an individual for an employing unit as a real estate salesman, if all such service performed by such individual for such employment unit is performed for remuneration solely by way of commission.

None of the foregoing exclusions (1) to (17) shall apply to any service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.”

SECTION 2. Section 383-62, Hawaii Revised Statutes, is amended to read:

“**Sec. 383-62 Rate of contributions; financing benefits paid to government employees and employees of nonprofit organizations.** (a) Each employer shall pay contribution equal to three per cent of wages paid by him during each calendar year with respect to employment, except as otherwise prescribed in this part.

(b) In lieu of contributions required of employers under this chapter, the State and its political subdivisions and instrumentalities (hereinafter referred to as ‘governmental employers’ or ‘governmental employer’ as the case may be) shall pay to the director of labor and industrial relations for the fund an amount equivalent to the amount of regular benefits plus one-half the amount of extended benefits paid to individuals based on wages paid by governmental employers. If benefits paid an individual are based on wages paid by one or more governmental employers and one or more other employers, or on wages paid by two or more governmental employers, the amount payable by a governmental employer to the director for the fund shall be in accordance with the provisions of subsection (d) of this section, governing the allocation of benefit costs among employers liable for payments in lieu of contributions and between such employers and employers liable for contributions. For the purposes of subsection (d), governmental employers are employers liable for payments in lieu of contributions. The amount of payment required from governmental employers shall be ascertained by the department of labor and industrial relations and shall be paid from the general funds of such governmental employers at such time and in such manner as may be prescribed by the department and approved by the comptrollers or auditors of the respective governmental employers, except that to the extent that benefits are paid on the basis of wages paid by governmental employers from special administrative funds, the payment into the unemployment compensation fund shall be made from such special funds.

(c) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. For the purpose of this subsection and subsection (f), a nonprofit organization is an organization (or groups of organizations) described in section 501(c)(3) of the United States Internal Revenue Code which is exempt from income tax under section 501(a) of such code.

- (1) Liability for contributions and election of reimbursement. Any nonprofit organization which is, or becomes, subject to this chapter on or after January 1, 1972 shall pay contributions under the provisions of this part (with the exception of the provisions in subsection (b) of this section) applicable to other employers unless it elects, in accordance with this paragraph, to pay to the director of labor and industrial relations for the fund an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.
- (A) Any nonprofit organization which is, or becomes, subject to this chapter on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than two calendar years beginning with January 1, 1972, provided it files with the department a written notice of its election within the thirty-day period immediately following such date, or within a like period immediately following the date of enactment of this subparagraph, whichever occurs later.
- (B) Any nonprofit organization which becomes subject to this chapter after January 1, 1972 may elect to become liable for payment in lieu of contributions for a period beginning with the date on which such subjectivity begins and continuing for not less than two calendar years thereafter by filing a written notice of its election with the department not later than thirty days immediately following the date of the determination of such subjectivity.
- (C) Any nonprofit organization which makes an election in accordance with subparagraphs (A) or (B) of this paragraph will continue to be liable for payments in lieu of contributions until it files with the department a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall be effective.
- (D) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the department not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next calendar year.
- (E) The department may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1971.
- (F) The department, in accordance with such regulations as the director of labor and industrial relations may prescribe, shall no-

tify each nonprofit organization of any determination which it may make of such organization's status as an employer and the effective date of any election which such organization makes and of any termination of such election. Such determination shall be conclusive upon such organization unless, within fifteen days after the notice thereof was mailed to its last known address or otherwise delivered to it, such organization files with the department an application for review and redetermination, setting forth the reasons therefor. The department shall promptly review and reconsider its determination and shall thereafter issue a redetermination in any case in which such application has been filed. Any such redetermination shall be conclusive upon the organization unless, within fifteen days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization files written notice of appeal with the department, setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.

- (2) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of subparagraph (A).
- (A) As determined by the director of labor and industrial relations, the department shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during the week, or other prescribed period, that is attributable to service in the employ of such organization.
- (B) Payment of any bill rendered under subparagraph (A) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with subparagraph (D).
- (C) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.
- (D) The amount due specified in any bill from the department shall be conclusive and binding upon a nonprofit organization unless, within fifteen days after the notice thereof was mailed to its last known address or otherwise delivered to it, such organization files with the department an application for review and redetermination, setting forth the reasons therefor. The department shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in which such application has been filed. Any such redetermination shall

be conclusive on the organization unless, within fifteen days after the redetermination was mailed to its last known address or otherwise delivered to it, the organization filed written notice of appeal with the department, setting forth the reasons for the appeal. The appeal shall be heard by a referee in accordance with applicable provisions of sections 383-38 and 383-39, and the decision of the referee shall be subject to the provisions of section 383-41.

- (3) Provision of security. Any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required, within thirty days after the effective date of its election, to deposit with the department an amount of money as security.
- (A) The amount of the deposit required by this paragraph shall be equal to .2 per cent of the organization's total wages paid for employment during the calendar year immediately preceding the effective date of the election. If the nonprofit organization did not pay wages in each of the four calendar quarters of such calendar year, the amount of the deposit shall be as determined by the department.
- (B) Any deposit of money in accordance with this paragraph shall be retained by the department in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The department may deduct from the money deposited under this paragraph by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions. The department shall require the organization within thirty days following any deduction from a money deposit under the provisions of this subparagraph to deposit sufficient additional money to make whole the organization's deposit at the prior level. The department may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, the department determines that an adjustment is necessary, it shall require the organization to make additional deposit within thirty days of written notice of its determination or shall return to the organization such portion of the deposit as it no longer considers necessary, whichever action is appropriate. Disposition of income from moneys held in escrow shall be governed by the applicable provisions of the state law.
- (C) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this paragraph, the department may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which such termination becomes effective; provided, that the department may extend for good cause the

applicable deposit or adjustment period by not more than thirty days.

(d) Each employer that is liable for payments in lieu of contributions under this section shall pay to the director of labor and industrial relations for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subparagraph (1) or subparagraph (2).

(1) Proportionate allocation when fewer than all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers that are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(2) Proportionate allocation when all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(e) Two or more employers that have become liable for payments in lieu of contributions may file a joint application to the department of labor and industrial relations for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon its approval of the application, the department shall establish a group account for such employers effective as of the beginning of the calendar quarter in which the department receives the application, and it shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the department or upon application by the group. The director of labor and industrial relations shall prescribe such regulations as he deems necessary with respect to applications for establishment, maintenance and termination of group accounts that are authorized by this paragraph, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this paragraph by members of the group and the time and manner of such payments.

(f) Notwithstanding any provisions in subsections (c) and (d), any non-profit organization that prior to January 1, 1969 paid contributions required by this part, and that pursuant to subsection (c) of this section elects within thirty days after the effective date of such subsection (c) to make payments in lieu of contributions, shall not be required, beginning with the effective date of subsection (c), to make any such payments on account of any regular or extended benefits paid, on the basis of wages paid by such organization, to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive reserve balance in the account of such organization.

(g) When a nonprofit organization terminates its self-financing status and elects to pay contributions under this chapter, any remaining amount of positive reserve balance in its self-financing account will be transferred to its contributory reserve account. The department shall determine the contribution rate of such employer in accordance with provisions of section 383-66(2)."

SECTION 3. Section 383-65, Hawaii Revised Statutes, is amended to read:

"Sec. 383-65 Charges and noncharges for benefits. (a) Except as otherwise provided in this section, benefits paid to an individual shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by the employer bear to the total amount of base period wages paid to the individual by all of his base period employers. Benefits paid in benefit years beginning after June 30, 1963 shall be charged to employers' accounts in the calendar year in which the benefits are paid.

(b) Benefits, as hereinafter provided in this subsection, paid to an individual during the benefit year shall not be charged to the account of any of his base period employers from whose employment the individual became separated during the base period or the three-month period immediately preceding the benefit year under one of the following circumstances:

- (1) Left his work voluntarily without good cause, or
- (2) Was discharged for misconduct connected with his work, or
- (3) Left his work voluntarily for good cause not attributable to the employer. Such nonchargeable benefits shall be an amount which shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual during any continuous period of employment ending with a separation in the base period or three-month period under circumstances (1), (2), or (3) enumerated above bear to the total amount of base period wages paid to the individual.

(c) Benefits paid to an individual, who, during his base period, earned wages for part-time employment with an employer, shall not be charged to the account of the employer if he continues to give the individual employment to the same extent while he is receiving benefits as during the base period and the employer establishes such fact to the satisfaction of the director of labor and industrial relations.

(d) Benefits paid to an individual for the period he is enrolled in and is in regular attendance at a vocational training or retraining course approved by the director pursuant to section 383-29 shall not be charged to any of his base period employers.

(e) For the purposes of the arrangements in which the department will participate pursuant to section 383-106(b) only, 'base period' as used in this section shall mean the base period of this or any other state applied to a claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws.

(f) Benefits paid to an individual under the provisions of the extended benefits program, sections 383-168 to 383-174, of this chapter, shall not be charged to the account of any of his base period employers on a contributory plan. Provisions of section 383-62(b) and 383-62(c)(2)(A) will apply in the reimbursement of benefits which are paid to an individual who, during his base period, was employed by a governmental employer or a nonprofit organization electing payment in lieu of contributions."

SECTION 4. Section 383-168, Hawaii Revised Statutes, is amended to read:

"Sec. 383-168 Definitions. As used in this part, unless the context clearly requires otherwise:

- (1) 'Extended benefit period' means a period which:
 - (A) Begins with the third week after whichever of the following weeks occur first:
 - (i) A week for which there is a national 'on' indicator, or
 - (ii) A week for which there is a state 'on' indicator; and
 - (B) Ends with either of the following weeks, whichever occurs later:
 - (i) The third week after the first week for which there is both a national 'off' indicator and a state 'off' indicator; or
 - (ii) The thirteenth consecutive week of such period; provided that no extended benefit period may begin by reason of a state 'on' indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this State; and provided further that, within the period beginning on July 1, 1971 and ending on December 31, 1971, an extended benefit period may become effective and be terminated in this State solely by reason of a state 'on' and a state 'off' indicator, respectively.
- (2) There is a 'national "on" indicator' for a week if the United States Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 per cent.
- (3) There is a 'national "off" indicator' for a week if the United States Secretary of Labor determines that for each of the three most recent completed calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 per cent.

- (4) There is a 'state "on" indicator' for this State for a week if the director of labor and industrial relations determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
- (A) Equaled or exceeded 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and
 - (B) Equaled or exceeded 4 per cent.
- (5) There is a 'state "off" indicator' for this State for a week if the director determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:
- (A) Was less than 120 per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or
 - (B) Was less than 4 per cent.
- (6) 'Rate of insured unemployment,' for purposes of paragraphs (4) and (5) of this section, means the percentage derived by dividing:
- (A) The average weekly number of individuals filing claims in this State for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the director on the basis of his reports to the United States Secretary of Labor, by
 - (B) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.
- (7) 'Regular benefits' means benefits payable to an individual under this chapter or under any other State law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.
- (8) 'Extended benefits' means benefits (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to an individual under the provisions of this part for weeks of unemployment in his eligibility period.
- (9) 'Additional benefits' means benefits payable to an individual under chapter 385.
- (10) 'Eligibility period' of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any week thereafter which begins in such period.
- (11) 'Exhaustee' means an individual who, with respect to any week of unemployment in his eligibility period:
- (A) Has received prior to such week, all of the regular benefits that were available to him under this chapter or any other state law

(including dependents' allowances and benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided that, for the purposes of this subparagraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(B) His benefit year having expired prior to such week, has no, or has insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(C) (i) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and

(ii) Has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.

(12) 'State law' means the unemployment insurance law of any state, approved by the United States Secretary of Labor under section 3304 of the Internal Revenue Code of 1954."

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 17, 1973.)

A Bill for an Act Relating to the Granting, Revocation or Suspension of Veterinary Licenses.

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

SECTION 1. Section 471-10, Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

“Sec. 471-10 Refusal to grant and revocation or suspension of license.

(a) The board of veterinary examiners may refuse to grant, renew, reinstate or restore a license for any cause which would be ground for revocation of a license under this section. The board may, nevertheless, renew, reinstate or restore any license when it determines that such action is just and may be done consistently with the accomplishment of the purpose of this chapter which is hereby declared to be the protection of the public in matters relating to the practice of veterinary medicine.

(b) Revocation and suspension. The board may revoke or suspend the license of any veterinarian for any of the following causes:

- (1) Professional misconduct, gross negligence or manifest incapacity;
- (2) Conviction of a crime involving moral turpitude;
- (3) Violation of this chapter or any other law which applies to him as a practicing veterinarian;
- (4) Making any false representations or promises through advertising or otherwise or in any manner dealing fraudulently or dishonestly in connection with the practice of veterinary medicine;
- (5) Habitual intemperance in the use of alcoholic beverages or addiction to the use of narcotic or dangerous substances;
- (6) Mental incompetence.

No license shall be suspended for longer than two years.”

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

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

(Approved May 18, 1973.)

ACT 122

S. B. NO. 995

A Bill for an Act Relating to Disclosure of Mental Health Records to Patients.

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

SECTION 1. Section 334-5, Hawaii Revised Statutes, is amended to read:

“Sec. 334-5 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 of health or by the administrator of a private psychiatric facility to carry out 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.

*Edited accordingly.

ACT 123

Nothing in this section shall preclude disclosure, upon proper inquiry, of any information relating to a particular patient and not clearly adverse to the interests of the patient, to the patient, 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."

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 18, 1973.)

ACT 123

S. B. NO. 1153

A Bill for an Act Relating to Parking on School Campuses.

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

SECTION 1. The purpose of this Act is to enable principals to control parking on school campuses.

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

"Sec. 298- Any unauthorized vehicle parked on school grounds may be towed away at owner's expense, or the owner or driver of vehicle may be arrested by any police officer without warrant, on complaint of the principal or other person in charge of the school. Upon conviction thereof he shall be fined not more than \$50."

SECTION 3. **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 4. This Act shall take effect upon its approval.

(Approved May 18, 1973.)

ACT 124

H. B. NO. 103

A Bill for an Act Relating to Fishing Reserves.

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

SECTION 1. Chapter 188, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"Sec. 188- **Fishing reserves, refuges, public fishing grounds.** For the purpose of preserving, protecting, conserving, propagating, and managing fish

*Edited accordingly.

or other freshwater and/or marine life, the department of land and natural resources may establish, maintain, manage, and operate marine reserves and refuges and public fishing grounds in such waters under its control as it may deem desirable; enter into agreements for the taking of control of privately owned waters, lands and/or fisheries for such purposes; and make and amend such rules and regulations pursuant to chapter 91 as it may deem necessary for the regulation of the marine reserves, refuges, public fishing grounds, and any other waters or lands under the jurisdiction of the State of Hawaii.

Sec. 188- Penalty. It shall be unlawful for any person to enter any marine reserve, refuge, or public fishing ground established under section 188- without first having obtained a permit from the department of land and natural resources if such permits are specified, or to violate any rule or regulation adopted by the department under section 188- . Any person violating this section or any such rule or regulation shall be guilty of a petty misdemeanor.

Any fishing gear or appliance used or possessed in violation of any such rule or regulation shall be deemed a public nuisance and shall be seized and forfeited in the manner provided in section 187-16.”

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

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

(Approved May 18, 1973.)

ACT 125

H. B. NO. 166

A Bill for an Act Relating to Boating Accidents.

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

SECTION 1. Section 267-8, Hawaii Revised Statutes, is amended to read:

“Sec. 267-8 Duty of operator involved in, and at the scene of, a boating accident; limitations of liability. (a) An operator involved in a boating accident, if and so far as he can do so without serious danger to his own vessel, or person aboard, shall render such assistance as may be practicable and necessary to other persons and any property in order to save them from danger caused by the accident. He shall also make every reasonable effort to identify himself by giving his name and address and the identification of the vessel he was operating to (1) all persons injured; (2) all owners of properties damaged; and (3) all operators of other vessels involved in the accident. It shall further be his duty to reasonably cooperate with all duly authorized personnel of governmental agencies investigating the accident.

(b) Any person who renders assistance in compliance with subsection (a) and any person who in good faith without remuneration or expectation of

*Edited accordingly.

remuneration renders assistance at the scene of a vessel collision, accident, or other casualty without objection of any person assisted, shall not be liable for any civil damages resulting from his acts or omissions in providing or arranging towage, medical treatment, or other assistance, except for damages as may result from his gross negligence or wanton acts or omissions.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

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

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

(Approved May 18, 1973.)

ACT 126

H. B. NO. 196

A Bill for an Act Relating to Temporary Licenses to Practice Medicine and Surgery.

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

SECTION 1. Section 453-3, Hawaii Revised Statutes, is amended to read:

“**Sec. 453-3 Limited and temporary licenses.** The board of medical examiners shall issue a limited and temporary license to an applicant who has not been examined as required by section 453-4, and against whom no disciplinary proceedings are pending in any state or territory, if the applicant is otherwise qualified to be examined, and upon determination that:

- (1) There is an absence or a shortage of licensed physicians in a particular locality, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall permit the practice of medicine and surgery by the applicant only in the particular locality, and no other, as shall be set forth in the license issued to him. The license shall be valid only for a period of eighteen months from the date of issuance; or
- (2) The applicant is to be employed by an agency or department of the state or county government, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the practice of medicine and surgery while the applicant is in the employ of such governmental agency or department and in no case shall be used to provide private patient care for a fee. A license issued under this

*Edited accordingly.

subparagraph may be renewed from year to year; or

- (3) The applicant would practice medicine and surgery only while under the direction of a physician regularly licensed in the State other than as permitted by this section, and that the applicant intends to take the regular licensing examination conducted by the board within the next eighteen months. In no case shall a limited and temporary license issued hereunder be valid for more than a period of eighteen months from the date of issuance; or
- (4) The applicant has been appointed as an intern or accepted for specialty or resident training in a hospital approved by the board, and that the applicant shall be limited in the practice of medicine and surgery to the extent required by the duties of his position or by his program of training while at the hospital. A limited and temporary license hereunder shall be issued without regard to the requirement of section 453-4(5) relative to internship. The license shall be valid during the period in which the applicant remains as intern or a resident in training, and may be renewed from year to year during the period; or
- (5) A public emergency exists, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the period of such public emergency.

Nothing herein requires the registration or licensing hereunder of nurses, or other similar persons, acting under the direction and control of a licensed physician.”

SECTION 2. Section 453-4, Hawaii Revised Statutes, is amended to read:

“Sec. 453-4 Qualifications for examination. Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery unless he has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for such examination, he shall furnish proof satisfactory to the board that:

- (1) He (A) is a citizen of the United States; or (B) if not a citizen of the United States, has declared his intention to become a citizen of the United States, as provided by law;
- (2) He is of good moral character;
- (3) (A) He is a graduate of a medical school or college approved by the council on medical education and hospitals of the American medical association; or
(B) He is a graduate of a foreign medical school, who has had at least three years’ medical experience or training in a hospital approved by the council on medical education and hospitals of the American medical association for internship or residency, and has passed the qualifying examination of the educational council for foreign medical graduates or its successor;

- (4) He has served an internship of at least one year in either a hospital which has been certified or approved for the training of interns and resident physicians by the American medical association, council on medical education and hospitals, or if outside the United States, in a hospital which is shown by the applicant to the satisfaction of the board to possess standards substantially the equivalent of those required for such American medical association approval, or has completed one year of residency training in a program approved by the American medical association, council of medical education and hospitals.

Diplomates of the national board of medical examiners or those who have passed the federal licensing examination (FLEX) with scores deemed satisfactory by the board and who meet the requirements of paragraphs (1), (2), (3) and (4) above, shall be licensed without the necessity of any further examination.”

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

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

(Approved May 18, 1973.)

ACT 127

H. B. NO. 706

A Bill for an Act Relating to Mass Merchandising of Motor Vehicle Insurance.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 431-751, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 431-751 Definitions.** As used in sections 431-751 to 431-766:

- (1) ‘Employees’ includes compensated officers, managers, employees of a firm, corporation, partnership, sole proprietor, trust, estate, or members of unincorporated association or organization. A mass merchandising agreement may provide that the term ‘employees’ shall include retired employees and the individual proprietor, partners, or trustees, if the employer is an individual proprietor, partnership, trust, or estate.
- (2) ‘Employer’ includes any firm, corporation, partnership, sole proprietor, trust, estate, and unincorporated association or organization; it also includes the State, any county, and any municipal corporation, and any governmental unit, agency, or department thereof.
- (3) ‘Insurer’ means an insurer authorized to transact the business of motor vehicle insurance in the State.
- (4) ‘Mass merchandise’ means to sell and ‘mass merchandising’ means

*Edited accordingly.

a sale of insurance wherein (A) the insurance is offered to employees of particular employers or to members of particular established associations or organizations and (B) the employer, association, or organization has agreed to, or otherwise affiliated itself with, the sale of such insurance to its employees or members.

- (5) 'Mass merchandising plan' or 'plan' means a program, design, or scheme of the insurance to be mass merchandised, including terms, coverages, and premiums.
- (6) 'Mass merchandising agreement' means an agreement between an insurer and an employer, association, or organization for the sale of insurance to the employees of the employer or to the members of the association or organization on a mass merchandising basis.
- (7) (A) 'Private passenger motor vehicle' (or motor vehicle) means a motor vehicle of the private passenger, station wagon or jeep type, motorcycle, motorized bicycle, power cycle, motor scooter and any other similar vehicles of the private passenger type including trailers and semitrailers used in connection therewith, owned by an individual or jointly owned by such individual and his or her spouse or relatives who are members of his or her household, but shall not include any of the foregoing which are used as a public or livery conveyance for passengers or rented to others without a driver.
- (B) 'Private passenger motor vehicle' shall also include a motor vehicle with a pick-up or similar body, a delivery sedan or a panel truck which is not customarily used in the occupation, profession or business of the insured other than in the course of driving to and from work if such vehicle shall have a load capacity of 1500 pounds or less.
- (8) 'Private passenger motor vehicle insurance,' 'insurance' or 'motor vehicle insurance' means insurance against loss or expense, or liability for loss or expense resulting from injury to persons or loss of or damage to property arising from the ownership, operation, maintenance, or use of a private passenger motor vehicle."

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 18, 1973.)

A Bill for an Act Relating to Uniform Federal Tax Lien Registration Act (Modified).

*Edited accordingly.

ACT 128

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

SECTION 1. Section 505-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 505-1 Notices filed where. Notices of liens for internal revenue taxes payable to the United States and certificates of release or of partial discharge of such liens may be recorded in the bureau of conveyances.”

SECTION 2. Section 505-4, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 505-4 Fees. The fees payable under this chapter are as follows:

For each notice of federal tax lien in the bureau of conveyances, \$1.50;

For each certificate of release, partial release, or discharge of a federal tax lien in the bureau of conveyances, 25 cents.

The foregoing fees apply when the notice of federal tax lien, or the certificate of release, partial release, or discharge names but a single taxpayer. If the notice or certificate names more than one taxpayer, the fee shall be multiplied by the number of taxpayers named.”

SECTION 3. Section 501-82(1), Hawaii Revised Statutes, is amended to read as follows:

“(1) Liens, claims, or rights arising or existing under the laws or Constitution of the United States, which the statutes of this State cannot require to appear of record in the registry; provided, that notices of liens for internal revenue taxes payable to the United States, and certificates affecting such liens, shall be deemed to fall within this subsection only if the same are recorded in the bureau of conveyances as provided by chapter 505.”

SECTION 4. Section 501-102, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 501-102 Filing liens, etc., notice. Every conveyance, lien, attachment, order, decree, instrument, or entry affecting registered land, which would under existing laws, if recorded, filed, or entered in the bureau of conveyances, affect the real estate to which it relates, shall, if registered, filed, or entered in the office of the assistant registrar in the bureau of conveyances, be notice to all persons from the time of such registering, filing, or entering. This section shall not be construed to relate to federal tax liens, and the recording of which shall be as provided by chapter 505.”

SECTION 5. Section 501-136, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 501-136 Attachment and other liens; filing of. In every case where a writing of any description or a copy of any writ is required by law to be filed or recorded in the bureau of conveyances in order to create or preserve any lien, right, or attachment upon unregistered land, such writing or copy, when intended to affect registered land shall be filed and registered with the assistant registrar. In addition to any particulars required in such papers for recording with records of deeds, it shall also contain a reference to the number of the

certificate of title of the land to be affected, and the volume and page of the registration book where the certificate is registered, and also, if the attachment, right, or lien is not claimed on all the land in any certificate of title, a description sufficiently accurate for identification of the land intended to be affected. This section and section 501-138 do not apply to liens for internal revenue taxes payable to the United States.”

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

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

(Approved May 18, 1973.)

ACT 129

H. B. NO. 1005

A Bill for an Act Relating to the Motor Vehicle Industry Licensing Act, Amending Chapter 437 of the Hawaii Revised Statutes.

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

SECTION 1. Chapter 437 of the Hawaii Revised Statutes is amended as follows:

a. Section 437-28(b) (18) (D) is repealed.

b. Section 437-28(b) (22) (A) is amended to read as follows:

“Section 437-28(b) (22) (A). Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with said dealer, by threatening to cancel the franchise agreement or by threatening to refuse at the expiration of the current franchise agreement, to enter a new franchise agreement with such dealer; or.”

c. Section 437-28(b) (22) (B) is amended to read as follows:

“Section 437-28(b) (22) (B). Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or any other party, to perform any act not required by or to refrain from performing any act not contrary to the reasonable requirements of the franchise agreement with said dealer, by awarding or threatening to award a franchise to another person for the sale of the same make of any motor vehicle in the same sales area of responsibility covered by the existing franchise agreement of the dealer; or.”

d. Section 437-28(b) (22) (C) is amended to read as follows:

*Edited accordingly.

“Section 437-28(b) (22) (C). Has attempted to or has cancelled or failed to renew the franchise agreement of any dealer in this State without good faith, as defined herein. Upon such cancellation or failure to renew the franchise agreement, the party cancelling or failing to renew the franchise agreement shall, at the dealer’s option, either compensate the dealer at the fair market going business value for the dealer’s capital investment, which shall include but not be limited to the going business value of the business, goodwill, property and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney’s fees incurred in collecting such compensation; provided such investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for his damages including attorney’s fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, “good faith” means the duty of each party to any franchise agreement fully to comply with that agreement, or to act in a fair and equitable manner towards each other.”

e. Section 437-28(b) (22) (F) is amended to read as follows:

“Section 437-28(b) (22) (F). Has discriminated against any of their franchised dealers in this State by directly or indirectly charging such dealer more for a new motor vehicle or services, parts, or accessories therefor or a higher rate of transportation for transporting such vehicle from the manufacturing or assembly plant to such dealer or any portion of such distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories therefor or for similar transportation for such vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon such franchised dealer in this State during the same period is deemed to have so discriminated against such franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of such discriminatory act against the franchised dealer in this State. The intent and purpose of this paragraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This paragraph shall be liberally interpreted to effect such intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed. Nothing contained in this subparagraph F shall prohibit establishing delivered prices or destination charges to dealers

in this State which reasonably reflect the seller's total transportation costs incurred in the manufacture or delivery of such products to such dealers, including costs which are related to the geographical distances, modes and costs of transportation involved in shipments to this State, or which meet those lower prices established by competitors.”

f. Section 437-28(c) is repealed.

g. Section 437-28(d) is amended to read as follows:

“Section 437-28(d). Suspension pending hearing. Upon finding by the board or by the Director or Regulatory Agencies that a licensee is engaging within this State in activities which involve (1) an immediate and unreasonable threat to personal safety or (2) fraud or misrepresentation upon customers, and that, for the protection of the public from the possible consequences of such practices, the business of licensee should be immediately suspended, the board or the director may order the summary suspension of the license for a period not to exceed five days, pending a hearing by the board on the charges involving such practices. The order of suspension shall be served upon the licensee at the same time as the notice of hearing upon such charges, which hearing shall be scheduled prior to the expiration of the order of suspension. The period of suspension prior to the hearing cannot be extended except upon request of the licensee for a reasonable continuance adequately to prepare his defense.

Any attempt of the licensee to continue his business or occupation while his license is so suspended shall of itself be sufficient to warrant a permanent revocation of his license and shall also subject him to all the penalties prescribed by this chapter for violations. For such disregard of an order suspending his license, the board may summarily take possession of and impound all motor vehicles belonging to or in the possession of the licensee whether or not the vehicles are situated upon the licensed premises, pending final action in this case or may, without taking possession of such motor vehicles, render them unusable; provided, that the right of the board to take any such action and any liens for towing or storage or otherwise arising from such action are subject to and subordinate to any security interest which has attached to such motor vehicles prior thereto, and the board shall prior to taking any such action give notice thereof to any secured party whose security interest in such motor vehicles is known to the board or who, prior to any such action by the board had filed a financing statement covering such motor vehicles or had noted his lien on the legal ownership certificates thereof.”

h. Section 437-28(e) is repealed.

i. Section 437-38 is repealed.

j. Section 437-39 is repealed, and substituted in lieu thereof, the following section.

“Section 437-39 Enforcement. When necessary, the board may enforce the provisions of this act including any rule or regulation promulgated thereunder or decision rendered thereunder by applying to the circuit court for any relief which may be appropriate, including injunctive relief. Further, the board may apply to the circuit court for any relief which

ACT 130

may be appropriate including injunctive relief to enjoin any licensee or other person who violates or threatens to violate any provision of this chapter, including any rule or regulation promulgated thereunder.”

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 18, 1973.)

ACT 130

H. B. NO. 1322

A Bill for an Act Relating to the Establishment of Revolving Funds and Special Funds under the Hawaiian Homes Commission Act, 1920.

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

SECTION 1. Section 213 of the Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

“Sec. 213. Hawaiian home-loan fund; Hawaiian home-development fund; Hawaiian home-operating fund; administration account; Hawaiian home-farm loan fund; Hawaiian home-commercial loan fund; Hawaiian home-repair loan fund; Anahola-Kekaha loan fund and the Hawaiian loan guarantee fund. (a) There are hereby established in the treasury of the State six revolving funds to be known as the Hawaiian home-loan fund, the Hawaiian home-operating fund, the Hawaiian home-farm fund, the Hawaiian home-commercial loan fund, the Hawaiian home-repair loan fund, the Anahola-Kekaha loan fund and three special funds to be known as the Hawaiian home-development fund, the Hawaiian home-administration account and the Hawaiian loan guarantee fund.

(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraphs (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated

*Edited accordingly.

sugarcane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts,' shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion,' is to be transferred to the Hawaiian home development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$20,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$20,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions of section 215(3);
- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or

impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interest of the department.

- (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;
- (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;
- (6) The department may borrow and deposit into the special revolving account for the purpose of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Receipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;
- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;
- (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct

loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial institutions made to Hawaiians under this program. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.

(c) Hawaiian home-development fund. Twenty-five per cent of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund. The moneys in said development fund shall be available, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other non-revenue producing improvements.

With respect to the Additional Receipts—Development Fund Portion, fifteen per cent thereof shall be used, with the prior written approval of the governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands and for other nonrevenue-producing improvements, and the remaining eighty-five per cent shall be segregated into a special account which may be drawn upon from time to time by the department of education, with prior written approval of the governor, for such educational projects as shall be developed and directed by the department of education after consultation with the University of Hawaii and the department of Hawaiian home lands; provided that such projects shall be directed primarily to the educational improvement of the children of lessees, the funds to be used primarily at the preschool and elementary grade levels.

Only so much of the Additional Receipts—Development Fund Portion not encumbered at the time of appropriate legislative action directing repayment, shall be repaid to the general fund of the State.

(d) Hawaiian home-operating fund. All moneys received by the department from any other source, except moneys received from the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition therefor of real property and interests therein, such as water rights or other interest; (2) for payment into the treasury

of the State of such amounts as are necessary to meet the following charges for state bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from said funds or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in said fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, said fund, with the approval of the governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 220 and 221 or the other provisions of this Act.

(e) Match moneys. The department is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the governor, to match federal, state or county funds available for the same purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(f) Hawaiian home-administration account. The entire receipts derived from any leasing of the available lands defined in section 204 shall be deposited into the Hawaiian home-administration account. The moneys in said account shall be expended by the department for salaries and all other administrative expenses of the department, not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

- (1) The department shall, at such time as the governor may prescribe, but not later than November 15, preceding each (annual) session of the legislature, submit to the state director of finance its budget estimates of expenditures for the next ensuing (fiscal period) in the manner and form and as required by state law of state departments and establishments.
- (2) The department's budget, if it meets with the approval of the governor, shall be included in the governor's budget report and shall be transmitted to the legislature for its approval.
- (3) Upon approval by the legislature of the department's budget estimate of expenditures for the ensuing (fiscal period) the amount thereof shall be available to the department for the (fiscal period) and shall be expendable by the department for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available for such expenditures; any amount of money in said account in excess of the

amount approved by the legislature for the (fiscal period) or so made available shall be transferred to the Hawaiian home-development fund, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature or so made available.

- (4) The money in said administration account shall be expended by the department in accordance with state laws, rules, and regulations and practices.

(g) Hawaiian home-farm loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the 'farm loan fund.' The moneys in this fund shall be used to make loans to lessees of agricultural tracts leased under the provisions of section 207 of this Act. Such loans shall be subject to restrictions imposed by sections 214 and 215 of this Act.

(h) Hawaiian home-commercial loan fund. The department is authorized to create a fund out of which loans may be made to those holding leases issued under Section 207 of this Act. The loans shall be for theaters, garages, service stations, markets, stores, and other mercantile establishments and these shall all be owned by lessees or by organizations formed and controlled by said lessees. The loans shall be subject to the restrictions imposed by sections 214 and 215 of this Act.

(i) Hawaiian home-repair loan fund. The department shall create a fund of \$500,000 out of moneys heretofore appropriated to it by the legislature to be known as the Hawaiian home-repair loan fund. The moneys in this fund shall be used to make loans in amounts not in excess of \$5,000 to lessees for repairs to their existing homes and for necessary additions to such homes due to increase in family size. Such loans may be made for periods not to exceed five years and shall bear interest at two and one-half per cent a year.

(j) Anahola-Kekaha fund. The department shall create a fund of \$121,500 out of moneys heretofore appropriated to it by the legislature to be known as the Anahola-Kekaha fund. The moneys in this fund shall be used to make loans to lessees who are to be residents of Anahola and Kekaha on the island of Kauai to construct homes upon homestead lots. Such loans shall be for a period not to exceed 20 years, shall bear interest at two and one-half per cent a year and shall be for sums not to exceed \$20,000.

(k) The Hawaiian loan guarantee fund. The department is authorized to create a fund out of which loans made by governmental agencies or lending institutions to those holding leases or licenses issued under section 207 of this Act may be guaranteed. This guarantee may be for home, farm and commercial loan purposes. The loan guarantees shall be subject to the restrictions imposed by sections 208, 214 and 215 of this Act."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary, to the Hawaiian loan guarantee fund, as provided in section 213, Hawaiian Homes Commission Act, 1920, as amended, for the purpose of guaranteeing loans of Hawaiian Homes lessees.

SECTION 3. Material to be repealed is bracketed. New material is

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

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

(Approved May 18, 1973.)

A Bill for an Act Relating to the Licensing of Real Estate Brokers and Salesmen.

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

SECTION 1. Section 467-8, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 467-8 Prerequisites for licensing. No license hereunder shall be issued to:

- (1) Any person unless he has demonstrated by passing with a grade satisfactory to the real estate commission a written examination given by it and appropriate to the license sought that he has a reasonable knowledge of (A) estates, interests, and rights in real property, (B) the documents or acts or occurrences by which such property is transferred or otherwise affected, (C) the rights and duties of an agent, (D) the laws of the State relating to real estate brokers and salesmen, and (E) such other subjects as the commission determines to be essential for the protection of the general public in its real estate transactions;
- (2) Any person who does not possess a good character and reputation for honesty, truthfulness, and fair dealing; or any person who has been convicted of a crime involving moral turpitude unless the person has received a full and free pardon or presents satisfactory proof to the commission that for the five years next preceding the date of his application he has lived an upright and moral life;
- (3) Any copartnership unless every member of the copartnership who actively participates in the real estate brokerage business thereof holds a real estate broker's license;
- (4) Any corporation unless the real estate brokerage business thereof is under the direct management of an officer or employee thereof and unless the officer or employee holds a real estate broker's license."

SECTION 2. Section 467-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 467-9 License; applications and fees. Every applicant for issuance of a real estate license under this chapter shall file an application with the real

*Edited accordingly.

estate commission in such form and setting forth such information as may be prescribed or required by the commission, and shall furnish such additional information bearing upon the issuance of the license as it requires. Every applicant shall be sworn to before an officer authorized to administer oaths. In the case of a copartnership or corporation, any member or officer thereof may sign the application and verify the same on behalf of the applicant.

Every application, in the case of an individual, shall be accompanied by sworn certificates of not less than two persons who have known the applicant for a period of not less than six months, certifying that the applicant bears a good reputation for honesty, truthfulness, and fair dealing.

Every application for issuance of a real estate license hereunder shall be accompanied by an issuance fee of \$25 and other applicable fees authorized by this chapter. The application fee for issuance of license is nonrefundable."

SECTION 3. Chapter 467, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"Sec. 467- Prerequisites for written examination. No person hereunder shall be eligible for the commission's written examination unless:

- (1) The person is a legal resident of the State and is of the age of majority;
- (2) The person applying for the real estate salesman examination has satisfactorily completed a course on real estate principles or its equivalent, approved or accredited by the real estate commission;
- (3) The person applying for the real estate broker examination has satisfactorily completed a course for real estate brokers, or its equivalent, approved or accredited by the real estate commission;
- (4) The person applying for the real estate broker examination (A) has previously been licensed as a Hawaii real estate business as a licensed Hawaii real estate salesman for a period of two years on a full-time basis, or has had other experience and/or education in the selling or management of real estate which, in the opinion of the commission, is equivalent to two years' experience to be established by detailed explanatory affidavit or in such other manner as may be determined by the commission.

Sec. 467- Examination; application and fees. Every applicant for real estate examination shall file an application with the real estate commission in such form and setting forth such information as may be prescribed or required by the commission. Every application for real estate examination shall be accompanied by an application fee of \$10 and examination fee of \$15. The \$10 application fee is not refundable."

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

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

(Approved May 18, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the Uniform Disposition of Community Property Rights at Death Act.

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

SECTION 1. Chapter 510, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

**“PART II. UNIFORM DISPOSITION OF
COMMUNITY PROPERTY RIGHTS AT DEATH ACT**

Sec. 510-21 Application. This part applies to the disposition at death of the following property acquired by a married person:

- (1) All personal property, wherever situated:
 - (A) Which was acquired as or became, and remained, community property under the laws of another jurisdiction;
 - (B) All or the proportionate part of that property acquired with the rents, issues, or income of, or the proceeds from, or in exchange for, that community property; or
 - (C) Traceable to that community property;
- (2) All or the proportionate part of any real property situated in this State which was acquired with the rents, issues, or incomes of, the proceeds from, or in exchange for, property acquired as or which became, and remained, community property under the laws of another jurisdiction, or property traceable to that community property.

Sec. 510-22 Rebuttable presumptions. In determining whether this part applies to specific property the following rebuttable presumptions apply:

- (1) Property acquired during marriage by a spouse of that marriage while domiciled in a jurisdiction under whose laws property could then be acquired as community property is presumed to have been acquired as or to have become, and remained, property to which this part applies; and
- (2) Real property situated in this State and personal property wherever situated acquired by a married person while domiciled in a jurisdiction under whose laws property could not then be acquired as community property, title to which was taken in a form which created rights of survivorship, is presumed not to be property to which this part applies.

Sec. 510-23 Disposition upon death. Upon death of a married person, one-half of the property to which this part applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of the succession of this State. One-half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this State. With respect to property to which this part applies, the one-half of the property which is the property of the decedent is not subject to the surviving spouse's right to elect against the will and no estate of dower or curtesy exists in the property of the decedent.

Sec. 510-24 Perfection of title of surviving spouse. If the title to any property to which this part applies was held by the decedent at the time of death, title of the surviving spouse may be perfected by an order of the circuit court or by execution of an instrument by the personal representative or the heirs or devisees of the decedent with the approval of the circuit court. Neither the personal representative nor the court in which the decedent's estate is being administered has a duty to discover or attempt to discover whether property held by the decedent is property to which this part applies, unless a written demand is made by the surviving spouse or the spouse's successor in interest.

Sec. 510-25 Perfection of title of personal representative, heirs, or devisee. If title to any property to which this part applies is held by the surviving spouse at the time of the decedent's death, the personal representative or an heir or devisee of the decedent may institute an action to perfect title to the property. The personal representative has no fiduciary duty to discover or attempt to discover whether any property held by the surviving spouse is property to which this part applies, unless a written demand is made by an heir, devisee, or creditor of the decedent.

Sec. 510-26 Purchaser for value or lender. (a) If a surviving spouse has apparent title to property to which this part applies, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the personal representative or an heir or devisee of the decedent.

(b) If a personal representative or an heir or devisee of the decedent has apparent title to property to which this part applies, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the surviving spouse.

A purchaser for value or a lender need not inquire whether a vendor or borrower acted properly with respect to property to which this part applies.

(d) The proceeds of a sale of or creation of a security interest in property to which this part applies shall be treated in the same manner as the property transferred to the purchaser for value or a lender.

Sec. 510-27 Creditor's rights. This part does not affect rights of creditors with respect to property to which this part applies.

Sec. 510-28 Acts of married persons. This part does not prevent married persons from severing or altering their interests in property to which this part applies.

Sec. 510-29 Limitations on testamentary disposition. This part does not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

Sec. 510-30 Short title. This part may be cited as the Hawaii Uniform Disposition of Community Property at Death Act."

SECTION 2. Section 510-11, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 510-11 Location of property affected.** This part applies to personal

ACT 133

property wherever situated acquired by a husband or wife while domiciled in the State and applies to the real property situated in the State of a husband or wife while domiciled therein. This part does not apply to any property wherever situated acquired by a husband or wife while not domiciled in the State.”

SECTION 3. Chapter 510, Hawaii Revised Statutes, is amended by designating sections 510-1 to 510-11 as part I of Chapter 510 to be titled “COMMUNITY PROPERTY ACQUIRED OR SITUATED IN THE STATE.”

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

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

(Approved May 22, 1973.)

ACT 133

H. B. NO. 35

A Bill for an Act Relating to Taxation, Amending Sections 231-29, 231-30, 232-12, 232-14, 232-22, 236-7, 236-20, 236-25, 236-28, 236-38, 236-39, 236-40, 236-41, 237-44, 246-55, and 246-63, Hawaii Revised Statutes.

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

SECTION 1. Section 231-29, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 231-29 Joinder of party defendant when State claims tax liens. The director of taxation (or in the case of a lien under chapter 383, the director of labor and industrial relations) may be named a party defendant in any civil action in any state court of competent jurisdiction or in the district court of the United States for the district of Hawaii, to quiet title to or for the foreclosure of a mortgage or other lien upon real or personal property on which the State has or claims a tax lien under chapters 233, 235, 237 to 239, 241, 243 to 245, and 383; provided, that the jurisdiction herein conferred shall be limited and shall not operate as a consent by the State to be sued as to its claim of title to or liens and encumbrances on real and personal property other than the liens aforementioned.

Service upon the director shall be made as provided by the rules of court. In any action herein contemplated, the director may ask, by way of affirmative relief, for the foreclosure of the aforementioned state tax liens, but in the absence of such request for affirmative relief, upon any foreclosure sale the property shall be sold subject to the tax liens. Nothing in this section shall preclude the director from asking for such other and further relief as might have been claimed by intervention in the action.”

SECTION 2. Section 231-30, Hawaii Revised Statutes, is amended to read as follows:

*Edited accordingly.

“Sec. 231-30 Unknown or nonresident delinquents; procedure to collect taxes from. Notwithstanding section 604-7(c):

- (1) Unknown persons. In all cases where taxes assessed to persons unknown are delinquent and unpaid when due, action may be brought by the department of taxation in the district court of the circuit in which the assessment was made and the defendant may be named as unknown. In any such case, it shall be a good and sufficient service of summons, binding on all parties in interest, if under the order of the district court the title and the substance of the action and summons, including a return day not less than three weeks from the date of the issuance of such summons, and calling on all parties in interest to appear and defend, shall be published once a week for three consecutive weeks in some newspaper of general circulation in the State, and the district courts are given jurisdiction to order the service. In the summons and in the notice published, a brief description of the property assessed shall be given. Any judgment entered against the defendant shall be enforced only against the property for which the tax was assessed, unless the defendant has appeared in the action and defended on the merits, in which case he shall be liable to a personal judgment with respect to the claim so defended.
- (2) Nonresident delinquents. Where taxes assessed to nonresidents of the taxation district are delinquent and unpaid when due, service of summons may be made in any part of the State, or by exercise by the district court of the powers conferred on circuit courts with respect to defendants who cannot be served with process within the State, with the same effect as if the action had been brought in the circuit court.”

SECTION 3. Section 232-14, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 232-14 Rules and forms. (a) The supreme court shall have power to make rules relating to procedure, and to prescribe forms to be used, in tax appeals, including procedure and forms for the issuance of subpoenas and other process by the tax appeal court. The rules shall have the force and effect of law and shall be subject to change from time to time by the supreme court.

(b) The boards of review shall have power, consistent with this chapter and chapter 91, to make rules relating to procedure, and to prescribe forms to be used, including procedure and forms for the issuance of subpoenas and other process by the boards of review or members thereof. The rules shall have the force and effect of law.”

SECTION 4. Section 236-28, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 236-28 Jurisdiction of circuit court. The circuit court having jurisdiction of the decedent’s estate in the State, shall have jurisdiction to hear and determine all questions in relation to the tax arising under this chapter, without the intervention of a jury.

On the application of the executor or administrator, the director of taxation or any interested party, or upon its own motion, and after due notice of the hearing thereon to the director, to the executor or administrator, and to such other persons as the circuit court shall order, in such manner as the court shall direct, the court shall by order assess and fix the value of any inheritance, devise, bequest, or other interest, and the tax to which the same is liable, whenever such value or tax is in dispute; provided that the entry of such order shall be without prejudice to further determinations of tax by the director or the circuit court, with respect to any property not included in the computations of values and amounts of taxes made by such order. Upon like application and notice, either as a part of the proceeding for determination of net values and taxes, or in a separate proceeding, the court shall hear and determine any objection to the appraisers' report. In any proceeding provided for by this section or section 236-38, the appraisers' report as to the gross values of the properties involved shall, if any party to the proceeding relies on the report, be presumed correct, and the director's determination as to the net values of the interests taxed, and the tax thereon, shall, except to the extent in conflict with the appraisers' report, be presumed correct; in any such instance the burden of proof shall be upon the person objecting to such report or determination. This paragraph shall be deemed to be without prejudice to the generality of the first paragraph of this section."

SECTION 5. Section 236-38, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 236-38 Powers of circuit court. If it appears to the circuit court that any tax accruing under this chapter has not been paid according to law, it shall issue a citation, citing the persons known to own any interest in or part of the property liable to the tax, or any person or corporation liable under the law for the payment of the tax, to appear on a day certain, not more than ten weeks after the date of the citation, and show cause why the tax should not be paid.

Circuit courts acting under this chapter shall have power to enter and enforce all appropriate orders, decrees, and judgments, and all other appropriate powers that may be exercised by circuit courts exercising probate jurisdiction, or in civil actions in the nature of suits in equity."

SECTION 6. Section 236-40, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 236-40 Enforcement by State. In all cases where any tax has become a lien upon any property under or by virtue of this chapter the attorney general may, whenever any property of the estate has been distributed without the payment to the State of all or any part of the taxes payable on account thereof under this chapter, bring and prosecute an action in the name of the State as plaintiff for the purpose of enforcing such lien against any of the property subject thereto. In any such action the owner of any property or of any interest in property against which the lien of the tax is sought to be enforced, and any predecessor in interest of any such owner whose title or interest was derived through the decedent by will or succession or by decree or distribution

of the estate of the decedent, and any lienor or incumbrancer subsequent to the lien of the tax may be made a party defendant. The enumeration in sections 236-40 to 236-42 of the persons who may be made defendants shall not be deemed to be exclusive.”

SECTION 7. Section 236-41, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 236-41 Quieting title.** Actions may be brought against the State for the purpose of quieting the title to any property, against the lien or claim of lien of any tax under this chapter, or for the purpose of having it determined that any property is not subject to any lien for taxes under this chapter. In any such action the plaintiff may be any administrator or executor of the estate or will of any decedent, whether the estate shall have been fully administered and the estate settled and closed or not, and any heir, legatee, or devisee of the decedent, or trustee of the estate or of any part of the estate of the decedent, or distributee of the estate or of any part of the estate of the decedent, and any assignee, grantee, or successor in interest of any of such persons, and all or any other persons who might be made parties defendant in any action brought by the State under sections 236-40 to 236-42, and notwithstanding that all or any of the persons enumerated in such sections shall or may have assigned, granted, conveyed, or otherwise parted with all or any interest in or title to the property, or any thereof, involved in any claim of lien before the commencement of the action. Any of the persons in such sections enumerated may be joined or united as parties plaintiff. The enumeration in such sections of the persons who may be made parties shall not be deemed to be exclusive. In all cases any person who might properly be a party plaintiff in any such action who refuses to join as plaintiff may be made a defendant.”

SECTION 8. Section 237-44(b), Hawaii Revised Statutes, is amended to read as follows:

“(b) Every person receiving admissions for any circus, carnival, or any other place whatsoever at which a transient taxpayer is engaged in business (whether or not further admissions are charged inside the place, such further admissions, if any, being also subject to this section), shall set aside from the admissions and hold in trust for the State five per cent of the admissions, or such lesser amount as the department of taxation shall approve as sufficient, to guarantee payment of the tax levied by this chapter on the transient taxpayer. The amount so required to be set aside from the admissions shall be deposited with the department promptly upon collection thereof, from time to time, for deposit by it in a special trust fund in the treasury of the State, there to remain until refunded upon voucher of the department, or until applied to the payment of the taxes guaranteed thereby with the consent of the person making the deposit, or until deposited in court pursuant to chapter 655 or the rules of court. The department may bring an action to obtain an adjudication of its right to apply the guarantee fund in payment of taxes and may deposit the fund in court to await the results of the adjudication, or may be sued by an interested person seeking to obtain the adjudication and may be

ordered to make such deposit in court, notwithstanding that the department asserts a claim against the fund.”

SECTION 9. Section 246-55, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 246-55 Tax liens; co-owners’ rights; foreclosure; limitation. Every tax due upon real property, as defined by section 246-1, shall be a paramount lien upon the property assessed, which lien shall attach as of July 1 in each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of the proceedings or the completion of such sale.

In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, he shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within ninety days after the payment so made by the cotenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in his capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

The cotenant’s lien shall have the same priority as the lien or liens of the government for the taxes paid by him, and may be enforced by an action in the nature of a suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings are begun, and notice of the pendency thereof is recorded or filed and registered as provided by law, within the period.

The director or his subordinate, in case of a government lien, and the creditor cotenant, in case of a cotenant’s lien, shall, at the expense of the debtor, upon payment of the amount of the lien, execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved, and the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, shall, in the case of a cotenant’s lien, which contains the reference to the book and page of the original lien, be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on the certificate.

This section as to cotenancy shall apply, as well, in any case of owner-

ship by more than one assessable person.

Upon enforcement or foreclosure by the government, in any manner whatsoever, of any such real property tax lien, all taxes of whatsoever nature and howsoever accruing due at the time of the foreclosure sale from the taxpayer against whose property such tax lien is so enforced or foreclosed shall be satisfied as far as possible out of the proceeds of the sale remaining after payment of (1) the costs and expenses of the enforcement and foreclosure including a title search, if any, (2) the amount of subsisting real property tax liens, and (3) the amount of any recorded liens against the property, in the order of their priority.

The liens may be enforced by action of the tax collector in the circuit court of the judicial circuit in which the property is situate, and jurisdiction is conferred upon the circuit courts to hear and determine all proceedings brought or instituted to enforce and foreclose such tax liens, and the proceedings had before the circuit courts shall be conducted in the same manner and form as ordinary foreclosure proceedings. If the owners or claimants of the property against which a lien is sought to be foreclosed are at the time without the State or cannot be served within the State, or if the owners are unknown, and the fact shall be made to appear by affidavit to the satisfaction of the court, and it shall in like manner appear prima facie that a cause of action exists against such owners or claimants or against the property described in the complaint, or that such owners or claimants are necessary or proper parties to the action, the court may grant an order that the service may be made in the manner provided by sections 634-59 to 634-63.

In any such case it shall not be necessary to obtain judgment and have execution issued and returned unsatisfied, before proceeding to foreclose the lien for taxes in the manner herein provided.”

SECTION 10. Section 246-63, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 246-63 Disposition of surplus moneys; escheat.** The officer charged with the duty of distributing the surplus arising from a tax sale under sections 246-56 to 246-61 shall pay from the surplus all taxes, including interest and penalties, of whatsoever nature and howsoever accruing, as provided in section 246-55, and further he may pay from the surplus the cost of a search of any records where such search is deemed advisable by him to ascertain the person or persons entitled to the surplus; provided, nothing herein contained shall be construed to require the tax collector to make or cause any such search to be made. If the officer is in doubt as to the person or persons entitled to the balance of the fund he may refuse to distribute the surplus and any claimant may sue the officer or his successor in office in the circuit court in the circuit within which the property sold was situated. The officer may require the claimants to interplead, in which event he shall state the names of all claimants known to him, and shall cause them to be made parties to the action. If in his opinion there may be other claimants who are unknown the officer may apply for an order or orders joining all persons unknown having or claiming to have any legal or equitable right, title, or interest in the moneys or any part thereof or any lien or other claim with respect thereto.

Any orders of the court or summons in the matter may be served as provided by law or the rules of court, and all persons having any interest in the moneys who are known, including the guardians of such of them as are under legal age or under any other legal disability (and if any one or more of them is under legal age or under other legal disability and without a guardian the court shall appoint a guardian ad litem to represent them therein) shall have notice of the action by personal service upon them. All persons having any interest in the moneys whose names are unknown or who if known do not reside within the State, or for any reason cannot be served with process within the State shall have notice of the action as provided by sections 634-59 to 634-63, except that any publication of summons shall be in at least one newspaper published in the State and having a general circulation in the circuit within which the property sold was situated, and the form of notice to be published shall provide a brief description of the property which was sold.

All expenses incurred by the officer shall be met out of the surplus moneys realized from the sale.

If any surplus moneys realized from the sale remain on deposit in the treasury awaiting distribution to the persons thereto entitled for a period of ten years from the date of the sale and no action shall have been commenced by any claimant for the recovery of such moneys within such period, the director of finance shall take proceedings to obtain the escheat of the moneys to the State in the same manner as if the moneys were subject to sections 665-12 to 665-14. The information filed shall contain the names of any persons assessed and the owners of the property at the time of the sale as contained in the notice of such sale, and the summons issued shall be served by publication, shall be directed to all persons, including those named as respondents therein, claiming any interest in the moneys, and shall contain a brief description of the property which was sold. All of the provisions of sections 665-12 to 665-14 not inapplicable and not inconsistent with this section are hereby made applicable to the funds arising from the tax sale.”

SECTION 11. Sections 232-12, 232-22, 236-7, 236-20, 236-25, and 236-39, Hawaii Revised Statutes, are amended by deleting the words shown in the second column below opposite the section number, wherever the same appear in the designated section, and inserting in lieu thereof the words shown in the third column, if any are shown:

SECTION NUMBER	WORDS TO BE DELETED	WORDS TO BE INSERTED
232-12	judge at chambers	court
232-22	judges at chambers	courts
236-7	judge at chambers, before whom	court before which
236-20	a circuit judge at chambers	the circuit court having jurisdiction
236-25	at chambers	—
236-39	judge at chambers	court

SECTION 12. In sections 1 to 10, statutory material to be repealed is

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

SECTION 13. This Act shall take effect on July 1, 1973.

(Approved May 22, 1973.)

ACT 134

H. B. NO. 38

A Bill for an Act Relating to the Service of Process and Notices, Amending Sections 46-71, 52-37, 54-31, and 54-67, Hawaii Revised Statutes.

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

SECTION 1. Section 46-71, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 46-71 Service of process upon county. Service of any notice or process issued against any county by any court, judicial or administrative officer or board may be made by any officer authorized to make service of process, and may be made upon the corporation counsel or county attorney or any of his deputies, or as provided by the county charter. Any such service shall be binding upon the county.”

SECTION 2. Section 52-37(8), Hawaii Revised Statutes, is amended to read as follows:

“(8) Serve all processes and notices;”.

SECTION 3. Section 54-31, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 54-31 Name and service of process; claims against the board. The board of water supply created herein shall be known as the board of water supply of the county in which it is created, and may sue and be sued under this name. Service of process in all matters affecting the board, or any property under its jurisdiction, may be made by service upon any member of the board or on its manager, and by also serving the county. Any action commenced or prosecuted for the recovery of damages for any injury to any person or property by reason of the negligence of the board or of any of its agents, servants, or employees, shall be commenced and prosecuted against the board. No action shall be maintained for the recovery of any damage, unless a written statement verified by the oath of a claimant, setting forth the nature and items of the claim, and the time and place where the alleged injury may have occurred or where the damage was sustained, has been filed with the board within six months after the date of the sustaining of the injury or damage; otherwise there shall be no recovery on the claim.”

*Edited accordingly.

ACT 135

SECTION 4. Section 54-67, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 54-67 Service of process; claims. Except as otherwise provided by the county charter, section 54-31 shall apply.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect on July 1, 1973.

(Approved May 22, 1973.)

ACT 135

H. B. NO. 40

A Bill for an Act Relating to Appeals from the District Courts, Amending Sections 286-60, 286-128, 286-157, and 286-159, Hawaii Revised Statutes.

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

SECTION 1. Section 286-60, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 286-60 Rules of procedure; costs; appeal to supreme court. The supreme court may prescribe rules of procedure relating to the appeals and hearings before the district courts. An appeal shall lie from the judgment or order of the district court to the supreme court. The rules shall provide for informal procedure and for minimizing expense and delay to litigants therein. The costs upon such appeal to the district court shall be \$1, which may be waived by the court for good cause shown. No costs shall be chargeable against the county treasurer.”

SECTION 2. Section 286-128(i), Hawaii Revised Statutes, is amended to read as follows:

“(i) In the event of an appeal from a district court to the supreme court, or a trial in the circuit courts, such courts shall be governed by this section and if occasion arises shall direct the district court to carry out their order.”

SECTION 3. Section 286-157, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 286-157 Appeal to supreme court. An order of a district court issued under section 286-155 may be appealed to the supreme court.”

SECTION 4. Section 286-159, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 286-159 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 286-156 and shall not be admissible in any other action or proceeding, whether civil or criminal.”

*Edited accordingly.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect on July 1, 1973.

(Approved May 22, 1973.)

ACT 136

H. B. NO. 59

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

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

SECTION 1. Purpose. The legislature finds that: the Hawaii Penal Code was passed and approved into law April 7, 1972; the effective date of the Hawaii Penal Code was January 1, 1973; that various suggestions have been made to amend the Hawaii Penal Code to correct typographical and grammatical errors, and other errors discovered by various groups in preparation for use of the code.

SECTION 2. Chapter 701, Hawaii Revised Statutes, is amended as follows:

(a) Section 701-114, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 701-114 Proof beyond a reasonable doubt.

(1) Except as otherwise provided in section 701-115, no person may be convicted of an offense unless the following are proved beyond a reasonable doubt:

- (a) each element of the offense;
- (b) the state of mind required to establish each element of the offense;
- (c) facts establishing jurisdiction;
- (d) facts establishing venue; and
- (e) facts establishing that the offense was committed within the time period specified in section 108.

(2) In the absence of the proof required by subsection (1), the innocence of the defendant is presumed.”

(b) Section 701-115, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 701-115 Defenses.

(1) A defense is a fact or set of facts which negatives penal liability.

(2) No defense may be considered by the trier of fact unless evidence of the specified fact or facts has been presented. If such evidence is presented, then:

- (a) if the defense is not an affirmative defense, the defendant is entitled to an acquittal if the trier of fact finds that the evidence, when con-

*Edited accordingly.

- sidered in the light of any contrary prosecution evidence, raises a reasonable doubt as to the defendant's guilt; or
- (b) if the defense is an affirmative defense, the defendant is entitled to an acquittal if the trier of fact finds that the evidence, when considered in light of any contrary prosecution evidence, proves by a preponderance of the evidence the specified fact or facts which negative penal liability.
- (3) A defense is an affirmative defense if:
- (a) it is specifically so designated by the Code or another statute; or
 - (b) if the Code or another statute plainly requires the defendant to prove the defense by a preponderance of the evidence."

SECTION 3. Chapter 702, Hawaii Revised Statutes, is amended as follows:

(a) Section 702-216, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 702-216 Reckless or negligent causation; different result from that within the risk.

Recklessly or negligently causing a particular result is not established if the actual result is not within the risk of which the defendant is, or, in the case of negligence, should be, aware unless:

(1) the actual result differs from the probable result only in the respect that a different person or different property is injured or affected or that the probable injury or harm would have been more serious or more extensive than that caused; or

(2) the actual result involves the same kind of injury or harm as the probable result and is not too remote or accidental in its occurrence or too dependent on another's volitional conduct to have a bearing on the defendant's liability or on the gravity of his offense."

(b) Section 702-220, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 702-220 Ignorance or mistake of law; belief that conduct not legally prohibited.

In any prosecution, it shall be an affirmative defense that the defendant engaged in the conduct or caused the result alleged under the belief that the conduct or result was not legally prohibited when he acts in reasonable reliance upon an official statement of the law, afterward determined to be invalid or erroneous, contained in:

- (1) a statute or other enactment;
- (2) a judicial decision, opinion, or judgment;
- (3) an administrative order or administrative grant of permission; or
- (4) an official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration, or enforcement of the law defining the offense."

SECTION 4. Chapter 704, Hawaii Revised Statutes, is amended as follows:

(a) Section 704-402, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 704-402 Physical or mental disease, disorder, or defect excluding responsibility is a defense; form of verdict and judgment when finding of ir-responsibility is made.

- (1) Physical or mental disease, disorder, or defect excluding responsibility is a defense.
- (2) Whenever the defense provided for by subsection (1) is submitted to a jury, the court shall, if requested by the defendant, instruct the jury as to the consequences to the defendant of an acquittal on the ground of physical or mental disease, disorder, or defect excluding responsibility.
- (3) When the defendant is acquitted on the ground of physical or mental disease, disorder, or defect excluding responsibility, the verdict and the judgment so state.”

(b) Section 704-404, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 704-404 Examination of defendant with respect to physical or mental disease, disorder, or defect.

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

(2) Upon suspension of further proceedings in the prosecution the court shall appoint a state-employed physician designated by the director of health from within the department of health and two additional unbiased, qualified physicians to examine and report upon the physical and mental condition of the defendant. The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding thirty days, or such longer period as the court determines to be necessary for the purpose, and may direct that one or more qualified physicians retained by the defendant be permitted to witness and participate in the examination.

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

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

- (a) a description of the nature of the examination;
- (b) a diagnosis of the physical or mental condition of the defendant;
- (c) an opinion as to his capacity to understand the proceedings against

- him and to assist in his own defense;
 - (d) an opinion as to the extent, if any, to which the capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was impaired at the time of the conduct alleged; and
 - (e) when directed by the court, an opinion as to the capacity of the defendant to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was impaired at the time of the conduct alleged; and
 - (f) when directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind which is required to establish an element of the offense charged.
- (5) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate therein, the report shall so state and shall include, if possible, an opinion as to whether such unwillingness of the defendant was the result of physical or mental disease, disorder, or defect.
- (6) The report of the examination, including any supporting documents, shall be filed in triplicate with the clerk of the court, who shall cause copies to be delivered to the prosecuting attorney and to counsel for the defendant.
- (7) Any examiner shall be permitted to make a separate explanation reasonably serving to clarify his diagnosis or opinion.
- (8) There shall be made accessible to the examiners all existing medical, social, and other pertinent records in the custody of public agencies notwithstanding any other statutes.
- (9) The compensation of persons making or assisting in the examination, other than those retained by the nonindigent defendant, who are not undertaking the examination upon designation by the director of health as part of their normal duties as employees of the State or a county, shall be paid by the State.”

SECTION 5. Section 706-624, Hawaii Revised Statutes, is amended as follows:

“Sec. 706-624 Conditions of suspension of sentence or probation.

- (1) When the court suspends the imposition of sentence on a person who has been convicted of a crime or sentence him to be placed on probation, it shall attach such reasonable conditions, authorized by this section, as it deems necessary to insure that he will lead a law-abiding life or likely to assist him to do so.
- (2) The court, as a condition of its order, may require the defendant:
- (a) to meet his family responsibilities;
 - (b) to devote himself to an employment or occupation;
 - (c) to undergo available medical or psychiatric treatment and to enter and remain in a specified institution, when required for that purpose;
 - (d) to pursue a prescribed secular course of study or vocational training;
 - (e) to attend or reside in a facility established for the instruction, recreation or residence of persons on probation;
 - (f) to refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

- (g) to have in his possession no firearms or other dangerous instruments unless granted written permission by the court;
 - (h) to make restitution of the fruits of his crimes or to make reparation, in an amount he can afford to pay, for the loss or damage caused thereby;
 - (i) to remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his address or his employment;
 - (j) to report as directed to the court or the probation officer and to permit the officer to visit his home;
 - (k) to post a bond, with or without surety, conditioned on the performance of any of the foregoing obligations;
 - (l) to satisfy any other conditions reasonably related to the rehabilitation of the defendant and not unduly restrictive of his liberty or incompatible with his freedom of conscience.
- (3) When the court sentences a person who has been convicted of a felony or misdemeanor to be placed on probation, it may require him to serve a term of imprisonment not exceeding six months as an additional condition of its order. The court may order that the term of imprisonment be served intermittently.

(4) The defendant shall be given a written copy of any requirements imposed pursuant to this section, stated with sufficient specificity to enable him to guide himself accordingly."

SECTION 6. Section 707-700, Hawaii Revised Statutes, which sets forth definitions which are used in Chapter 707 is amended by amending subsection 707-700(11) relating to the definition of the word "married" as follows:

"(11) "Married" includes persons legally married, and a male and female living together as man and wife regardless of their legal status, but does not include spouses living apart under a judicial decree;"

SECTION 7. Chapter 708, Hawaii Revised Statutes, is amended as follows:

(a) Section 708-800, Hawaii Revised Statutes, which sets forth definitions used in Chapter 708 is amended by amending subsection 708-800(1) relating to the definition of the word "Building" as follows:

"(1) 'Building' includes any structure, vehicle, railway car, aircraft, or watercraft used for lodging of persons therein; each unit of a building consisting of two or more units separately secured or occupied is a separate building;"

(b) Section 708-821, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 708-821 Criminal property damage in the second degree.

(1) A person commits the offense of criminal property damage in the second degree if:

(a) he intentionally damages property of another, without his consent, by the use of widely dangerous means; or

(b) he intentionally damages the property of another, without his consent, in an amount exceeding \$500.

(2) Criminal property damage in the second degree is a class C felony.”

(c) Section 708-822, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 708-822 Criminal property damage in the third degree.

(1) A person commits the offense of criminal property damage in the third degree if:

- (a) he recklessly damages property of another, without his consent, by the use of widely dangerous means; or
- (b) he intentionally damages the property of another, without his consent, in an amount exceeding \$50.

(2) Criminal property damage in the third degree is a misdemeanor.”

SECTION 8. Chapter 710, Hawaii Revised Statutes, is amended as follows:

(a) Section 710-1077, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 710-1077 Criminal contempt of court.

(1) A person commits the offense of criminal contempt of court if:

- (a) he recklessly engages in disorderly or contemptuous behavior, committed during the sitting of a court in its immediate view and presence, and directly tending to interrupt its proceedings or impair the respect due to its authority; or
- (b) he creates a breach of peace or a disturbance with intent to interrupt a court’s proceedings; or
- (c) as an attorney, clerk, or other officer of the court, he knowingly fails to perform or violates a duty of his office, or knowingly disobeys a lawful directive or order of a court; or
- (d) he knowingly publishes a false report of a court’s proceedings; or
- (e) knowing that he is not authorized to practice law, he represents himself to be an attorney and acts as such in a court proceeding; or
- (f) he intentionally records or attempts to record the deliberation of a jury; or
- (g) he intentionally disobeys or resists the process, injunction, or other mandate of a court; or
- (h) he intentionally refuses to be qualified as a witness in any court or, after being qualified, to answer any proper interrogatory without a privilege to refuse to answer; or
- (i) being a juror, he intentionally, without permission of the court, fails to attend a trial or official proceeding to which he has been summoned or at which he has been chosen to serve.

(2) Except as provided in subsection (3), criminal contempt of court is a misdemeanor.

(3) The court may treat the commission of an offense under subsection (1) as a petty misdemeanor, in which case:

- (a) if the offense was committed in the immediate view and presence of the court, or under such circumstances that the court has knowledge of all of the facts constituting the offense, the court may order

summary conviction and disposition; and

- (b) if the offense was not committed in the immediate view and presence of the court, nor under such circumstances that the court has knowledge of all of the facts constituting the offense, the court shall order the defendant to appear before it to answer a charge of criminal contempt of court; the trial, if any, upon the charge shall be by the court without a jury; and proof of guilt beyond a reasonable doubt shall be required for conviction.

(4) When the contempt under subsection (1) also constitutes another offense, the contemnor may be charged with and convicted of the other offense notwithstanding the fact that he has been charged with or convicted of the contempt.

(5) Whenever any person is convicted of criminal contempt of court or sentenced therefor, the particular circumstances of the offense shall be fully set forth in the judgment and in the order or warrant of commitment. In any proceeding for review of the judgment, sentence, or commitment, no presumption of law shall be made in support of the jurisdiction to render the judgment, pronounce the sentence, or order the commitment. A judgment, sentence, or commitment under subsection (3)(a) shall not be subject to review by appeal, but shall be subject to review in an appropriate proceeding for an extraordinary writ or in a special proceeding for review.

All other judgments, sentences, or commitments for criminal contempt of court shall be subject to review by appeal, in a proceeding for an appropriate extraordinary writ, or in a special proceeding for review.

(6) Nothing in this section shall be construed to alter the court's power to punish civil contempt. When the contempt consists of the refusal to perform an act which the contemnor has the power to perform, he may be imprisoned until he has performed it. In such a case the act shall be specified in the warrant of commitment. In any proceeding for review of the judgment or commitment, no presumption of law shall be made in support of the jurisdiction to render the judgment or order the commitment."

SECTION 9. Chapter 711, Hawaii Revised Statutes, is amended as follows:

(a) Section 711-1101, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 711-1101 Disorderly conduct.

(1) A person commits the offense of disorderly conduct if, with intent to cause physical inconvenience or alarm by members of the public, or recklessly creating a risk thereof, he:

- (a) engages in fighting or threatening, or in violent or tumultuous behavior; or
- (b) makes unreasonable noise or makes any offensively coarse utterance, gesture, or display, or addresses abusive language to any person present, which is likely to provoke a violent response;
- (c) creates a hazardous or physically offensive condition by any act which is not performed under any authorized license or permit.

(2) Disorderly conduct is a petty misdemeanor if it is the defendant's intention to cause substantial harm or serious inconvenience, or if he persists in disorderly conduct after reasonable warning or request to desist. Otherwise disorderly conduct is a violation."

(b) Section 711-1106, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 711-1106 Harassment.

(1) A person commits the offense of harassment if, with intent to harass, annoy, or alarm another person, he:

- (a) strikes, shoves, kicks, or otherwise touches a person in an offensive manner or subjects him to offensive physical contact; or
- (b) insults, taunts, or challenges another person in a manner likely to provoke a violent response; or
- (c) makes a telephone call without purpose of legitimate communication; or
- (d) makes repeated communications anonymously, or at extremely inconvenient hours, or in offensively coarse language.

(2) Harassment is a petty misdemeanor."

SECTION 10. Section 712-1212, Hawaii Revised Statutes, is repealed.

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved May 22, 1973.)

A Bill for an Act Relating to Traffic Regulations and Placement of Traffic Control Devices over Private Streets.

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

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

"Sec. 46- Traffic regulation and control over private streets. Any provisions of law to the contrary notwithstanding, the council of any county may impose and enforce traffic regulations and place appropriate traffic control devices on the following categories of private streets, highways, or thoroughfares, except private roads used primarily for agricultural purposes:

- (1) Any private street, highway, or thoroughfare which has been continuously used by the general public for a period of not less than six months; provided that the county shall not be responsible for the

*Edited accordingly.

maintenance and repair of the private street, highway, or thoroughfare when it imposes and enforces traffic regulations and places appropriate traffic control devices on such street, highway, or thoroughfare; provided further, that no adverse or prescriptive rights shall accrue to the general public when the county imposes and enforces traffic regulations and places appropriate traffic control devices on such street, highway, or thoroughfare.

- (2) Any private street, highway, or thoroughfare which is intended for dedication to the public use as provided in section 264-1 and is open for public travel but has not yet been accepted by the county.”

SECTION 2. Section 70-102, Hawaii Revised Statutes, is repealed.

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

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

(Approved May 22, 1973.)

ACT 138

H. B. NO. 131

A Bill for an Act Relating to Persons Engaged in the Motor Vehicle Rental Business.

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

SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding the following sections to be appropriately designated and to read:

“**Sec. 286- Rental of motor vehicles with incorrect measuring device.** Any person who shall, with intent to defraud, hire, lease or rent a motor vehicle to another, the hire or charge for which is based either in whole or in part on the distance such motor vehicle travels while in the custody of the person hiring, leasing or renting the same, knowing that the odometer or other mechanical device attached to such motor vehicle, or any part thereof, for the purpose of registering the distance such motor vehicle travels, does not correctly register the distance such motor vehicle travels, or who shall knowingly deceive any person who hires, leases or rents any motor vehicle as to the distance such motor vehicle has traveled during the period it was so hired, leased or rented, and shall make a charge for the use of such motor vehicle based wholly or in part upon the inaccurate distance, shall be fined not more than \$1,000, or imprisoned not more than one year, or both.”

“**Sec. 286- Tampering with measuring device of rented motor vehicles.** Any person who, after hiring, leasing or renting a motor vehicle under an agreement to pay for the use of such motor vehicle a sum of money based wholly or in part upon the distance such motor vehicle travels during the peri-

*Edited accordingly.

ACT 139

od for which hired, leased or rented, shall, with intent to defraud the person, or his agent, from whom such motor vehicle was hired, leased or rented, remove or attempt to remove, tamper with or attempt to tamper with, or in any way damage or interfere with any odometer or other mechanical device attached to such motor vehicle, or any part thereof, for the purpose of registering the distance such motor vehicle travels, and any person who shall knowingly aid, abet or assist another in violating this section shall be fined not more than \$1,000, or imprisoned not more than one year, or both.”

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

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

(Approved May 22, 1973.)

ACT 139

H. B. NO. 157

A Bill for an Act Establishing a Program for Administrative Control of Chemical Testing for Blood Alcohol.

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

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

“**Sec. 321- Chemical testing for blood alcohol concentration.** (a) The department of health shall establish and administer a statewide program relating to chemical testing of blood-alcohol concentrations for the purposes of chapters 286, part VII, 291 and 291C, with the consultation of the state highway safety coordinator. Under the program, appropriate procedures shall be established for specifying:

- (1) The qualifications of personnel who administer chemical tests used to determine blood-alcohol concentrations;
- (2) The procedures for specimen selection, collection, handling, and analysis; and
- (3) The manner of reporting and tabulation of the results.

(b) The director of health may adopt rules and regulations pursuant to chapter 91 necessary for the purposes of this section.”

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

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

(Approved May 22, 1973.)

ACT 140

H. B. NO. 183

A Bill for an Act Relating to Licensing Requirements of an Escrow Depository.

*Edited accordingly.

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

SECTION 1. Chapter 449, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 449- Licensing requirements. (a) Every corporation desiring to be licensed as an escrow depository shall have and maintain a principal place of business in the State for the transaction of its escrow depository business.

(b) Every such licensee shall notify the bank examiner in writing of the relocation of its offices, setting forth the proposed relocation and the reason for the relocation and other information as may be required by the bank examiner.

(c) An escrow depository may establish a branch office provided notice thereof is given the bank examiner in writing within thirty days after establishment of such branch office.

(d) A license issued under this chapter shall be prominently displayed in the place or places of business of the escrow depository.

(e) The escrow depository business shall be under the direct management of an officer, or an employee, designated by its board of directors as escrow officer for the corporation and if the designated escrow officer terminates his or her employment with the escrow depository, the licensee shall notify the bank examiner in writing at least fifteen days before the termination date of the designated escrow officer. Licensee shall also inform the bank examiner in writing of the new escrow officer for the corporation designated by its board of directors before the present escrow officer terminates his employment with the company, setting forth the experience, integrity, competency of the new designated escrow officer in handling escrow transactions, and such other information as required by the bank examiner.”

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, 1973.)

ACT 141

H. B. NO. 185

A Bill for an Act Relating to Fees to be Paid by a Licensed Escrow Depository.

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

SECTION 1. Section 449-14, Hawaii Revised Statutes, is amended to read:

“Sec. 449-14 Fees. The following fees shall be paid by licensed escrow depositories to the bank examiner and into the general fund.

*Edited accordingly.

- (1) For filing and investigation of an escrow depository's application for license, \$40.
- (2) For initial issuance and annual renewal of an escrow depository's license, \$25.
- (3) For initial issuance and annual renewal of a branch office license, \$5.
- (4) For reissuance of a license or endorsement on the license for the change in the business address of its office, \$3."

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, 1973.)

ACT 142

H. B. NO. 317

A Bill for an Act Relating to License Fees for Real Estate Brokers and Salesmen.

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

SECTION 1. Section 467-11, Hawaii Revised Statutes, is amended to read:

"Sec. 467-11 Fees; annual renewals. The fee for any license prescribed by this chapter shall be as follows:

- (1) To act as a real estate broker, \$50, \$5 of which shall be deposited in the real estate education fund;
- (2) To act as a real estate salesman, \$50, \$5 of which shall be deposited in the real estate education fund;
- (3) Annual renewal for broker, \$50, \$5 of which shall be deposited in the real estate education fund;
- (4) Annual renewal for salesman, \$25, \$5 of which shall be deposited in the real estate education fund;
- (5) To obtain a branch office license, \$50;
- (6) To reinstate a suspended license, \$25;
- (7) Inactive broker license, \$50, \$5 of which shall be deposited in the real estate education fund;
- (8) Inactive salesman license, \$25, \$5 of which shall be deposited in the real estate education fund.

A fee of \$10 shall be charged for the reissuance of a lost license, or for the reissuance of license when there has been a change in the licensee's name or for the reissuance of license when there has been a change in the business address, or, in the case of a salesman, when he is employed by a different broker.

*Edited accordingly.

The annual renewal fee shall be paid to the real estate commission on or before January 1 of each year. Failure, neglect, or refusal of any duly licensed real estate broker or real estate salesman to pay the annual renewal fee shall constitute a forfeiture of the license of the broker or salesman. The license of the broker or salesman may be restored upon written application therefor and the payment to the commission of \$75 and \$37.50 respectively.

A broker or salesman may place his license on an inactive status upon payment of the proper fee, and such license may be renewed annually on or before January 1 of each year.

All fees and other moneys collected or received under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

The commission may refund any fee erroneously paid to it under the provisions of this section and section 467-9 when the commission deems it just and equitable.”

SECTION 2. Section 467-16, Hawaii Revised Statutes, is amended to read:

“**Sec. 467-16 Real estate recovery fund; use of fund; fees.** The real estate commission shall establish and maintain a real estate recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed real estate broker, or real estate salesman, upon the grounds of fraud, misrepresentation, or deceit, may recover by order of the circuit court or district court of the county where the violation occurred, an amount of not more than \$10,000 for damages sustained by the fraud, misrepresentation, or deceit.

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 \$50 for deposit in the real estate recovery fund. If the commission does not issue the license, this fee shall be returned to the applicant.”

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

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

(Approved May 22, 1973.)

ACT 143

H. B. NO. 562

A Bill for an Act Relating to Public Access.

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

SECTION 1. **Findings and purpose.** The legislature finds that there is a great need for the establishment and the preservation of public access to many areas in the State. There are miles of coastal shorelines and waters under the

*Edited accordingly.

jurisdiction of the State which are inaccessible to the public due to the absence of public rights-of-way; the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties; the population of the islands is increasing while the presently accessible beach and shoreline areas remain fixed; and the absence of public access to Hawaii's coastal shorelines constitutes an infringement upon the fundamental right of free movement in public space and of access to and use of the sea. The legislature further finds that urbanization also may prevent or impede public access to mountains which have areas for hiking, hunting, fruit-picking, ti-leaf sliding and other recreational purposes.

The purpose of this Act is to guarantee the right of public access to the sea, coastal shoreline, and mountains.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 46- Public access. (a) Each county shall adopt ordinances which shall require a subdivider or developer, as a condition precedent to final approval of a subdivision, in cases where public access is not already provided, to dedicate land for public access by right-of-way or easement for pedestrian travel from a public highway or public streets to the land below the high-water mark on any coastal shoreline, and to dedicate land for public access by right-of-way from a public highway to areas in the mountains where there are existing facilities for hiking, hunting, fruit-picking, ti-leaf sliding, and other recreational purposes, and where there are existing mountain trails.

(b) These ordinances shall be adopted within one year of the effective date of this Act.

(c) Upon the dedication of land for a right-of-way, as required by this section and acceptance by the county, the county concerned shall thereafter assume the cost of improvements for and the maintenance of the right-of-way, and the subdivider shall accordingly be relieved from such costs.

(d) For the purposes of this section, "subdivision" means any land which is divided or is proposed to be divided for the purpose of disposition into six or more lots, parcels, units, or interests and also includes any land whether contiguous or not, if six or more lots are offered as part of a common promotional plan of advertising and sale.

(e) The right-of-way shall be clearly designated on the final map of the subdivision or development.

(f) This section shall apply to the plan of any subdivision or development which has not been approved by the respective counties prior to July 1, 1973."

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

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

(Approved May 22, 1973.)

*Edited accordingly.

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

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

SECTION 1. Section 386-8, Hawaii Revised Statutes, is amended to read:

“Section 386-8. Liability of third person. When a work injury for which compensation is payable under this chapter has been sustained under circumstances creating in some person other than the employer or another employee of the employer acting in the course of his employment a legal liability to pay damages on account thereof, the injured employee or his dependents (hereinafter referred to collectively as the employee) may claim compensation under this chapter and recover damages from such third person.

If the employee commences an action against such third person he shall without delay give the employer written notice of the action and the name and location of the court in which the action is brought by personal service or registered mail. The employer may, at any time before trial on the facts, join as party plaintiff.

If within nine months after the date of the personal injury the employee has not commenced an action against such third person, the employer, having paid or being liable for compensation under this chapter, shall be subrogated to the rights of the injured employee. Except as limited by chapter 657, the employee may at any time commence an action or join in any action commenced by the employer against such third person.

No release or settlement of any claim or action under this section is valid without the written consent of both employer and employee. The entire amount of the settlement after deductions for attorney's fees and costs as hereinafter provided, is subject to the employer's right of reimbursement for his compensation payments under this chapter and his expenses and costs of action.

If the action is prosecuted by the employer alone, the employer shall be entitled to be paid from the proceeds received as a result of any judgment for damages, or settlement in case the action is compromised before judgment, 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 fee, the employer shall apply out of the amount of the judgment or settlement proceeds an amount sufficient to reimburse the employer for the amount of his expenditure for compensation and shall pay any excess to the injured employee or other person entitled thereto.

If the action is prosecuted by the employee alone, the employee shall be entitled to apply out of the amount of the judgment for damages, or settlement in case the action is compromised before judgment, 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 there shall be applied out of the amount of the judgment or settlement proceeds, the amount of the employer's expenditure for compensation, less his share of such expenses and attorney's fee. On application of the employer, the court shall allow as a first lien against the amount of the judgment for damages or settlement proceeds, the amount of the employer's expenditure for compensation, less his share of such expenses and attorney's fee.

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, there shall first be paid from any judgment for damages recovered, or settlement proceeds in case said action or actions be settled before judgment, 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 attorney's fees there shall be applied out of the amount of the judgment for damages, or settlement proceeds, an amount sufficient to reimburse the employer for the amount of his expenditure or compensation and any excess shall be paid to the injured employee or other person entitled thereto.

In the event that the parties are unable to agree upon the amount of reasonable litigation expenses and the amount of attorneys' fees under this section then the same shall be fixed by the court.

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 costs and expenses, including attorneys' fees.

The amount of compensation paid by the employer or the amount of compensation to which the injured employee is entitled shall not be admissible in evidence in any action brought to recover damages.

Another employee of the same employer shall not be relieved of his liability as a third party, if the personal injury is caused by his wilful and wanton misconduct.

If the special compensation fund has paid or is liable for any compensation under this chapter, the fund shall be entitled to all the rights and remedies granted an employer under this section; provided that the employer's right to reimbursement for compensation payments and expenses under this chapter shall have priority."

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; provided this Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

(Approved May 22, 1973.)

ACT 145

H. B. NO. 660

A Bill for an Act Relating to Punishment of Pupils.

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

SECTION 1. Section 298-16, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 298-16 Punishment of pupils limited. No physical punishment of any kind may be inflicted upon any pupil, but reasonable force may be used by a teacher in order to restrain a pupil in attendance at school from hurting himself or any other person or property and reasonable force may be used as defined in section 703-309(2) by a principal or his agent only with another teacher present and out of the presence of any other student but only for the purposes outlined in section 703-309(2)(a).”

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, 1973.)

ACT 146

H. B. NO. 876

A Bill for an Act Relating to Dog Licenses.

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

SECTION 1. Section 143-2, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 143-2. License required. It shall be unlawful for any person to own or harbor a dog unless the dog is licensed as provided by this chapter; provided that the legislative bodies of the several counties may, by ordinance, dispense with or modify the licensing requirements of this chapter. This chapter shall not apply to dogs under the age of three months which do not run at large, dogs in quarantine and dogs brought into the State exclusively for the purpose of entering them in a dog show or dog exhibition and not allowed to run at large.”

*Edited accordingly.

ACT 146

SECTION 2. Section 143-3, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 143-3. License fee controlled by ordinance. Except where licenses are dispensed with pursuant to section 143-2, each county council shall have the power to fix the annual license fee for dogs. Until and unless otherwise provided by ordinance the annual license fee for each dog shall be \$1. Any person owning or having the custody or control of any dog shall pay the license fee to the treasurer of the county in which the dog is owned, kept, or controlled. The license fee shall be due and payable on January 2 of each year and shall be paid before March 11 of each year, or within thirty days after the exemption ceases in the case of dogs becoming subject to this chapter. If the fee is not paid before March 11 of each year, or on any subsequent day when due, a penalty of ten per cent thereof shall be added to and become a part of the fee.

The full amount of the fee shall be paid for any fraction of any year for which a license is issued.

All moneys received by the director of finance under this chapter shall be paid into the general fund of such county.”

SECTION 3. Section 143-8, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 143-8. Seizure of unlicensed dogs. Except where licensing requirements are dispensed with, every officer shall seize any unlicensed dog found running at large or found upon any public highway, street, alley, court, place, square, or grounds, or upon any unfenced lot, or not within a sufficient enclosure, whether in the immediate presence of the owner or otherwise, and confine it in a pound or any suitable enclosure for a period of forty-eight hours, during which time it shall be subject to redemption by its owner by payment of the license due, if any, and a penalty of 50 cents. If not so redeemed, the dog shall be sold by the officer for the amount of the license and penalty due, or as much more as can be obtained therefor, and if not so sold it shall be humanely destroyed. The owner of any unlicensed dog impounded and not claimed within forty-eight hours as provided in this section, may redeem the dog at any time before sale or destruction of same by paying to the officer, in addition to the amount of the license and penalty, the sum of 25 cents per day for the number of days over two days the dog was impounded. Of the money so received the amount of the license fee shall be paid to the director of finance and the balance shall be retained by the officer to defray the expenses of collecting, keeping, and feeding the dog.”

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

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

(Approved May 22, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Discarded Vehicular License Plates.

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

SECTION 1. **Purpose.** The purpose of this Act is to require the surrender of vehicular license plates to the appropriate county agencies by any person abandoning an automobile or by any owner of a junk yard upon the purchase or dismantling of a wrecked, scrapped or ruined motor vehicle, and thereby prevent the use of discarded vehicular license plates in the traffic of stolen motor vehicles.

SECTION 2. Chapter 290, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 290- Disposition of license plates. Whoever shall abandon a vehicle, or having attained custody of an abandoned vehicle, disposes of, or conveys it as junk shall remove and transmit any license plates on such vehicle to the county agency charged with carrying out the functions and requirements of this chapter. The county agency receiving the license plates shall provide for the destruction of the plates. Violation of this section shall be a misdemeanor.”

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

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

(Approved May 22, 1973.)

A Bill for an Act Relating to Abandoned Vehicles.

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

SECTION 1. Chapter 290, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

“Sec. 290- Vehicles left unattended on private property. Notwithstanding any other provision of this chapter, any vehicle left unattended for more than twenty-four hours on private property, without authorization of the owner or occupant of the property, may be towed away at the expense of the owner of the vehicle, by order of the owner, occupant, or person in charge of the property; provided that there is posted a notice prohibiting vehicles to park on the property without authorization. The notice shall state where the vehicle will be towed and held. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles.

*Edited accordingly.

Sec. 290- Leaving abandoned vehicles; petty misdemeanor. Whoever intentionally and knowingly leaves an abandoned vehicle, as defined in section 290-8, on any roadway, alley, street, way, lane, trail, bridge, or highway or other public property, or on private property without authorization of the owner or occupant, shall be guilty of a petty misdemeanor.”

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

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

(Approved May 22, 1973.)

ACT 149

H. B. NO. 1000

A Bill for an Act Relating to Public Utilities.

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

SECTION 1. Chapter 269, Hawaii Revised Statutes, is amended to read as follows:

(a) Section 269-10 is amended as follows:

“Sec. 269-10 Commission may compel attendance of witnesses, etc. In all investigations made by the public utilities commission, and in all proceedings before it, the commission and each commissioner shall have the same powers respecting administering oaths, compelling the attendance of witnesses and the production of documentary evidence, examining witnesses, and punishing for contempt, as are possessed by circuit courts. In case of disobedience by any person to any order of the commission or of any commissioner, or any subpoena issued by it or him, or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit court, on application by the commission or a commissioner, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. No person shall be excused from testifying or from producing any book, waybill, document, paper, or account in any investigation or inquiry by a hearing before the commission or any commissioner, when ordered to do so, upon the ground that the testimony or evidence, book, waybill, document, paper, or account required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which he shall under oath have testified or produced documentary evidence. Nothing herein shall be construed as in any manner giving to any public utility immunity of any kind. The fees and traveling expenses of witnesses shall be the same as allowed witnesses in the circuit courts and shall be paid by the State out of any appropriation available for the expenses of the commission. All meetings

*Edited accordingly.

and hearings of the commission shall be public.”

(b) Section 269-13 is amended as follows:

“**Sec. 269-13 Right to be represented by counsel.** Any investigation or proceeding before the public utilities commission, the public utility concerned and any complainant or permitted intervenor shall have the right to be present and represented by counsel, to present any evidence desired, and to cross-examine any witness who may be called.”

(c) Section 269-16 is amended as follows:

“**Sec. 269-16 Regulate rates, etc., hearings, notice of hearings, appeals.**

(a) All rates, fare, 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 public utilities 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, fare, 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 which the utility is situated. No rates shall be increased nor shall any hearings be held unless notice of 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 before the hearing and the last publication being not more than two days before 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 before the date set, the manner and the fact of notification to be reported to the commission before 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.

(b) 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 the organizations, trades, or businesses, if it determines that the 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.

(c) From every order made by the commission under the provisions of this chapter which is final, or if preliminary is of the nature defined by section 91-14(a), an appeal shall lie to the supreme court in the manner and within the time provided by the rules of court for an appeal from a judgment of a circuit court. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the order after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part.”

(d) Section 269-30 is amended as follows:

“**Sec. 269-30 Finances; public utility fee.** Section 607-5 to 607-9 shall apply to the public utilities commission and each commissioner, as well as to the supreme and circuit courts, and all costs and fees paid or collected hereunder shall be deposited with the director of finance of the State to the credit of the general fund.

There shall also be paid to the commission in each of the months of July and December in each year by each public utility which is subject to investigation by the commission, a fee which shall be equal to one-eighth of one per cent of the gross income from the public utility business carried on by the public utility during the preceding year, or the sum of \$15, whichever is greater, provided that in the case of a public utility to which the Civil Aeronautics Act of 1938, as amended, applies, the fee shall be equal to one-twentieth of one per cent of the gross income from the public utility business carried on by the public utility during the preceding year, plus one-fiftieth of one per cent of the par value of the stock issued by the public utility and outstanding on December 31 of the preceding year. This fee shall likewise be deposited with the director of finance of the State to the credit of the general fund.”

SECTION 2. Chapter 271, Hawaii Revised Statutes, is amended to read as follows:

(a) Subsection 271-24(a) is amended as follows:

“(a) All actions by common carriers by motor vehicle for the recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.”

(b) Subsection 271-24(b) is amended as follows:

“(b) For recovery of overcharges, actions shall be begun within three years from the time the cause of action accrues, and not after, subject to subsection (c) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation the period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof specified in the notice.”

(c) Subsection 271-31(f) is amended as follows:

“(f) A complete record of all proceedings and testimony before the commission on any formal hearing shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review an order or decision of the commission, a transcript of the testimony, together with all exhibits or copies thereof introduced, and of the pleadings, records, and proceedings in the cause, shall constitute the record of the commission, but the party or parties to the proceeding and the commission may stipulate that designated parts of the record need not be transmitted to the supreme court, as provided by the rules of court.”

(d) Section 271-33 is amended as follows:

“**Sec. 271-33 Appeals.** From the order made on an application for reconsideration or rehearing by the public utilities commission under this chapter, an appeal shall lie to the supreme court in the manner and within the time provided by the rules of court for an appeal from a judgment of a circuit court, provided the order is final, or if preliminary is of the nature defined by section 91-14(a). The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, reversed, or modified in whole or in part.”

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

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

(Approved May 22, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Real Estate Schools and Instructors.

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

SECTION 1. Chapter 467, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

“Sec. 467- Registration of schools, instructors; fees. (a) Schools. Any person may apply to the real estate commission for a certificate of registration as a real estate school upon the payment to the commission of an initial registration fee for the first year of registration and thereafter an annual registration fee. No school shall be granted a certificate of registration unless it maintains a sufficient number of registered instructors and requires a course of training of not less than that required by section 467-8.

(b) Instructors. The commission shall issue a certificate of registration as instructor to any person who meets its requirements and pays the proper fee.

(c) The fees for each original certificate of registration and renewal thereof prescribed by this section shall be as follows:

- (1) Schools, for real estate broker and real estate salesman certificate of registration, \$750;
- (2) Schools, for real estate broker or real estate salesman certificate of registration, \$500;
- (3) For each additional real estate broker or real estate salesman's school, \$250;
- (4) Schools, annual renewals; for each original applicant or initial licensee, \$150; for each additional course, \$100 plus \$1 for each certificate of completion to each student;
- (5) Instructors, certificate of registration, \$25;
- (6) Instructors, renewal of certificate of registration, \$25;
- (7) Specialized instructors, initial certificate of registration and renewal fee, \$25.

(d) Examination fee for instructors requesting to be certificated if and when required as prescribed by rules and regulations under this chapter shall be \$20.

(e) In the event a certificate of registration lapses, the certificate of registration may be reinstated upon payment of the renewal fee plus amount of renewal fee.

(f) The commission shall adopt such rules and regulations as it may deem proper to fully effectuate this section.

(g) The annual renewal fee shall be paid to the real estate commission on or before July 1 of each year. Failure, neglect, or refusal of any duly issued certificate of registration to pay the annual renewal fee shall constitute a forfeiture of the certificate of registration. The certificate of registration may be restored upon written application therefor and the payment to the commission of the sum specified in subsection (e) of this section.”

SECTION 2. Section 467-4, Hawaii Revised Statutes, is amended by adding a new subsection to be numbered and to read as follows:

“(7) Enter into contract or contracts with qualified persons or firms to assist the commission in conducting review of applications and monitoring the schools by conducting schools visitations.”

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

SECTION 4. This Act shall, upon approval, take effect on July 1, 1973.
(Approved May 22, 1973.)

ACT 151

H. B. NO. 1154

A Bill for an Act Relating to Junior Police Officers.

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

SECTION 1. Section 27-26, Hawaii Revised Statutes, is amended to read:

“**Sec. 27-26 Junior police officer training programs.** The State shall appropriate funds to facilitate the training programs of the several junior police organizations, and shall make adequate provisions by procuring insurance and assuming liability on the part of the State therefor, for the medical care and hospitalization of children who may be injured, for the defrayment of funeral expenses and for the death of children dying from injuries received, and for the protection against public liability, 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, as follows:

The cost of medical care and hospitalization of any child so injured will be met in a sum not to exceed \$20,000 and the funeral expenses of any child dying from injuries received while performing such duty will be met in a sum not to exceed \$1,500. A death benefit in the principal sum of \$5,000 shall be awarded to the legal guardian, parents, or designated beneficiary or beneficiaries of the child whose death was caused by reason of participation in junior police activities.

The State shall procure insurance to protect any child participating in the junior police program from claims for damages arising or resulting from his activities as a junior officer in an amount not to exceed \$100,000 for each claim or cause of action. This protection for legal liability shall inure to the benefit of the legal guardian or parents of the child in the event they are named as parties to the action.

The right of the child or of any other person lawfully claiming damages, by reason of injuries to, or death of the child, shall in nowise be affected by this section.”

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

*Edited accordingly.

ACT 152

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

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

(Approved May 22, 1973.)

ACT 152

H. B. NO. 1169

A Bill for an Act Relating to Highway Safety, Amending Chapter 286 and Section 286-102, Hawaii Revised Statutes.

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

SECTION 1. Sections 286-2 and 286-102, Hawaii Revised Statutes, are amended as follows:

(a) Section 286-2, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 286-2 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.

‘Chief of police’ means the chief of police of each county.

‘Driver’ means every person 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.

‘Driver’s license’ means any license to operate a motor vehicle issued under the laws of this State.

‘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 drivers’ means the person or persons appointed under section 286-101.

‘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.

‘Highway’ means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

‘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

*Edited accordingly.

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.

'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."

(b) Section 286-102, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 286-102 Licensing. (a) No person, except one exempted under section 286-105 or one who holds an instruction permit under section 286-110, shall operate upon a highway a category of motor vehicles listed below without first being examined as provided in section 286-108 and being duly licensed by the examiner of drivers as a qualified driver 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-semitrailer 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:

- (1) Is eighteen years of age or older and is examined as provided in section 286-108;
- (2) Satisfies additional requirements as established by the examiner of drivers under section 286-103; and,

(c) No person under the age of eighteen 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.

(d) No person shall receive a driver's license unless and until he surrenders to the examiner of drivers all valid driver's licenses in his possession issued to him by this or any other jurisdiction that is a party to the Driver License Compact. All such surrendered licenses issued by another jurisdiction shall be returned thereto, together with information that the person is licensed in this State. No such person shall be permitted to hold more than one valid driver's license at any time."

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, 1973.)

ACT 153

H. B. NO. 1769

A Bill for an Act Relating to Products and Commodities.

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

SECTION 1. Chapter 148, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 148- Pesticides residue; labeling. The board of agriculture shall require importers, wholesalers, and retailers of any raw agricultural commodities or processed foods produced or prepared in foreign countries whose regula-

*Edited accordingly.

tions regarding pesticides residue control do not meet the standards established by section 408 of the federal Food, Drug, and Cosmetic Act, to label such products and commodities, 'THIS PRODUCT NOT CERTIFIED FOR TOXIC PESTICIDE RESIDUE.'"

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, 1973.)

ACT 154

H. B. NO. 1849

A Bill for an Act Relating to Savings and Loan Associations.

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

SECTION 1. Section 407-42, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 407-42 'Branch,' 'agency' defined; powers, termination; appeals.

A branch office is a legally established place of business of the association, other than the home office or any agency, authorized by the board of directors and approved by the bank examiner, at which payments on accounts and loan payments may be accepted and applications for loans may be received and in those instances allowed by this section, be approved, and at which pass books and share or investment certificates may be issued and loans, books and share or investment certificates may be issued and loans, when properly approved, may be closed.

An agency of an association is the place of business, other than the home office or a branch office, at which an agent or agents of the association transact authorized business of the association. At any agency payments on accounts and loan payments may be received solely for transmission to the home office or a branch office of the association, but may not be accepted for or on behalf of the association. At any agency an agent or agents may, however, perform such other special duties as may be directed from time to time by the home office or a branch office. No agency shall be authorized, however, to issue pass books and share or investment certificates.

No loan may be approved at any agency of the association.

Any branch office of the association may approve loans authorized to be made pursuant to sections 407-83, 407-84, 407-85, 407-86 and 407-89 after approval of the board of directors or authorized committee. No other loans may be approved at any branch office but solely at the main office in the State after approval by the board of directors or authorized committee.

The bank examiner may revoke his approval of the maintenance of any branch office or agency by a written notice to the association fixing a reason-

*Edited accordingly.

ACT 155

able time after which the association shall cease to use and maintain its branch office or agency.

Any association aggrieved by any action of the bank examiner under sections 207-41 and 407-42 may appeal to a board, consisting of the director of regulatory agencies, comptroller, and director of taxation by filing with the comptroller a notice of appeal.”

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, 1973.)

ACT 155

H. B. NO. 1852

A Bill for an Act Relating to Oaths or Affirmations.

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

SECTION 1. Section 621-12, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 621-12 Oath; affirmation.** Every court and person having authority to hear, receive, and examine evidence may administer the following oath-affirmation to all witnesses legally called before them: Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth?”

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, 1973.)

ACT 156

S. B. NO. 121

A Bill for an Act Relating to Licensing of Optometrists.

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

SECTION 1. Section 459-7, Hawaii Revised Statutes, is amended to read:

“**Sec. 459-7 Examination; certificate of registration.** Except as otherwise provided in this chapter, every person desiring to begin or to continue the practice of optometry shall, before beginning or continuing such practice, upon presentation of satisfactory evidence, verified by oath, that he is at least eighteen

*Edited accordingly.

years of age, is a citizen of the United States, is a graduate of a high school, is a graduate of an American optometric college, school, or university recognized and approved by the board of examiners in optometry and the American optometric association, take an examination before the board upon complying with the following requirements:

Applications for examination shall be made out and filed in writing with the secretary of the board and each application shall be accompanied by a fee of \$30, which shall be retained by the board.

Each applicant shall file, in writing, with the secretary at least thirty days prior to the date selected by the board for such examination, the following credentials:

- (1) A diploma or certificate of graduation from an American optometric college or school recognized and approved by the board.
- (2) A certificate that the applicant is of good moral character. Certificates of good moral character for applicants who are licensed in some other state of the United States shall bear the signatures and seals of the secretary of the board of optometric examiners, and the secretary of the state optometric association of that state.
- (3) An unretouched unmounted recent photograph of the applicant.

The applicants shall be given due notice of the date and place of examination. No applicant who fails to obtain an average of seventy per cent in every subject upon which he is examined shall be passed by the board. If an applicant, because of his failure to pass an examination is refused a license, he shall, within one year, be permitted to take a second examination without additional fee. If an applicant fails the second time, he shall be required to file a new application and to pay an additional fee of \$30. If an applicant fails the third time or any subsequent time, he shall be required to file a new application and to pay an additional fee of \$30 and to take a complete examination.

An appeal to the circuit court, of the circuit within which the applicant resides, may be taken from any decision of the board by any applicant who is refused or denied a certificate.

Every candidate who passes an examination shall be registered as possessing the qualifications required by this chapter, and shall receive from the board a proper certificate of registration. Before any certificate is issued it shall be numbered and recorded on a book kept by the secretary of the board of examiners in optometry.

Each registered optometrist shall pay an annual license fee of \$7.50 between December 1 and December 31 of each year, to the treasurer of the board for a renewal of his registration certificate for the year next following. The failure of any regular licensed optometrist to pay his annual license fee in advance on or before December 31 of each year, during the time his license remains in force, shall ipso facto, work a revocation and forfeiture of his license. Any person whose license is so revoked and forfeited shall pay a penalty of \$25 for the restoration of his license, and, in addition, all delinquent annual license fees. When an application for restoration of a license is made and all delinquent license fees and penalties are paid within three years after the forfeiture no examination shall be required. If this is not done within three years,

ACT 157

the license shall not be restored unless the regular examination for applicants is passed by such person.

Each registered optometrist shall submit proof to the board of examiners that he did, on or before December 31 of each year, during the time his license remains in force, meet the requirement of continuing education in programs as set and approved by the board. The board shall establish such rules and regulations for the certification of the administration of the continuing education program."

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

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

(Approved May 22, 1973.)

ACT 157

S. B. NO. 157

A Bill for an Act Relating to Examinations for Veterinary License.

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

SECTION 1. Section 471-8, Hawaii Revised Statutes, is amended to read:

"Sec. 471-8 Examinations; qualifications of applicants. No person shall be licensed to practice veterinary medicine unless he has passed an examination of his qualifications and fitness to engage in such practice given by the board of veterinary examiners. Before any applicant shall be eligible for examination under this chapter he shall, at least thirty days before the date set for examination, file an application in such form as shall be prescribed by the board, pay to the department of regulatory agencies an examination fee of \$100, and furnish proof satisfactory to the board that:

- (1) He is eighteen or more years of age and of good moral character;
- (2) He is a graduate of a veterinary college meeting all the standards established by the American Veterinary Medical Association, or, in lieu thereof, has actively practiced for ten out of twelve years immediately preceding the date of application in a state having standards for licensing comparable to those in the State.

Examinations shall be given by the board in April and September of each year except when there are no applications pending. They shall be composed of written and oral questions and practical demonstrations. The same questions shall be given to each person being examined during a particular examination. The subject matter of the examinations shall embrace the subjects and demonstrations of practical ability normally covered in the curricula of American Veterinary colleges.

The requirements imposed by this section shall not be a bar to renewal,

*Edited accordingly.

reissuance, or restoration of any license issued prior to May 13, 1949.”

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, 1973.)

ACT 158

S. B. NO. 160

A Bill for an Act to Regulate the Practice of Public Accountancy in the Public Interest; to Provide for a State Board of Public Accountancy and to Prescribe its Powers and Duties; and to Provide Penalties for Violation of the Provisions of this Act.

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

SECTION 1. Chapter 466, Hawaii Revised Statutes, is repealed in its entirety.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to read:

“CHAPTER 466 PUBLIC ACCOUNTANCY

Sec. 466-1 Purpose. It is the policy of this State, and the purpose of this chapter to promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public or private. The public interest requires that persons attesting as experts in accountancy to the reliability or fairness of presentation of such information be qualified in fact to do so; that a public authority competent to prescribe and assess the qualifications of public accountants be established and continued; and that the attestation of financial information by persons professing special knowledge in accountancy be reserved to persons who demonstrate their ability and fitness to observe and apply the standards of the accounting profession.

Sec. 466-2 Short title. This chapter may be cited as the ‘Public Accountancy Law of 1973.’

Sec. 466-3 Definitions.

- (1) The term ‘board’ when used in this chapter shall mean the state board of public accountancy established in section 466-4.
- (2) The term ‘state’ when used in this chapter shall include any state, territory or insular possession of the United States, and the District of Columbia.

*Edited accordingly.

- (3) Masculine terms when used in this chapter shall also include the feminine.

Sec. 466-4 Board of public accountancy. (a) **Members.** There shall be a board of public accountancy to be known as the State board of public accountancy, which shall consist of seven members appointed by the governor in the manner prescribed in section 26-34. All members of the board shall be citizens of the United States and residents of this State. Five members thereof shall be certified public accountants in active practice holding current certificates as such and current permits to practice public accountancy issued under this chapter. The remaining two members thereof shall be public accountants in active practice holding current registrations as such and current permits to practice public accountancy issued under this chapter.

(b) **Removal.** The governor shall remove or suspend any member of the board for cause, in accordance with the provisions of section 26-34, including any member thereof (1) who ceases to engage in active practice as a certified public accountant or as a public accountant, as the case may be, or (2) whose certificate of certified public accountant or registration of public accountant, as the case may be, or whose permit to practice public accountancy (i) has been cancelled, revoked or suspended, (ii) has expired without renewal, or (iii) has otherwise become invalid.

(c) **Organization.** The board shall elect annually a chairman and a secretary-treasurer from its members. The board shall conduct its meetings and keep records of its proceedings in accordance with the provisions of chapter 92.

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

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

(f) **Powers.** The board may, in accordance with the provisions of chapter 91, (1) conduct investigations and hearings, either upon complaint or on its own motion on any matter involving the conduct of certified public accountants or public accountants or the violation of any of the provisions of this chapter, and (2) adopt, amend and repeal rules and regulations with the approval of the governor and the director of regulatory agencies, and issue decisions, orders and declaratory rulings, for the orderly conduct of its affairs and for the administration of this chapter including, but not limited to, rules and regulations governing professional qualifications, continuing education and professional conduct, and the affiliations of individuals, partnerships and corporations for the practice of public accountancy, as it deems appropriate to establish and maintain high standards of competence and integrity in the practice of public accountancy.

(g) **Annual report.** The board shall prepare and present an annual report to the governor through the director of regulatory agencies which shall include a statement of the board's activities and its receipts and expenditures during the preceding year, together with such recommendations as the board shall determine to be appropriate.

(h) Existing board. A person who, on January 1, 1974, was serving as a member of the board of public accountants theretofore existing under the laws of this State shall be permitted to continue without reappointment as a member of the State board of public accountancy established in this section for the duration of the term in which he was previously appointed, but shall otherwise be subject to all the provisions of this chapter; and his appointment as a member of the previous board shall, for all purposes, be considered as made under this chapter and subject to the provisions hereof.

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

(b) Educational requirements. A person applying for a certificate of certified public accountant (1) before January 1, 1979, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the board, and (2) after December 31, 1978, shall be required to have obtained a baccalaureate degree conferred by a college or university recognized by the board and shall be required to have completed not less than 30 semester hours of additional study at such a college or university, such educational program to have included an accounting concentration and such related subjects as the board shall determine to be appropriate.

(c) Exemption from educational requirements. A person (1) who holds a current registration as a public accountant under the provisions of section 466-6, or (2) who holds and has continued to hold a valid certificate of certified public accountant of another state for a period of not less than ten years preceding the date of his application under this section, and who is and continues to be in the active practice of public accountancy in such other state for a period of not less than five years preceding the date of his application under this section, if, upon examination of the credentials of such person, the board is satisfied that he is as well qualified for the practice of public accountancy as if he met the applicable educational requirements specified in subsection (b) of this section and any continuing education requirements established by regulation of the board, shall, upon application to the board, be exempt from the educational requirements specified in subsection (b) of this section.

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

(e) Admission to examination. A person (1) who has met the applicable educational requirements prescribed in subsection (b) of this section, or (2) who expects to meet such educational requirements within 120 days following

the examination prescribed in subsection (d) of this section, or (3) who is exempted from such educational requirements by subsection (c) of this section, shall, upon application to the board, be admitted to such examination. In the case of an applicant admitted to the examination on the expectation that he will complete the educational requirements within 120 days, no certificate of certified public accountant shall be issued, and no credit for the examination or any part of it shall be given, unless such educational requirement is, in fact, completed within that time or within such time as the board shall determine to be appropriate.

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

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

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

Sec. 466-6 Registration of public accountant. (a) Registration. A person (1) who has attained eighteen years of age, (2) who is of good moral character, (3) who was serving in the armed forces of the United States on June 15, 1955, (4) who was a resident of the Territory of Hawaii at the time of entering such service in the armed forces, and (5) who at the time of entering such service met the requirements set forth in paragraph (A), (B) or (C) of this subsection, shall, upon application to the board within six months after honorable discharge or release from such service, be registered by the board as a 'public accountant':

(A) Any person who held himself out to the public as being engaged in the practice of public accountancy and who was engaged in the practice of public accountancy as his principal occupation, either on his own account or as a member of a firm or as an employee of a certified public accountant or public accountant and regularly assigned to accountancy engagements.

- (B) Any person who was engaged in accounting or auditing work in the Territory of Hawaii as an employee of the United States, of said Territory or of any county in a position in grade GS-9 under the territorial classification schedule in effect on March 1, 1955, or the equivalent or higher grade.
- (C) Any person who was engaged in private accounting or auditing who has had not less than three years' experience in such work or in public accounting or both and whose experience was of such character and for a length of time sufficient in the opinion of the board to be substantially equivalent to three years of public accounting experience.

The Board shall maintain a list of all persons who are so registered. Such registrations shall be effective for a period not exceeding one year and shall be renewable annually upon application to the board.

(b) Existing registrations. A person who, on January 1, 1974, holds a registration of public accountant under the laws of this State theretofore existing, shall not be required to register again under this chapter, but shall otherwise be subject to all the provisions of this chapter; and such previous registration shall, for all purposes, be considered registration under this chapter and subject to the provisions hereof.

Sec. 466-7 Permits to practice. (a) Annual practice permits. A person (1) who is holding a current certificate of certified public accountant or a current registration as a public accountant, (2) who has had at least one year's experience in any state of the United States with a person or firm in the practice of public accounting, and (3) who has complied with continuing education requirements established by regulation of the board, shall, upon application to the board, be issued a permit to practice public accountancy in this State; provided, however, that the experience requirement set forth in (2) above shall not apply after December 31, 1978, or to any person who has met the educational requirements set forth in section 466-5(b)(2). Such permit to practice shall be effective for a period not exceeding one year.

(b) Temporary practice permits. A person (1) who has attained eighteen years of age, (2) who is of good moral character, (3) who holds a valid certificate of certified public accountant or a valid registration as a public accountant issued under the laws of another state, or who holds a valid certificate, license or degree of a foreign country determined by the board to be a recognized qualification for the practice of public accountancy in such other country, and (4) who, incidental to his practice in such other state or country, desires to practice public accountancy in this State on a temporary basis, shall, upon application to the board, be issued a temporary practice permit. Such permit shall be effective for a period not exceeding three months, and shall specify the nature and extent of the practice so permitted.

Sec. 466-8 Fees. (a) Examination. An applicant for admission to the examination described in section 466-5(d) shall pay a fee with such application for admission in such amount as the board shall prescribe by regulation. The board may also prescribe by regulation the terms and conditions upon which an applicant who is unable to attend such examination may receive a credit

in the amount of the fee paid toward a subsequent examination.

(b) Issuance of certificate or registration. An application for the issuance of a certificate of certified public accountant under section 466-5(a) or a registration of public accountant under section 466-6(a) shall pay a fee with such application in such amount as the board shall prescribe by regulation.

(c) Renewal of certificate or registration. An applicant for the renewal of a current certificate of certified public accountant under section 466-5(a) or for the renewal of a registration of public accountant under section 466-6(a) shall pay a fee of \$15. An applicant for the renewal of a certificate of certified public accountant or for the renewal of a registration of public accountant which is not current under the provisions of this chapter or under the laws of this State theretofore existing shall pay a fee with such application for renewal in an amount equal to twice the amount of the fees which the applicant would have paid had he timely renewed such certificate or registration since the date it was last current.

(d) Annual permits to practice. An applicant for the issuance of an annual permit to practice under section 466-7(a) who is in the practice of public accountancy in his own name as a sole proprietor, or as a partner of a partnership in the practice of public accountancy, or as a shareholder of a corporation in the practice of public accountancy, shall pay a fee with such application in the amount of \$15. All other applicants for the issuance of an annual permit to practice shall pay a fee of \$5.

(e) Temporary permits to practice. An applicant for the issuance of a temporary permit to practice under section 466-7(b) shall pay a fee with such application in the amount of \$30.

(f) Disposition of fees. All fees and other monies received by the board pursuant to 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.

Sec. 466-9 Disciplinary action. (a) Causes. The board may, in accordance with the provisions of chapter 91, (1) cancel, revoke, suspend for a period not exceeding two years, or refuse to renew any certificate of certified public accountant, registration of public accountant or permit to practice issued under this chapter, or it may (2) censure a person holding any such certificate, registration or permit, for any one or a combination of the following causes:

- (A) Conviction of a felony under the laws of the United States or of any state.
 - (B) Conviction of any crime, an element of which is dishonesty, deceit or fraud, under the laws of the United States or of any state.
 - (C) Dishonesty, deceit or fraud in obtaining any certificate, registration or permit to practice issued under the provisions of this chapter.
 - (D) Dishonesty, deceit, fraud or gross negligence in the practice of public accountancy.
 - (E) Violation of any of the provisions of section 446-10 or of any rule or regulation of the board relating to professional conduct.
- (b) Reinstatement. Upon application of any person against whom disci-

plinary action has been taken under the provisions of subsection (a) of this section, the board may, in accordance with the provisions of chapter 91, reinstate such person and reissue any certificate, registration or permit to practice which was affected by such disciplinary action.

Sec. 466-10 Prohibited acts. (a) Use of title 'certified public accountant.'

- (1) Except as otherwise provided in subsection (c) of this section, no person shall assume or use the title or designation 'certified public accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, sign, card or device likely to be confused with 'certified public accountant' or 'CPA' or tending to indicate that such person is a certified public accountant, unless such person holds a current certificate of certified public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (2) No partnership or corporation shall assume or use the title or designation 'certified public accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'certified public accountant' or 'CPA' or tending to indicate that such partnership or corporation is composed of certified public accountants, unless each of the partners of such partnership who are in the practice of public accountancy in this State or each of the shareholders of such corporation who are in the practice of public accountancy in this State holds a current certificate of certified public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (3) No person shall assume or use the title or designation 'certified public accountant' or the abbreviation 'CPA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'certified public accountant' or 'CPA,' in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation 'and Company' or 'and Co.' or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation existing under the laws of this State.

(b) Use of title 'public accountant.'

- (1) Except as otherwise provided in subsection (c) of this section, no person shall assume or use the title or designation 'public accountant' or the abbreviation 'PA' or any other title, designation, words, letters, sign, card or device likely to be confused with 'public accountant' or 'PA' or tending to indicate that such person is a public accountant unless such person holds a current registration of public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (2) No partnership or corporation shall assume or use the title or designation 'public accountant' or the abbreviation 'PA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'public accountant' or 'PA' or tending to indi-

cate that such partnership or corporation is composed of public accountants, unless each of the partners of such partnership who are in the practice of public accountancy in this State or each of the shareholders of such corporation who are in the practice of public accountancy in this State holds a current registration of public accountant issued under this chapter and a current permit to practice as such issued under this chapter.

- (3) No person shall assume or use the title or designation 'public accountant' or the abbreviation 'PA' or any other title, designation, words, letters, abbreviation, sign, card or device likely to be confused with 'public accountant' or 'PA,' in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation 'and Company' or 'and Co.' or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation existing under the laws of this State.
- (c) Representation of special knowledge.
 - (1) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating, suggesting or implying that he is an accountant or auditor, or with any wording indicating, suggesting or implying that he has special knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:
 - (A) Financial information, or
 - (B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless such person holds a current certificate or registration and a current permit to practice issued under this chapter.
 - (2) No person shall sign or affix a partnership or corporate name with any wording indicating, suggesting or implying that it is a partnership or corporation composed of accountants or auditors or persons having special knowledge of accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing:
 - (A) Financial information, or
 - (B) Facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless each of the partners of such partnership who are in the practice of public accountancy in this State or each of the shareholders of such corporation who are in the practice of public accountancy in this State holds a current certificate of certified public accountant or a current registration of public accountant issued under this chapter and a current permit to practice as such issued under this chapter.
- (d) Exceptions. Nothing contained in this chapter shall prohibit any person:

- (1) Who holds a current certificate of certified public accountant issued under this chapter from assuming and using the title and designation 'certified public accountant' or 'CPA;' provided, however, that if such person does not also hold a current permit to practice as such issued under this chapter, he shall clearly indicate in assuming and using said title that he does not hold himself out to be in the practice of public accountancy.
- (2) Who holds a current registration of public accountant issued under this chapter from assuming and using the title and designation 'public accountant' or 'PA;' provided, however, that if such person does not also hold a current permit to practice as such issued under this chapter, he shall clearly indicate in assuming and using said title that he does not hold himself out to be in the practice of public accountancy.
- (3) Who holds a temporary practice permit issued under this chapter from using the title and designation under which he is generally known in the state or country from which he received his certificate, registration, license or degree for the practice of public accountancy.
- (4) Who is not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant; provided, however, that such employee or assistant works under the control and supervision of a person who holds a current certificate of certified public accountant or a current registration of public accountant and a current permit to practice as such issued under this chapter, and provided further that such employee or assistant does not issue any statement or report over his name except such office reports to his employer as are customary, and that such employee or assistant is not in any manner held out to the public as a certified public accountant or public accountant.
- (5) Who is an officer, employee, partner or principal of any organization from signing or affixing his name to any statement or report in reference to the affairs of that organization; provided, however, that in so signing or affixing his name he shall clearly indicate that he is an officer, employee, partner or principal of the organization, and the position, title or office which he holds therein.
- (6) Who is a public official or public employee from the performance of his duties as such.
- (7) Who is an attorney at law from engaging in practice as such.

Sec. 466-11 Measures against violation. (a) Injunctions. Whenever the board has reason to believe that any person has engaged, or is about to engage, in any act or practice which constitutes, or will constitute, a violation of section 466-10, the board may certify the facts underlying such belief to the attorney general of this State, who shall make application to the appropriate court for an order enjoining such act or practice, and upon a showing that such person has engaged, or is about to engage, in any such act or practice, an injunction, restraining order or such other order as may be appropriate shall

be granted by such court without bond.

(b) Criminal penalties. Any person who violates any provision of section 466-10 shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both such fine and imprisonment. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts underlying such belief to the county attorney or prosecuting attorney of the county in which the violation occurred who shall cause appropriate proceedings to be brought.

(c) Evidence of practice. The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device bearing a person's name in conjunction with the words 'certified public accountant' or any abbreviation thereof, or the words 'public accountant' or any abbreviation thereof, shall be prima facie evidence in any action brought under subsection (a) or subsection (b) of this section that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself out to be a certified public accountant or public accountant holding a current permit to practice issued under section 466-7. In any such action, evidence of the commission of a single act prohibited in section 466-10 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

Sec. 466-12 Ownership of accountant's working papers. All statements, records, schedules, working papers and memoranda made by a certified public accountant or public accountant incident to or in the course of professional service to clients by such accountant, except reports submitted by a certified public accountant or public accountant to a client, shall be and remain the property of such accountant in the absence of an express agreement between such accountant and the client to the contrary. No such statement, record, schedule, working paper or memorandum shall be sold, transferred or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than one or more surviving partners or new partners of such accountant or to his corporation."

SECTION 3. Construction. If any provision of this Act or the application thereof to any person or to any circumstance is held invalid, the remainder of the Act and the application of such provision to such other persons or other circumstances shall not be affected thereby.

SECTION 4. Acts or proceedings under prior law. Nothing in this Act shall invalidate or affect any action taken under any law in effect prior to the effective date hereof, nor shall it invalidate or affect any proceeding instituted under such law before the effective date hereof.*

SECTION 5. Effective date. This Act shall take effect on January 1, 1974.

(Approved May 22, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Disqualification for Additional Unemployment Compensation Benefits.

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

SECTION 1. Section 385-7, Hawaii Revised Statutes, is amended to read:

“Section 385-7. Disqualification for additional unemployment benefits.

A claimant shall be disqualified for additional unemployment benefits:

(1) Voluntary separation. For any week in which he has left his work voluntarily without good cause and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances in each case.

(2) Discharge for misconduct. For the week in which he has been discharged for misconduct connected with his work and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct.

(3) Failure to apply for work, etc. If he has failed, without good cause, either to apply for available, suitable work when so directed by the director of labor and industrial relations or any duly authorized representative of the director, or to accept suitable work when offered him. The disqualification shall continue for the week in which such failure occurred and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances of each case.

(A) In determining whether or not any work is suitable for a claimant there shall be considered among other factors and in addition to those enumerated in subparagraph (B) of this paragraph, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, and the distance of available work from his residence and prospects for obtaining local work.

(B) No work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible claimant for refusing to accept new work under any of the following conditions:

(i) If the position offered is vacant due directly to a strike, lock-out, or other labor dispute;

(ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the claimant than those prevailing for similar work in the locality;

(iii) If as a condition of being employed the claimant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

- (4) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishments, or other premises at which he is or was last employed; provided that this paragraph shall not apply if it is shown that:
- (A) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and
 - (B) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purpose of this paragraph be deemed to be a separate factory, establishment, or other premises.
- (5) Fraud. If the director finds that he has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain any additional unemployment benefits under this chapter, in which case he shall be disqualified for the week in which the director makes such determination and for the remainder of the weeks for which he would otherwise be eligible.”

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, 1973.)

ACT 160

S. B. NO. 415

A Bill for an Act Relating to the Transfer of Public Employment Program Personnel.

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

SECTION 1. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Section 76- . Employees in the public employment program which is funded in part or wholly under the Emergency Employment Act of 1971, PL 92-54, and in the public service career program plan “A,” which is funded in part or wholly under the Federal Manpower Development and Training Act of 1962, as amended, who are employed by the State or county governments and who are not in the civil service systems of their respective jurisdictions as of

*Edited accordingly.

the date of the passage of this Act may be granted by the chief executive of the jurisdiction concerned permanent appointment status in the appropriate civil service system as provided in chapter 76, HRS. Permanent appointment status may be granted by the chief executive of the jurisdiction concerned provided that funds shall have been appropriated for the positions affected and these employees shall not be required to qualify in civil service examinations and shall be entitled to all of the rights, benefits and privileges (including credit for service in the positions occupied, vacation and sick leave credits) earned or accrued up to the date this Act takes effect, and provided further the creditable service in computing retention rights shall commence at the point of conversion to civil service status. The employees affected shall continue to receive the same rates of pay as a consequence of this Act, provided that there is no conflict with existing personnel laws, rules and regulations.”

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

(Approved May 22, 1973.)

ACT 161

S. B. NO. 377

A Bill for an Act Relating to Anti-Pollution Projects and the Issuance of Revenue Bonds for such Projects.

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

SECTION 1. **Purpose.** (a) The purpose of this Act is to establish a means whereby anti-pollution measures can be financed through the issuance of revenue bonds by the department of budget and finance.

(b) The Legislature finds and declares that the health, safety and general welfare of the people of the State demand the control, reduction, abatement, treatment, elimination, disposal or prevention of air, water, sewage, visual and other pollution; that efforts are being made at the federal and state levels to accomplish such objectives, including at the federal level by the provisions of Section 103(c)(4), the U.S. Internal Revenue Code of 1954, as amended, exempting from federal taxation the interest on bonds issued by public bodies for certain anti-pollution facilities; that the foregoing anti-pollution measures by industry can be encouraged, initiated or financed with the assistance of the State through the issuance of revenue bonds; and that the promotion, initiating or financing of such anti-pollution measures through the assistance of the State is a public purpose.

SECTION 2. Chapter 39, Hawaii Revised Statutes, is amended by adding a new part to read as follows:

“PART V. ANTI-POLLUTION REVENUE BONDS

Sec. 39-125 Definitions. As used in this part, unless the context otherwise requires:

- (1) ‘Anti-pollution project’ means any properties, or improvements or alterations to properties, designed, acquired, constructed, installed or modified, and certified as necessary or desirable by the Depart-

ment of Health to abate, control, reduce, treat, eliminate, dispose of or prevent air, water, thermal, radioactive or nuclear, visual, noise, aesthetic or other types of pollution, or for the supply or distribution of water, or for the collection, treatment or disposal of liquid or solid waste, or for any combination of the foregoing.

- (2) 'Department' means the department of budget and finance.
- (3) 'Person' means an individual, firm, partnership, corporation, association, cooperative or other legal entity, governmental body or agency, board, bureau or other instrumentality thereof, or any combination of two or more of the foregoing.
- (4) 'Project agreement' means any lease, sub-lease, conditional sale agreement, installment sale agreement, lending arrangement or other contract or agreement, or combination thereof, entered into under this part by the department for the financing from the proceeds of revenue bonds of an anti-pollution project.
- (5) 'Project party' means the person with whom the department enters into a project agreement.
- (6) 'Revenue bonds' means revenue bonds issued pursuant to this part.

Sec. 39-126 Powers. The department is authorized to:

- (1) Notwithstanding and without compliance with sections 103-7 and 103-22 but with the approval of the governor, enter into and carry out a project agreement, or an amendment or supplement to an existing project agreement, with a project party, and enter into and carry out any agreement whereby the obligations of a project party under a project agreement will be unconditionally guaranteed by, or the performance thereof assigned to, a person other than the project party. Without limiting the generality of the foregoing, if the project agreement provides for the acquisition by the department of interests in properties in connection with the anti-pollution project, such properties may be acquired by the department subject to existing liens, mortgages or other encumbrances.
- (2) Issue with the approval of the governor revenue bonds in such principal amounts as may be necessary to yield the amount of the cost of the anti-pollution project.
- (3) Lend the proceeds of the revenue bonds issued for the anti-pollution project to the project party for use and application by the project party to the construction, acquisition, remodeling, reconstruction, rehabilitating, expanding, extending, enlarging, improving, furnishing and equipping of the anti-pollution project, or agree with the project party whereby any of the foregoing activities shall be undertaken or supervised by such project party or by a person designated by the project party, and accept the assignment of any contract for any of such activities; provided that the liability of the department under any such assignment shall be limited to the proceeds of the revenue bonds and any moneys of the project party made available therefor.
- (4) Sell at one time or from time to time and without public bidding for

such sale the anti-pollution project or any part thereof at a price which may be a nominal amount or less than the true value or at the time of the sale, enter into agreements for such sale upon such terms and conditions as the department may deem suitable to carry out the purposes of this part and take and receive notes or other evidences of indebtedness with respect to the sale.

- (5) As security for the payment of the principal of and interest on revenue bonds issued to finance the costs of the anti-pollution project and any agreement made in connection therewith, (a) pledge, assign, hypothecate or otherwise encumber all or any part of the revenues and receipts derived by the department from the anti-pollution project, whether then owned or thereafter acquired; pledge and assign the interests and rights of the department under the project agreement or other agreement with respect to such project; or pledge and assign any bond, debenture, note or other evidence of indebtedness received by the department with respect to such project; or (b) mortgage or pledge, or both, all or any part of the interest of the department in any anti-pollution project or projects or the property of which it is a part from which is derived the revenues and receipts from which such bonds are payable, including in such mortgage or pledge any enlargement and addition to such project or projects thereafter made; or (c) any combination of the foregoing.
- (6) Extend or renew any project agreement or any other agreement related thereto, provided that any such renewal or extension shall be subject to the approval of the governor, unless made in accordance with provisions for such extension or renewal contained in a project agreement or related agreement theretofore approved by the governor.

The department may enter into a project agreement with respect to any anti-pollution project, or may issue revenue bonds under this part to finance the costs of any anti-pollution project, even though such project may have been commenced or may be completed prior to the effective date of this part, so long as such project shall not have been completed prior to January 1, 1972.

Sec. 39-127 Compliance with state and local law. The financing of any anti-pollution project under this part shall not relieve any project party or other user of such project from all laws, ordinances and rules and regulations of the State and county or any departments or boards thereof with respect to compliance with master plans, zoning, obtaining of building permits, compliance with building and health codes and other laws, ordinances or rules and regulations of similar nature pertaining to the project, and such laws shall be applicable to such party or such other user to the same extent it would be if the costs of the anti-pollution project were directly financed by the project party.

Sec. 39-128 Exemption from taxation. All revenues and receipts derived by the department from any anti-pollution project shall be exempt from all state, county and municipal taxation. The right, title and interest of the department or the State in any anti-pollution project shall also be exempt from

all state, county and municipal taxation. Except as modified by Act 134, Session Laws of Hawaii 1970, the leasehold or other interest of the project party or user of such project in an anti-pollution project or under the project agreement or related agreement shall not be exempt from taxation to a greater extent than it would be if the costs of the anti-pollution project were directly financed by the project party or other user.

Sec. 39-129 Findings and determinations. The department shall not undertake any anti-pollution project or enter into any project agreement with respect to any anti-pollution project unless the department shall first find and determine either that the person with whom it is proposed to enter into the project agreement is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through the project, or otherwise, or that the obligations of the project party under the project agreement will be unconditionally guaranteed by, or the performance thereof is assigned to, a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through the project, or otherwise.

Sec. 39-130 Project agreement. Any project agreement entered into by the department shall contain provisions unconditionally obligating the project party:

- (1) To pay to to the department during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the anti-pollution project is used or occupied by the project party, such sum or sums in the form of rentals or installment sales payments or otherwise, at such time or times and in such amount or amounts that will be at least sufficient: (a) to pay the principal and interest on all revenues bonds issued for the anti-pollution project as and when the same become due, including any premium payable upon any required redemption of such bonds; (b) to establish or maintain such reserve, if any, as may be required by the instrument authorizing or securing the revenue bonds; (c) to pay the fees and expenses of the paying agents and trustees for such revenue bonds; and (d) to pay the expenses incurred by the department in administering such bonds or in carrying out such project or the project agreement.
- (2) If title to or ownership of all or any part of the anti-pollution project shall be in the State or if the interest of the department in the anti-pollution project shall be mortgaged, pledged or otherwise encumbered to secure the revenue bonds, then so long as such title or ownership shall be in the State or such mortgage, pledge or other encumbrance shall not be satisfied and discharged and released, to operate, maintain and repair the anti-pollution project or to pay to the department all costs incurred by the department in the operation, maintenance and repair of the project.
- (3) If the anti-pollution project is a facility for the supply or distribution of water to or the collection or treatment of sewage and other waste disposal from a single or multi-family residential development, or a

combination thereof, to grant to the county in which such facility is located an option to purchase such facility at any time at a purchase price not to exceed the aggregate of (a) the principal amount of the revenue bonds issued for the anti-pollution project outstanding at the time of the exercise of the option, (b) the interest to accrue on such bonds to the earlier of their maturity date or the next date they may be redeemed in accordance with the terms thereof, (c) any premium payable upon such redemption and (d) all fees and expenses of the trustees and paying agents to be incurred with respect to such bonds to the earlier of their maturity or the next date they may be redeemed in accordance with the terms thereof and any other fees and expenses incurred or to be incurred upon the exercise of such option or the retirement of such bonds; provided that nothing in this subsection shall require such revenue bonds to be issued subject to an option permitting the redemption of the revenue bonds at any particular time prior to their stated maturity date; and provided, further, that nothing in this subsection shall in any way be a limitation upon the exercise by the State or the county of any right of eminent domain now or hereafter possessed by either thereof.

Moneys received by the department pursuant to clause (d) of subsection (1) of this section shall not be, nor be deemed to be, revenues of the anti-pollution project and shall be paid into the general fund.

The department prior to entering into negotiations with respect to a project agreement or at any time during such negotiations shall require that as a condition to such negotiations or the continuation thereof it shall be reimbursed for any and all costs and expenses incurred by it even though a project agreement may not be entered into and may further require the deposit of moneys with the department as security for such reimbursement. Any amounts of such deposit in excess of the amount required to reimburse the department shall be returned by the department to the party which has made such deposit.

Any project agreement entered into by the department may contain such provisions as the department may deem necessary or desirable to obtain or permit the participation of the federal government in the anti-pollution project or in the financing of the costs thereof, including, without limitation, costs of construction, operation, maintenance and repair and whether such participation to be in the form of grants, interest subsidiaries or otherwise.

Sec. 39-131 Project revenue bonds. All revenue bonds issued under this part shall be issued pursuant to the provisions of part III of this chapter, except as hereinafter set forth in this section, and each anti-pollution project shall constitute an 'undertaking' for purposes of said part III and the department shall constitute a 'department' thereunder.

(1) The provisions of the first sentence of section 39-61 and the provisions of sections 39-62, 39-66 and 39-67 shall not be applicable.

(2) The department shall not have the power to exercise the right of eminent domain with respect to any anti-pollution project or to operate any anti-pollution project; provided that nothing in this clause shall prohibit the department from being the lessor or seller of any anti-pollution project, or

ACT 161

from financing the costs thereof, as otherwise provided by or contemplated in this part.

(3) No specific act or acts of the Legislature shall be required for the authorization or issuance of the revenue bonds or the amount thereof, and this part shall constitute complete authority for such authorization, issuance or amount.

(4) No such revenue bonds shall be issued unless at the time of issuance the department shall have already entered into a project agreement with respect to the anti-pollution project for which such revenue bonds are to be issued.

(5) Such revenue bonds shall be issued in the name of the department and not in the name of the State.

(6) The revenue bonds shall be payable solely from the revenues or other income derived by the department from the anti-pollution project for which such bonds are issued, including any payments made to the department under the project, agreement or other agreements entered into with respect to the project, and shall be secured solely by such revenues and any encumbrance, mortgage or lien granted with respect to such bonds.

(7) The final maturity date of such revenue bonds may be any date not exceeding forty (40) years from the date of such bonds; provided that such final maturity date shall also not exceed the period or term of the project agreement, exclusive of any renewal or extension thereof.

(8) The department, in determining the cost of any anti-pollution project, may also include financing charges; fees and expenses of any trustee and paying agents for such revenue bonds, interest on the revenue bonds, and the expenses of the department in connection with such revenue bonds and the anti-pollution project to be financed from the proceeds of such bonds, accruing or incurred prior to and during the period of construction and for not exceeding six months thereafter; amounts necessary to establish or increase reserves for the revenue bonds; the cost of plans, specifications, studies, surveys, estimates of cost and of revenues; other expenses incidental to determining the feasibility or practicability of the anti-pollution project; administrative expenses; interest cost incurred by the project party with respect to the project prior to the issuance of the revenue bonds; and such other costs, commissions and expenses incidental to the construction, acquisition, reconstruction, renovation, rehabilitation, improvement, betterment or extension of the anti-pollution project, the financing thereof, placing of same in operation and the issuance of the revenue bonds, whether incurred prior to or after the issuance of such bonds.

(9) If deemed necessary or advisable by the department, the director of finance may appoint a national or state bank or trust company within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement or indenture of mortgage with such trustee. The trustee may be authorized by the department to receive and receipt for, hold and administer the proceeds of the revenue bonds issued for the anti-pollution project and to apply the same to the purposes for which such bonds are issued, or to receive and receipt for, hold and administer the revenues and other receipts derived by the department from the anti-pollution project and to apply such revenues and receipts to the payment of the principal

and interest on such revenue bonds, or both. In the event that such trustee shall be appointed, any trust indenture or trust agreement or indenture of mortgage entered into by the department with the trustee may contain whatever covenants and provisions as may be authorized by part III of this chapter as may be deemed necessary by the department for the purposes of this part, and any covenants or provisions so contained need not be included in a resolution adopted or certificate issued under those sections. Any resolution or certificate, trust indenture or trust agreement or indenture of mortgage adopted, issued or entered into by the department pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939 or deemed necessary or desirable by the department for the security and protection of the holders of the revenue bonds or to carry out the purposes of this part. The department may pledge and assign to the trustee the project agreement and other agreements related thereto and the rights of the department, including the revenues and receipts, thereunder and may grant a mortgage on the interest of the department in the anti-pollution project to the trustee for the benefit of the holders of such revenue bonds.

If the director of finance shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-65, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange and redemption, of the revenue bonds, or may elect to limit the functions he shall perform as such fiscal agent. The director of finance may appoint the trustee to serve as such fiscal agent, and may authorize and empower the trustee to perform such functions with respect to such payment, purchase, registration, transfer, exchange and redemption, as the director of finance may deem necessary, advisable, or expedient, including without limitation the holding of the revenue bonds and coupons which have been paid and the supervision and conduction or the destruction thereof in accordance with the provisions of Sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation or construed as a limitation, upon the powers granted to the director of finance in sections 39-3 and 39-12 and the third sentence of section 39-65 to appoint the trustee or others as fiscal agents, paying agents and registrars for the revenue bonds or to authorize and empower such fiscal agents, paying agents and registrars to perform the functions referred to in said sections, it being the intent of this paragraph to permit, as aforesaid, the director of finance at his election not to serve as fiscal agent for the revenue bonds or to limit the functions he shall perform as such fiscal agent, as he may deem necessary, advisable, or expedient.

If the resolution, certificate, trust indenture or trust agreement or indenture of mortgage shall provide that any revenue bonds issued thereunder shall not be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of such revenue bonds, all signatures of the officers of the State upon such bonds required by section 39-64 may be facsimiles of their signatures.

(10) The resolution, certificate, trust indenture, trust agreement or indenture of mortgage may also contain provisions deemed necessary or desir-

ACT 161

able by the department as to (a) the investment of the proceeds of the revenue bonds, the investment of any reserve for such bonds and the investment of the revenues and receipts of the project and the use and application of the earnings from such investments; and (b) the terms and conditions upon which the holders of the revenue bonds or any portion of them or any trustee therefor may institute proceedings for the foreclosure of any mortgage granted to secure the payment of such bonds and the use and application of the moneys derived from such foreclosure.

(11) The resolution, certificate, trust indenture, trust agreement or indenture of mortgage may also contain such provisions as may be deemed necessary or desirable by the department in order to obtain or permit the participation of the federal government in the anti-pollution project or in the financing of the costs thereof, including, without limitation, costs of construction, operation, maintenance and repair and whether such participation be in the form of grants, interest subsidies or otherwise.

(12) If no trustee shall be appointed to collect, hold and administer the proceeds of the revenue bonds or the revenues and receipts derived by the department from the anti-pollution project for which such revenue bonds are issued, such proceeds or revenues and receipts, as the case may be, shall be held in a separate account in the treasury of the State, to be applied solely to the carrying out of the resolution, certificate, trust indenture or trust agreement or indenture of mortgage authorizing or securing such revenue bonds.

(13) The department may sell such revenue bonds either at public or private sale and at a price not less than ninety-five (95) per cent of the principal amount thereof.

(14) Proceeds of such revenue bonds may be used and applied to reimburse the department or the project party or other user of the anti-pollution project for all costs of the anti-pollution project incurred by any thereof prior to or after the issuance of the revenue bonds.

(15) The obligation contained in the project agreement that the project party or other user of the anti-pollution project shall operate, maintain and repair at his expense the anti-pollution project which is the subject of such agreement shall constitute compliance by the department with section 39-59(2), and none of the revenues and receipts derived by the department from such project shall be required to be applied to the purposes of section 39-60(2). Sections 39-60(4), 39-60(5) and 39-60(6) shall not be applicable to the revenues or receipts derived by the department from a project or under a project agreement.”

SECTION 3. If any provision of this Act, or any provision of the part to be added pursuant hereto to Chapter 39, Hawaii Revised Statutes, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect any other provision of the Act or said part of the application thereof to other persons or circumstances which can be given effect without the invalid provision or application, and to this end the provisions of this Act and said part are severable.

SECTION 4. The attorney general is directed to either intervene in a suit brought to determine the constitutionality of this bill or to bring a declara-

tory judgment action for a determination that revenue bonds issued under this Act shall be excluded under Section 3(b) of Article VI of the Constitution when determining the total indebtedness of the State.

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

(Approved May 22, 1973.)

ACT 162

S. B. NO. 394

A Bill for an Act Relating to Volunteer Fire Stations.

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

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

“Sec. 46- Volunteer fire stations. The council of the several counties may establish and maintain one or more volunteer fire stations in any area or areas of the county as it may determine to be necessary to provide adequate fire protection. All necessary facilities and equipment for the volunteer fire stations may be furnished by the county. The officers, firemen or other personnel necessary for the operation or maintenance of these stations shall be selected and appointed by the fire chief partially or entirely on a voluntary non-compensatory basis and except as otherwise provided in this section. All volunteer personnel for any volunteer fire station shall serve at the pleasure of the fire chief.

The fire chief of the county shall have full authority and control over all volunteer fire stations, their equipment, apparatus, officers, firemen, and personnel, and he may designate a suitable person to be in charge of any volunteer fire station. Suitable instructors may be assigned from time to time by the fire chief to such fire stations for the training of volunteer firemen and personnel.

In case any person serving in the capacity of volunteer personnel for the fire station, including a volunteer officer or fireman, sustains any injury or dies as a result of any accident arising out of and in the course of training, or the performance of duty for such fire station, the person shall be entitled to the benefits provided for volunteer personnel in part V of chapter 386, and be considered to be an employee of the county for the purpose of obtaining compensation benefits under chapter 386. Compensation benefits shall be determined upon the basis of average weekly wages computed as set forth in section 386-51, and upon the basis of earnings from the usual employment of the person, or upon the basis of earnings at the rate of \$18 per week, whichever is most favorable to the claimant or claimants. The director of labor and industrial relations shall administer the provisions hereof in accordance with section 386-172.

Any provision to the contrary notwithstanding, volunteer personnel, including officers and firemen, shall be entitled to subsistence in amounts deemed proper by the council of the respective counties.”

ACT 163

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

(Approved May 22, 1973.)

ACT 163

S. B. NO. 744

A Bill for an Act Relating to the Specific Provisions of Industrial Loan Companies.

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

SECTION 1. Section 408-19, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 408-19 Sales considered loans, when. No company shall engage in the wholesale or retail mercantile business, provided:

- (1) That the taking of title to personal property, at a price below the cash market value of the personal property at the date of the transaction, and the sale of the personal property to the former owner thereof on conditional sales contract shall, for the purposes of this chapter, be considered a loan and be subject to the same restrictions as to interest, fees, and other charges, as any other loan made pursuant to this chapter;
- (2) That the taking over or purchase of, or the taking of title to an existing business or property for the protection of the security under a contract held by the company, and the management and operation of the same for the purpose of advantageously liquidating the same within a reasonable period and the sale or other liquidation of the same, shall not be deemed to be prohibited by this chapter; and
- (3) That any company, whether or not covered by this chapter, owning all or some portion of the shares of stock or securities of another corporation engaged in the wholesale or retail mercantile business, shall not by reason thereof be deemed itself to be engaged in the wholesale or retail mercantile business, upon the approval of the Bank Examiner of the State."

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

SECTION 3. This Act shall take effect July 1, 1973.

(Approved May 22, 1973.)

ACT 164

S. B. NO. 929

A Bill for an Act Relating to a Management Program for Coastal Zones.

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

*Edited accordingly.

SECTION 1. Findings and purposes. The legislature finds that Congress has enacted a Coastal Zone Management Act of 1972, Public Law 92-583, which recognizes the national interest in the effective planning, management, beneficial use, protection, and development of the coastal zones of the several states. This Act authorizes grants to the states to encourage them to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with the federal and local governments and other vitally affected interests, to plan and develop management programs for the land and water resources of their coastal zones. These programs shall include unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

As required by the Federal Coastal Zone Management Act, the state land use commission has the authority to administer land and water use regulations in coastal zones, control development in order to ensure compliance with the state's management program in coastal zones, and resolve conflicts among competing uses in coastal zones. The state and the counties, as well as agencies of the state and the counties, also have the authority as required by the Federal Coastal Zone Management Act to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the state's management program for its coastal zones. It is the purpose of this Act to authorize the state department of planning and economic development to prepare a plan for the management of the state's coastal zones which complies with the requirements of the Federal Coastal Zone Management Act, and which guides the state and counties in the exercise of their authority in coastal zones.

SECTION 2. Coastal zone management program. The department of planning and economic development shall prepare a coastal zone management program which shall set forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone, which shall conform to the State Comprehensive Outdoor Recreation Plan as adopted and include such other elements as may be required by the Federal Coastal Zone Management Act, or any amendment to that Act. This program shall guide the department, the land use commission, and other agencies of the state and counties in the exercise of their authority to implement the management program in the state's coastal zones. The department shall and is authorized to comply with any condition, regulation, restriction, or requirement imposed by the federal government under its authority to make grants available to the states for the preparation of Coastal Zone Management Programs.

SECTION 3. Expenditures. The department of planning and economic development may use and expend federal grants which are made to the State for the development and administration of the Coastal Zone Management Program and State funds as may be for matching purposes with federal planning grants.

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

(Approved May 22, 1973.)

A Bill for an Act Relating to Security Guards.

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

SECTION 1. Chapter 463, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 463- Guards; concurrent employment. No person shall engage in the business of guard when the guard work is concurrent with other duties performed under the agreement of employment or when the guard work is not the principal fact of the employment without first obtaining a license as a guard.”

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, 1973.)

A Bill for an Act Amending Section 51-1, Hawaii Revised Statutes, Relating to Mass Transit.

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

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

“Section 51-1 Grant of powers. Every county of this State may 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, sub-surface, or elevated, taxis, and other forms of transportation for hire for passengers and their personal baggage.

Every county shall have power to provide mass transportation service, whether directly, jointly, or under contract with private parties, without the county or private parties being subject to the jurisdiction and control of the public utilities commission in any manner.

The terms ‘mass transit’ and ‘mass transportation’ mean transportation by bus, or rail or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis.”

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

*Edited accordingly.

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

(Approved May 22, 1973.)

ACT 167

S. B. NO. 1155

A Bill for an Act Relating to the Law of Arrest Under Indorsed Warrant.

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

SECTION 1. Section 604-13, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-13 Arrest under indorsed warrant. Whenever any warrant of arrest has been issued by any court of competent jurisdiction, and the accused is beyond the jurisdiction of the court, it shall be lawful for the officer to whom the warrant is directed, to pursue and arrest the accused in any part of the State.”

SECTION 2. Chapter 604, Hawaii Revised Statutes, is amended by repealing section 604-14.

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

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

(Approved May 22, 1973.)

ACT 168

S. B. NO. 1202

A Bill for an Act Relating to Post Retirement Allowances.

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

SECTION 1. Subpart A of part I, chapter 88, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“Sec. 88- County pensioners; post retirement allowance. Any other provision of this chapter to the contrary notwithstanding, the council of each county, and each independent board or commission affected, shall appropriate the funds necessary to pay the post retirement allowance payable by their respective counties, boards, and commissions in accordance with section 88-90.”

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

*Edited accordingly.

ACT 169

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

(Approved May 22, 1973.)

ACT 169

S. B. NO. 316

A Bill for an Act Relating to Notice to Admit, Inspection, and Discovery.

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

SECTION 1. Section 625-15, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 625-15 Proceedings and records of medical and dental peer review committees and hospitals. Neither the proceedings nor the records of peer review committees of medical and dental staffs in hospitals having the responsibility of evaluation and improvement of the quality of care rendered in the hospital or peer review committees of local medical and dental societies shall be subject to discovery. Except as hereinafter provided, no person in attendance at a meeting of any such committee shall be required to testify as to what transpired at such meeting. The prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject matter of which was reviewed at such meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

The prohibitions contained in this section shall not apply to medical society or dental society committees that exceed ten per cent of the membership of the society, nor to any such committee if any person serves upon the committee when his own conduct or practice is being reviewed.”

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

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

(Approved May 24, 1973.)

ACT 170

H. B. NO. 311

A Bill for an Act Relating to Contractors.

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

SECTION 1. Chapter 444, Hawaii Revised Statutes, is amended by adding new sections to be appropriately numbered and to read:

“Sec. 444- Contractors recovery fund; use of fund; fees. The contractors license board is authorized and directed to establish and maintain a con-

*Edited accordingly.

tractors recovery fund from which any person aggrieved by an act, representation, transaction, or conduct of a duly licensed contractor, 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 \$10,000 for damages sustained by the act, representation, transaction or conduct. Recovery from the fund shall be limited to the actual damages suffered by the claimant.

Every contractor, when renewing his license in 1974, shall pay in addition to his license renewal fee, a fee of \$50 for deposit in the contractors recovery fund. On or after May 1, 1974, when any person makes application for a contractors license he shall pay, in addition to his original license fee, a fee of \$50 for deposit in the contractors recovery fund. In the event that the contractors license board does not issue the license, this fee shall be returned to the applicant."

"Sec. 444- Additional payments to fund. If, on December 31 of any year, the balance remaining in the contractors recovery fund is less than \$150,000, every contractor, when renewing his license during the following calendar year, shall pay, in addition to his license renewal fee, a fee not to exceed \$50 for deposit in the contractors recovery fund."

"Sec. 444- Statute of limitations; recovery from fund. (a) No action for a judgment which may subsequently result in an order for collection from the contractors recovery fund shall be commenced later than six years from the accrual of the cause of action thereon. When any aggrieved person commences action for a judgment which may result in collection from the contractors recovery fund, the aggrieved person shall notify the contractors license board in writing to this effect at the time of the commencement of such action. The contractors license board shall have the right to intervene in and defend any such action. Nothing in this section shall supersede the statute of limitation as contained in Act 133, Session Laws of Hawaii, 1972.

(b) When any aggrieved person recovers a valid judgment in any circuit court or district court of the county where the violation occurred against any contractor for such act, representation, transaction, or conduct which is in violation of the provisions of this chapter or the regulations promulgated pursuant thereto, which occurred on or after June 1, 1974, 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 contractors license board, may apply to the court for an order directing payment out of the contractors recovery fund, of the amount unpaid upon the judgment, subject to the limitations stated in this section. Before proceeding against the contractors recovery fund, the aggrieved person must first proceed against any existing bond covering the licensee.

(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 contractors license board requiring payment from the contractors recovery fund of whatever sum it shall find to be payable upon the claim, pursuant to the provisions of and in accordance with the limitations contained in this section, if the court is satisfied, upon the hearing of the truth of all matters required to be shown by the aggrieved person by subsection (c) of this section and that the aggrieved person has fully pursued and exhausted all remedies available to him for recovering the amount awarded by the judgment of the court.

(e) Should the contractors license board pay from the contractors recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed contractor, the license of the contractor shall be automatically terminated upon the issuance of a court order authorizing payment from the contractors recovery fund. No contractor 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 contractors recovery fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection.

(f) If, at any time, the money deposited in the contractors recovery fund is insufficient to satisfy any duly authorized claim or portion thereof, the contractors license board shall, when sufficient money has been deposited in the contractors recovery fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed."

"Sec. 444- Management of fund. The sums received by the contractors license board for deposit in the contractors recovery fund shall be held by the contractors license board in trust for carrying out the purposes of the contractors recovery fund. The contractors license board, as trustee of the recovery fund, shall be authorized to retain private legal counsel to represent the board in any action which may result in collection from the contractors 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 contractors education fund, and which

shall be available to the contractors license board for educational purposes, which is hereby created.”

“**Sec. 444- False statement.** It shall constitute a misdemeanor for any person or his agent to file with the contractors license board 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.”

“**Sec. 444- The contractors license board has standing in court.** When the contractors license board receives notice, as provided in sec. 444- (a), the contractors license board may enter an appearance, file an answer, appear at the court hearing, defend the action or take whatever other action it may deem appropriate. The contractors license board or its legal representative shall be served with all pleadings in an action which may result in a recovery from the contractors recovery fund.

Settlement of any claim against the contractors recovery fund shall be made only with the unanimous agreement of the contractors license board, director of regulatory agencies and attorney general that settlement is in the best interest of the contractors recovery fund.”

“**Sec. 444- Subrogation to rights of creditor.** When, upon the order of the court, the contractors license board has paid from the contractors recovery fund any sum to the judgment creditor, the contractors license board 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 contractors license board and any amount and interest so recovered by the contractors license board on the judgment shall be deposited to the credit of said fund.”

“**Sec. 444- Waiver of rights.** The failure of an aggrieved person to comply with all of the provisions of this chapter relating to the contractors recovery fund shall constitute a waiver of any right hereunder.”

“**Sec. 444- Maximum liability.** Notwithstanding any other provision, the liability of the contractors recovery fund shall not exceed \$20,000 for any one licensee.”

“**Sec. 444- Disciplinary action against licensee.** Nothing contained herein shall limit the authority of the contractors license board to take disciplinary action against any licensee for a violation of any of the provisions of chapter 444, or of the rules and regulations of the contractors license board; nor shall the repayment in full of all obligations to the contractors recovery fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 444 or the rules and regulations.”

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

*Edited accordingly.

ACT 171

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

(Approved May 24, 1973.)

ACT 171

S. B. NO. 56

A Bill for an Act Relating to Staffing for the Commission on the Year 2000.

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

SECTION 1. Section 221-1, Hawaii Revised Statutes, is amended to read:

“Sec. 221-1 Commission established. There is established within the office of the governor for administrative purposes a commission on the year 2000 composed of nine members to be appointed and removed by the governor. The governor shall appoint the chairman of the commission from among its members. The members of the commission shall serve without compensation but shall be reimbursed for travel and other necessary expenses. The commission may, with the consent of the governor and not subject to chapters 76 and 77, appoint a program director and such other staff as may be necessary for the purposes of this chapter. The University of Hawaii shall render such assistance and research services as the commission may require.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the underscoring.*

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

(Approved May 24, 1973.)

ACT 172

S. B. NO. 96

A Bill for an Act Relating to Temporary Disability Insurance.

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

SECTION 1. Section 392-26, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 392-26 Care by physician or equivalent required. (a) An individual shall be ineligible to receive temporary disability benefits with respect to any period during which he is not under the care of a person duly licensed to practice medicine, surgery, dentistry, chiropractic, or osteopathy, who shall certify, in the form and manner specified by regulation of the director, the disability of the claimant, the probable duration thereof, and such other medical facts within his knowledge as required by regulation.

(b) This section shall not apply to an individual who, pursuant to the teachings, faith, or belief of any group, depends for healing upon prayer or other spiritual means. In that case the disability, the probable duration thereof,

*Edited accordingly.

and any other pertinent facts required to be certified by regulation of the director shall be certified, in the form and manner specified by the regulation, by a duly authorized or accredited practitioner of such group.

(c) The proof of disability duly certified by a person licensed to practice medicine, surgery, dentistry, chiropractic, or osteopathy, or an authorized or accredited practitioner of any group which depends for healing upon prayer or other spiritual means shall be submitted by such certifying person to the disabled employee within seven working days after the date on which the employee was examined and found disabled. If the certifying person fails to submit the required proof within seven working days, the director, upon notification by the insurer, may levy a penalty of \$25 for each delinquent certification where the certifying person fails to show good cause for his failure to file on time."

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

SECTION 3. This Act shall take effect on July 1, 1973.

(Approved May 24, 1973.)

ACT 173

S. B. NO. 109

A Bill for an Act Relating to Escrow Depositories.

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

SECTION 1. Section 449-3, Hawaii Revised Statutes, is amended to read:

"**Sec. 449-3 Excepted from this chapter.** This chapter does not apply to any of the following when acting as escrow depositories:

- (1) 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.
- (2) Any person licensed as a real estate broker in the State who is the broker for a party to the escrow, provided he does not charge any escrow fee.
- (3) Any person licensed to practice law in the State who, in escrow, is not acting as the employee of a corporation."

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

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

(Approved May 24, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Minimum Capital for an Escrow Depository.

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

SECTION 1. Chapter 449, Hawaii Revised Statutes, is amended by adding a new section to read:

“Sec. 449- Capital stock. The capital stock of any corporation engaging in the escrow depository business under this chapter, shall be not less than \$50,000, which capital stock shall be fully paid to the corporation in cash. Except that any such corporation may alternatively file a bond for \$50,000 conditional upon its satisfactory performance of escrow conditions and satisfaction of all escrow liabilities. The amount of the minimum capital stock of \$50,000, or the bond, shall be maintained at all times by the licensee.”

SECTION 2. Licensees presently in operation pursuant to Chapter 449, Hawaii Revised Statutes, with a paid-in capital or net paid-in capital of less than \$50,000 shall increase the paid-in capital to \$50,000 within five years after the effective date of this Act.

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved May 24, 1972.)

A Bill for an Act Relating to Dedication of Land for Ranching or Agricultural Use.

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

SECTION 1. Section 246-12, Hawaii Revised Statutes, is amended to read:

“(a) A special land reserve is established to enable the owner of any parcel of land within an agricultural district, a rural district, a conservation district, or an urban district to dedicate his land for a specific ranching or other agricultural use and to have his land assessed at its value in such use; provided that if the land is located within an urban district, (1) a lessee of the land with a term of ten or more years remaining from the date of the petition shall also be deemed an owner of the land within these provisos; (2) the land dedicated must be used for the cultivation of crops such as sugar cane, pineapple, truck crops, orchard crops, ornamental crops, or the like; (3) the land dedicated must have been substantially and continuously used for the cultivation of crops such as sugar cane, pineapple, truck crops, orchard crops, ornamental crops, or the like for the five year period immediately preceding the dedication request;

*Edited accordingly.

provided further that land situated within an agricultural district may be dedicated for a period of twenty years and shall be taxed at fifty per cent of its assessed value in such use.

(b) If any owner desires to use his land for a specific ranching or other agricultural use and to have his land taxed at its assessed value in this use or fifty per cent of its assessed value as the case may be, he shall so petition the director and declare in his petition that his land can best be used for the purpose for which he requests permission to dedicate his land and that if his petition is approved he will use his land for this purpose.

Upon receipt of any such petition, the director shall request the department of agriculture to make a finding of fact as to whether the land in the petitioned area is reasonably well suited for the intended use. The finding of the department of agriculture shall include and be based upon the productivity ratings of the land in those uses for which it is best suited, a study of the ownership, size of operating unit, and present use of surrounding similar lands and other criteria as may be appropriate.

The director shall also request the director of planning and economic development to make a finding of fact as to whether the intended use is in conflict with the overall development plan of the State.

If both findings are favorable to the owner, the director shall approve the petition and declare that the owner's land is dedicated land; provided, that for lands in urban districts, the director shall make further findings respecting the economic feasibility of the intended use of the land. If all three findings are favorable, the director shall approve the petition and declare the land to be dedicated. A change in the dedicated use may be made by petition as provided in this subsection.

(c) The approval by the director of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of his land to a use other than agriculture for a minimum period of ten years or twenty years as the case may be, automatically renewable indefinitely, subject to cancellation as follows:

(1) In the case of a ten-year dedication, the owner may during the ninth year and years thereafter, give notice of cancellation by filing with the director, a written notice of cancellation, on or before September 25, to be effective as of July 1 of the following tax year;

(2) In the case of a twenty-year dedication, the owner may during the nineteenth year and years thereafter give notice of cancellation as provided by this subsection;

(3) In the case of a change in major land use classification not as a result of a petition by any property owner or lessee such that the owner's land is placed within an urban district, the dedication may be cancelled within sixty days of the change by the owner.

Upon any conveyance or any change in ownership during the period of dedication, the land shall continue to be subject to the terms and conditions of the dedication unless a release has been issued by the director.

(d) Failure of the owner to observe the restrictions on the use of his land shall cancel the dedication and special tax assessment privilege retroactive to the date of the dedication, but in any event, shall not exceed the term of the

original dedication, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a ten per cent a year penalty from the respective dates that these payments would have been due. The additional taxes and penalties, due and owing as a result of a breach of the dedication, shall be a paramount lien upon the property pursuant to section 246-55. Failure to observe the restrictions on the use means failure for a period of twelve consecutive months to use the land in that manner requested in the petition or the overt act of changing the use for any period. 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.

(e) The director shall prescribe the form of the petition. The petition shall be filed with the director by March 1 of any calendar year and shall be approved or disapproved by June 15. If approved, the assessment based upon the use requested in the dedication shall be effective on July 1, next.

(f) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(g) The term 'owner' as used in this section includes lessees of real property whose lease term extends at least ten years from the date of the petition in the case of a ten-year dedication or lessees of real property whose lease term extends at least twenty years from the date of the petition in the case of a twenty-year dedication."

SECTION 2. Subsection 246-10(a), Subsection 246-10(d)(2), Subsection 246-10(f), Hawaii Revised Statutes, are amended to read:

"Sec. 246-10 Valuation; consideration in fixing. (a) The director of taxation shall cause the fair market value of all taxable real property to be determined and annually assessed as provided by law; provided that the value of land classified and used for agriculture, whether such lands are dedicated pursuant to section 246-12 or not, shall, for real property tax purposes, be the value of such land for agricultural use without regard to any value that such land might have for other purposes or uses, or to neighboring land uses, as determined as provided in subsection (f)(2) of this section. In making such determination and assessment, the director shall separately value and assess, within each class established in accordance with subsection (d) of this section: (1) buildings, and (2) all other real property, exclusive of buildings.

(d) (1) The land in each county shall be classified, upon consideration of its highest and best use, into seven general classes collected in four categories as follows:

Category I

- (A) improved residential;
- (B) agricultural;
- (C) conservation;

Category II

- (D) unimproved residential;
- (E) hotel and apartment;

Category III

(F) commercial;

Category IV

(G) industrial.

- (2) In assigning land to one of the general classes the director of taxation shall give major consideration to the districting established by the land use commission pursuant to chapter 205, the districting established by a county in its general plan and zoning ordinance, use classifications established in the general plan of the State, and such other factors which influence highest and best use; provided that lands, as to which the highest and best use is single-family and two-family residential, shall be classified as 'improved residential' as set forth below.
- (f) (1) In determining the value of land, other than land classified and used for agriculture, consideration shall be given to selling prices and income (including, where available, such data relating to the property being assessed and similar data for comparable properties), productivity, and nature of use (actual and potential), the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, zoning, dedication of lands as provided for in section 246-12, and further to the opinions of persons who may be considered to have special knowledge of land values, and all others influences, whether similar to those listed or not, which fairly and reasonably bear upon the question of value.
- (2) In determining the value of lands which are classified and used for agriculture, whether such lands are dedicated pursuant to section 246-12 or not, consideration shall be given to rent, productivity, nature of actual agricultural use, the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, and to the opinions of persons who may be considered to have special knowledge of land values.
- (3) A deferred or roll back tax shall be imposed on the owner of agricultural lands assessed according to its agricultural use as provided in subsection (a) of this section in the event of a change in land use classification by the authorized State agency to urban or rural districts or upon the subdivision of the land into parcels of five acres or less, provided that the tax shall not apply if the owner dedicates his land as provided in section 246-12 within one year from the date of the change in land use classification and fulfills all of the requirements of the dedication. The deferred tax shall be due and payable retroactive to the date the assessment was made pursuant to subsection (a) of this section but for not more than ten years. Any other provisions to the contrary notwithstanding, the deferred or roll back tax shall apply only if a change in land use classification has been

made as a result of a petition by any property owner or lessee.

The deferred or roll back tax shall be based on the difference in assessed value between the highest and best use and the agricultural use of the land, at the tax rate applicable for the respective years. The deferred tax shall be due and payable within sixty days of such conversion, subject to a ten per cent per annum penalty, provided that if the conversion occurs within five years of the date of enactment of this law, twice the amount of taxes and penalties as provided herein shall become due and owing. Any tax due and owing shall attach to the land as a paramount lien in favor of the State of Hawaii pursuant to section 246-55.

- (4) Where lands located within agricultural districts are put to agricultural uses, that portion of such lands not usable or suitable for any agricultural use, whether dedicated pursuant to section 246-12 or not, the tax upon such unusable or unsuitable land shall be deferred and shall be payable upon conversion as provided under this section.”

SECTION 3. Section 246-12, Hawaii Revised Statutes, as amended, is hereby further amended by adding a new subsection to be appropriately designated and to read as follows:

“A special land reserve is established to enable the owner of any parcel of land within an urban district to dedicate his land for a specific livestock use such as feed lots, calf-raising and like operations in dairy, beef, swine, poultry and aquaculture, but excluding grazing or pasturing, and to have his land assessed at its value in such use; provided that (1) a lessee of the land with a term of ten or more years remaining from the date of the petition shall also be deemed an owner of the land within these provisos; (2) the land dedicated must be used for livestock uses such as feed lots, calf-raising, and like operations in dairy, beef, swine, poultry and aquaculture but excluding grazing or pasturing; (3) the land dedicated must have been substantially and continuously used in the livestock uses enumerated in (2) hereinabove; (4) and such livestock use must be compatible with the surrounding uses.”

SECTION 4. If any section, sentence, clause, or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portion of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature declares that it would have passed this Act and each section, sentence, clause, or phrase thereof irrespective of the fact that any one or more other sections, sentences, clauses, or phrases is declared unconstitutional or invalid.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act, upon its approval, shall apply to the tax year beginning July 1, 1973, and subsequent tax years.

(Approved May 24, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the Compensation for Certain Persons under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

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

SECTION 1. The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of compensating the following named persons pursuant to chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set out opposite their respective names:

AEBI, ANDREAS	\$ 641.39
Victim of assault and battery	
AGRAAN, PASCUAL	979.74
Victim of aggravated assault and battery	
ANDERSON, THELMA B.	2,691.01
Mother of Nancy E. Anderson, victim of murder	
APISA, MAILE	1,340.72
Victim of aggravated assault and battery	
ARMIJO, MARSHA ANNE	4,872.50
Ex-wife of Charles Armijo, Jr., victim of murder	
ASHBY, MARY L.	192.50
Victim of assault and battery	
BADUA, RAFAEL	1,000.00
Father of Macario B. Badua, a minor, victim of manslaughter	
BANTA, EDWIN K.	386.20
Victim of assault and battery	
BATES, LESLIE F.	950.00
Case No. 72-108	
BORABORA, SOLOMON, SR.	1,601.56
Brother of Daniel Borabora, victim of murder	
BRIGHT, FRANCES J.	5,500.00
Wife of Clinton Bright, victim of murder	
BROWN, ELLA	1,749.70
Sister of Harry T. Brown, victim of murder	
BROWN, NANCY K.	1,119.28
Victim of aggravated assault and battery	
BURNS, CAROLINE	317.00
Victim of assault and battery	
CANTIBEROS, DOLORES	300.43
Victim of assault and battery	
CARPENTER, PHYLLIS	407.00
Victim of aggravated assault and battery	
CHAN, HARRY K.	1,040.00
Father of Harold K. Chan, victim of murder	
CHESTER, SUZANNE	250.00
Victim of assault and battery	
CHUN, RICHARD K. C.	698.25
Victim of assault and battery	
DAGDAG, EMILIANO V.	1,849.00
Victim of aggravated assault and battery	
DANIEL, GEORGI	201.84
Mother of George Daniel, a minor, victim of assault and battery	

ACT 176

DAY, RICHARD T.	\$ 10,000.00
Guardian and Conservator for Jarem Paul Day, a minor, son of Richard Thomas Day, victim of murder	
DAY, RICHARD T.	3,200.00
Guardian and Conservator for Jarem Paul Day, a minor, son of Wynne Ellen Day, victim of murder	
DAY, RICHARD T.	770.25
Father-in-law of Wynne Ellen Day, victim of murder	
DE COITE, CAROL	1,447.70
Case No. 72-4	
DECOSTE, ARTHUR	100.00
Father of Wynne Ellen Day, victim of murder	
DELUZE, THERESA	141.60
Mother of Nathan DeLuze, a minor, good samaritan	
EKAU, ALFRED K.	213.50
Victim of assault and battery	
EMBRY, ROSS E.	1,145.49
Victim of assault and battery	
ENOS, GILBERT K. K.	1,280.00
Victim of aggravated assault and battery	
EPSTEIN, RAMY M.	1,070.00
Case No. 72-80	
ESPERAS, HERSCHEL S.	129.36
Victim of aggravated assault and battery	
FASANO, HELEN O.	116.48
Victim of assault and battery	
FAUTT, WILLIAM M.	3,380.22
Victim of aggravated assault and battery	
FERGUSON, ROBERT R.	90.00
Victim of aggravated assault and battery	
FISHER, KAREN E.	75.00
Victim of assault and battery	
FRAMPTON, DARCY	417.00
Victim of assault and battery	
FU, ARTHUR ROBERT	221.30
Victim of assault and battery	
FU, BRIAN ALAN	408.74
Victim of assault and battery	
FURUKAWA, WALLACE S.	971.17
Victim of unlawful use of explosives	
GASMEN, BALTAZAR	3,036.90
Victim of aggravated assault and battery	
GOHR, EMMANUEL W.	280.00
Victim of assault and battery	
GOLDSTEIN, NAYLOR	593.86
Victim of assault and battery	
GRADY, TERRENCE R.	950.00
Victim of aggravated assault and battery	
GRUNE, RAYMOND D.	10,000.00
Victim of aggravated assault and battery	
GUERRERO, AQUILINO	2,144.86
Victim of aggravated assault and battery	
GUESS, GERALD B.	2,368.00
Victim of assault and battery	
GUEVARRA, EULALIO	250.00
Victim of aggravated assault and battery	
HARRELL, JOHN	170.10
Victim of assault and battery	

HARRELL, MARILYN	\$ 1,957.76
Case No. 71-148	
HICKS, MARION F.	164.46
Victim of assault and battery	
HIGGINS, JOSEPH K.	1,357.44
Victim of aggravated assault and battery	
HIGHTOWER, RICHARD A.	610.88
Victim of assault and battery	
HOGREFE, DIANNE E.	750.00
Case No. 72-2	
HONDA, ALVA R.	1,367.73
Victim of assault and battery	
HUSE, RICHARD E.	1,917.25
Victim of aggravated assault and battery	
JANSEN, CORA-MAY	557.68
Victim of assault and battery	
KANDA, NOBORU	946.00
Father of Maurice Kanda, a minor, victim of assault and battery	
KANESHIRO, KATHRYN	219.90
Victim of assault and battery	
KEKAHUNA, ROWENA	1,015.00
Mother of April Kekahuna, a minor, Case No. 71-90	
KIDO, LAWRENCE K.	397.56
Victim of aggravated assault and battery	
KIM, RUSSELL	1,342.46
Victim of aggravated assault and battery	
KOBAYASHI, JAMES Y.	582.00
Victim of assault and battery	
KOLAR, SHERRY L.	1,500.00
Case No. 72-86	
KURSCHNER, JAY R.	708.00
Victim of assault and battery	
LARSEN, PAUL L.	1,000.00
Victim of aggravated assault and battery	
LOCKETT, DAVID M.	345.50
Victim of aggravated assault and battery	
LUTZ, FRANK	900.00
Victim of assault and battery	
MANGLALLAN, NICK	2,494.36
Victim of aggravated assault and battery	
MATSUO, SUSUMU	1,300.00
Victim of aggravated assault and battery	
MCLAUGHLIN, CAROL ANN	420.00
Victim of aggravated assault and battery	
MCLAUGHLIN, EILEEN K.	1,682.44
Mother of Terrence McLaughlin, victim of murder	
MEDEIROS, ROLAND	430.37
Victim of aggravated assault and battery	
MELETIA, JOHN F.	508.00
Victim of assault and battery	
MEYER, DENNIS	251.58
Victim of assault and battery	
MIKAELE, GARRICK K.	2,599.78
Victim of aggravated assault and battery	
MORRISSEY, LEO	550.00
Victim of aggravated assault and battery	
MURRAY, ROBERT E.	629.65
Victim of aggravated assault and battery	

ACT 176

NAKAMURA, CHARLYNE C.	\$ 968.71
Victim of assault and battery	
NAKAMURA, EDITH D.	1,469.71
Case No. 72-88	
NAKAMURA, GARY K.	1,416.80
Victim of assault and battery	
NAKAYA, EIKO	643.86
Victim of assault and battery	
NEW, ANNE	1,000.00
Case No. 71-104	
NICHOLS, WILLIAM G.	1,903.27
Victim of aggravated assault and battery	
NORWOOD, CHARLES W.	640.00
Victim of aggravated assault and battery	
NORWOOD, CHARLES W.	800.00
Victim of assault and battery	
ORESCAN, STEPHEN H.	1,125.00
Victim of aggravated assault and battery	
OYADOMORI, RAMON T.	5,612.68
Victim of aggravated assault and battery	
PARKER, JANICE R.	1,520.00
Case No. 72-18	
PARKES, LAURA H.	2,250.00
Good samaritan	
PEARSON, MICHAEL	1,100.00
Victim of assault and battery	
PECKHAM, CHU-CHENG	765.41
Victim of aggravated assault and battery	
PECKHAM, DOUGLAS R.	723.70
Victim of aggravated assault and battery	
PECKHAM, DOUGLAS R.	75.00
Father of Jeffrey Peckham, a minor, victim of assault and battery	
PECKHAM, DOUGLAS R.	75.00
Father of Wayne Peckham, a minor, victim of assault and battery	
PEFFERLE, RANDALL K.	183.90
Victim of assault and battery	
PETERSON, PAUL G., JR.	1,327.34
Victim of aggravated assault and battery	
QUELNAN, GABRIEL	640.00
Father of Armando Q. Quelnan, a minor, victim of aggravated assault	
REIS, ALFONSO	129.55
Victim of assault and battery	
RESSENCOURT, EUGENE G.	400.00
Victim of aggravated assault and battery	
RICHARD, EDWARD S.L.	83.75
Victim of assault and battery	
RIDENNOURE, MITSUE	423.00
Mother of Mitzi I. Klotzbach, victim of murder	
RODRIGUES, ANDREA	1,217.55
Mother of Richard R. Martin, victim of murder	
ROMAN, RICHARD S.	1,322.69
Victim of assault and battery	
ROSA, JOHN, JR.	845.00
Victim of aggravated assault and battery	
ROTH, MAYBELLE	538.48
Victim of assault and battery	
SAKAMOTO, CLIFFORD	653.62
Victim of assault and battery	

SALHUS, DARYL W.	1,453.00
Victim of aggravated assault and battery	
SCHETZLE, MI JA	1,201.92
Victim of assault and battery	
SEVERSON, WILLIAM B.	1,400.00
Victim of aggravated assault and battery	
SHIMAMURA, JEAN	6,277.00
Victim of assault and battery	
SHIPMAN, LEWIS A.	330.00
Victim of assault and battery	
SILVA, ROBERT J., JR.	521.60
Victim of assault and battery	
SIU, RICHARD P.H.	820.50
Victim of aggravated assault and battery	
SLAGLE, SHERRIE	395.76
Victim of assault and battery	
SMITH, LORRAINE B.	489.03
Victim of assault and battery	
SOLOMON, MOSES	675.00
Victim of aggravated assault and battery	
SUZUKI, HERBERT	661.00
Victim of assault and battery	
TACHERA, ELMER P.	768.34
Victim of assault and battery	
TAKATA, FUJIE	68.77
Victim of assault and battery	
TAKEMOTO, SACHIKO	778.41
Victim of assault and battery	
TANAKA, MARK T.	2,392.80
Victim of aggravated assault and battery	
TAONE, SALLY S.	150.00
Victim of aggravated assault and battery	
TATIBOUET, JOSEPH	98.76
Victim of assault and battery	
TORRES, ALFRED, JR.	1,323.73
Victim of assault and battery	
TORRES, ANNIE	100.00
Sister of Rachel Hose, victim of murder	
TRAVIS, BARTLETT	75.00
Victim of assault and battery	
TSUKAMOTO, OTOKU	375.00
Victim of assault and battery	
TSUTSUMI, UMEYO	619.22
Victim of assault and battery	
VANDERPOEL, PETER C.	5,183.84
Victim of aggravated assault and battery	
VIOLETTE, MARGARET H.	1,028.00
Case No. 71-140	
WASSMAN, JANIS J.	1,120.47
Victim of assault and battery	
WERNER, MERRY D.	3,909.00
Case No. 72-74	
WHITMAN, FREDERICK W.	2,719.26
Victim of assault and battery	
YOUNG, JAMES A.	76.50
Victim of assault and battery	

SECTION 2. The sums appropriated in section 1 of this Act shall be

ACT 177

paid upon warrants issued by the comptroller of the State upon vouchers approved by the director of the department of budget and finance.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$29,490, or so much thereof as may be necessary, to the department of social services and housing, for the purpose of compensating the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, and orders which have been issued thereunder, in the amounts set out opposite their respective names:

PLAN, ZOILA B.	\$ 9,745.00
Wife of Hermogenes R. Plan, victim of murder	
REAVIS, STEPHANIE	9,745.00
Wife of Douglas Reavis, victim of manslaughter	
WAIKIKI, ABEL A.	10,000.00
Victim of assault and battery	

SECTION 4. Anything in this Act and the law, including chapter 37, to the contrary notwithstanding, the funds appropriated under section 3 of this Act which are unencumbered and unexpended at the close of any fiscal year shall not lapse and shall not be used for any other purpose.

SECTION 5. If any portion of this Act or its application to any circumstances or persons is held invalid for any reason, the remainder thereof shall not be affected thereby.

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

(Approved May 24, 1973.)

ACT 177

S. B. NO. 231

A Bill for an Act Relating to Public Employment.

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

SECTION 1. Chapter 76, Hawaii Revised Statutes, is amended in the following respects:

1. By amending section 76-1 to read as follows:

“Sec. 76-1 Purpose of this chapter; statement of policy. It is the purpose of this chapter to establish in the State and each of the counties a system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment, conduct, movement, and separation of public officers and employees. It is also the purpose of this chapter to build a career service in government which will attract, select, and retain the best of our citizens on merit, free from coercive political influences, with incentives in the form of genuine opportunities for promotions in the service, which will eliminate unnecessary and inefficient employees, and which will provide technically competent and loyal personnel to render impartial service to the public at all times, and to render such service according to the dictates of ethics and morality. In order to achieve these purposes it is the declared policy of the State that the personnel system hereby established be ap-

plied and administered in accordance with the following merit principles:

- (1) Equal opportunity for all regardless of race, sex, age, religion, color, ancestry, or politics. No person shall be discriminated against in any case because of any physical 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 of personnel services may be efficiently performed by a person with such a physical handicap; provided that the employment will not be hazardous to the appointee or endanger the health or safety of his fellow employees or others.
 - (2) Impartial selection of the ablest person for government service by means of competitive tests which are fair, objective, and practical.
 - (3) Just opportunity for competent employees to be promoted within the service.
 - (4) Reasonable job security for the competent employee, including the right of appeal from personnel actions.
 - (5) Systematic classification of all positions through adequate job evaluation.
 - (6) Proper balance in employer-employee relations between the people as the employer and employees as the individual citizens, to achieve a well trained, productive and happy working force.”
2. By amending section 76-44 to read as follows:

“Sec. 76-44 Racial, sex, age, religious, color, ancestry, or political consideration barred. No person holding any position in the civil service shall be suspended, demoted, or dismissed from his position on racial, sex, age, religious, color, ancestry, or political grounds.”

3. By amending section 76-103 to read as follows:

“Sec. 76-103 Veteran’s preference. The extent to which veteran’s preference shall be given to veterans, to disabled veterans, to spouses of disabled veterans, and to surviving spouses of deceased servicemen who have not remarried shall be provided by rules and regulations.”

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

“Sec. 76- Bars to discrimination; exceptions. Nothing in sections 76-1 and 76-44 shall be deemed to:

- (1) Repeal or affect any law or ordinance or government rule or regulation having the force and effect of law which prohibits, restricts, or controls the employment of minors;
- (2) Prohibit or prevent the establishment and maintenance of bona fide occupational qualifications;
- (3) Prohibit or prevent the termination of or change the employment of any person who is unable to perform his duties;
- (4) Affect the operation of the terms or conditions of any bona fide retirement, pension, employee benefit, or insurance plan;
- (5) Repeal or affect any law prescribing maximum age limits for employees of the State or any county; and
- (6) Conflict with or affect the application of security regulations in pub-

lic employment established by the United States or the State of Hawaii.”

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . PUBLIC SERVICE EMPLOYMENT

Sec. 346- Findings and purpose. The legislature finds that:

- (1) The magnitude of Hawaii’s welfare situation, either in terms of people or in terms of dollar costs, is staggering;
- (2) The present welfare environment can be attributed to many variables such as, the change in society’s attitude toward welfare, poverty, and public assistance to a greater acceptance and assuming of greater responsibility and the ever-increasing rate in the population of the State;
- (3) While the State must do what it can, viable solutions to the State’s welfare crisis must be found;
- (4) In view of the aforementioned factors, perhaps one solution lies in the establishment of a public service employment program;
- (5) There is a supply of unemployed or underemployed persons receiving general assistance payments from the State who are available for public service employment;
- (6) There also exists a substantial number of unmet public needs, including environmental concerns such as, development, landscaping and beautification of highways, parks, hiking trails, botanical gardens, beaches and restoration of historic sites; and
- (7) A meaningful program of public service employment could serve persons receiving general assistance payments as well as the residential population of the State and at the same time alleviate some of the burden on the present welfare rolls.

The purpose of this part is to establish public service employment to assist in alleviating the unemployment of general assistance recipients as well as meeting some of the urgent public service needs that exist by having these individuals perform meaningful and productive services of the State which cannot otherwise be met. Public service employment will also assist the department of social services and housing in determining whether a general assistance recipient should be eligible for public assistance for refusal to participate without a justifiable reason.

Sec. 346- Public service employment; established. (a) The department of social services and housing shall be responsible for providing employment on public works projects as defined in section 346-71, for persons:

- (1) Receiving full or partial public assistance from the State; or
- (2) Receiving unemployment compensation benefits from the State whose benefits thereunder are within the last two weeks of eligibility and who upon termination of unemployment compensation benefits will be eligible for full or partial public assistance from the State; and
- (3) Who reside on an island where the primary economic base providing employment for such persons are lost or is in danger of being lost.

Public assistance recipients participating in public service employment shall be considered to be employees of the department; provided however that except for coverage under the workmen's compensation law, laws relating to civil service, classification, retirement, vacation, sick leave, and other matters relating to regular public employees shall not apply to such persons.

(b) The department shall promulgate rules under chapter 91 necessary to carry out the purposes of public service employment, including but not limited to the following:

- (1) The employment of public assistance recipients shall not displace any state or county employee or any individual performing work for the State or county on a contractual basis;
- (2) The minimum period of employment shall not be less than four calendar weeks; and
- (3) There shall be no discrimination based on race, color, creed, sex, age, religion, or national origin.

Sec. 346- Wages or salaries of public service employment. Any person in occupations of public service employment shall receive the prevailing rate of compensation for persons employed in similar public employment. If no prevailing rate exists, the director of social services and housing shall determine the wage or salary; provided that no wage or salary for occupations of public service employment shall be less than the minimum wage as provided in section 387-2.

Sec. 346- Refusal to work; ineligibility for public assistance. The department shall adopt rules pursuant to chapter 91 rendering any person ineligible for public assistance if he refuses to accept suitable work as provided by public service employment without justifiable reason."

SECTION 3. Section 346-71, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 346-71 General assistance.** The department of social services and housing shall administer public assistance to those needy persons not otherwise provided for under this chapter, who for reasons satisfactory to the department are unable to provide sufficient support for themselves or those dependent upon them; provided that such persons shall have resided in the State for a period of at least one year immediately preceding their application for assistance under this section. The department shall require all physically fit persons, as a condition of receiving general assistance, to actively and diligently seek gainful employment, to take whatever steps may be reasonably necessary in order to obtain such employment, and to accept such employment when offered. The department shall, by rules and regulations adopted pursuant to chapter 91, establish criteria and standards by which it shall be determined whether an applicant has met the foregoing conditions and requirements. The department shall further require all physically fit persons, as a condition to receiving general assistance, to register for work on public work projects and to accept such employment as may be offered to them by the department under public service employment. The term 'public work projects' includes any kind of labor under the department of accounting and general services of the State

ACT 178

or the department of public works of any county, or under any other department, board, commission, or agency of the State or any county. All such agencies may employ persons registering under this section. Payment for the work shall not be made from the funds of the agency employing such persons but shall be made from the funds of the department. The department shall promulgate such rules and regulations as it deems necessary to enforce and carry out this section.”

SECTION 4. Section 77-13(f), Hawaii Revised Statutes, is amended to read:

“(f) Salary ranges SC-1, SC-2 and SC-3 shall be utilized in the following manner:

- (1) Salary ranges SC-1, SC-2 and SC-3 may be utilized by the State and counties for physicians and psychiatrists positions.
- (2) No position shall be classified and paid in salary ranges SC-1, SC-2 and SC-3 unless specifically recommended by the director of personnel services and approved by the governor, or recommended by the personnel director of a county and approved by the respective council and mayor.
- (3) There shall be at any given period not more than sixteen positions classified and paid in salary ranges SC-1, SC-2 and SC-3 by the State and not more than eight positions classified and paid in salary ranges SC-1, SC-2 and SC-3 by any county. Psychiatrists and physician positions shall be excluded from the above mentioned totals.
- (4) The salary of any employee assigned to SC-1, SC-2 or SC-3 shall not be more than ninety per cent of his director’s salary.
- (5) The director of personnel services and the personnel directors of each county shall report annually to the legislature as to the manner in which the positions assigned to salary ranges SC-1, SC-2 and SC-3 are being used.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. There is appropriated out of the general revenues of the State the sum of \$550,000, or so much thereof as may be necessary, for the purpose of sections 2 and 3 of this Act.

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

(Approved May 24, 1973.)

ACT 178

S. B. NO. 386

A Bill for an Act Relating to Claims for Legislative Relief.

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

*Edited accordingly.

SECTION 1. Section 37-77, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 37-77 Claims for legislative relief. All claims for refunds, reimbursements, or other payments, authorization for which is sought from the legislature, shall, as a condition to their being considered by the legislature, be filed in quadruplicate with the director of finance at least thirty days prior to the convening of the legislature, together with quadruplicates of all data and documents in support thereof. In the absence of a showing of sufficient reason therefor, failure to comply with this paragraph shall be deemed sufficient cause for refusal of the legislature to consider the claims.

The director shall, immediately upon receipt thereof, refer any claim and data so received by him to the agency concerned, and the agency to which the reference is made shall immediately investigate the claim, secure in triplicate all available data and documents bearing thereon, and prior to the convening of the legislature refer the same back to the director with its recommendations thereon. The director shall, within five days after the opening of the session, transmit the claims in an appropriate legislative bill form, together with all accompanying data so presented, to the legislature.”

SECTION 2. Section 351-70, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 351-70 Annual report. The criminal injuries compensation commission shall transmit annually to the governor and to the director of finance, at least thirty days prior to the convening of the legislature a report of its activities under this chapter including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded. The director of finance shall, within five days after the opening of the legislative session, transmit the report, together with a tabulation of the total amount of compensation awarded, and a legislative bill incorporating all of the claims which are recommended for legislative relief to the legislature. 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 37-77. Failure to comply with section 37-77 shall be deemed sufficient cause for refusal of the legislature to consider the claims.”

SECTION 3. Section 46-73, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 46-73 Claims for legislative relief; conditions. All claims for refunds, reimbursements, or other payments by any county, authorization for which is sought from the legislature, shall, as a condition to their being considered by the legislature, be filed in duplicate with the county council or city council of the county concerned at least thirty days prior to the convening of the legislature, together with duplicates of all data and documents in support thereof. In the absence of a showing of sufficient reason therefor, failure to comply with this paragraph shall be deemed sufficient cause for refusal of the legislature to consider the claims.

The county council or city council shall immediately upon receipt thereof refer the claim and data so received by it to the head of the department, bureau,

ACT 179

board or commission concerned, and the person to whom the reference is made shall immediately investigate the claim, secure in duplicate all available data and documents bearing thereon, and prior to the convening of the legislature refer the same back to the county council or city council with his recommendations thereon. The county councils or city council shall, within five days after the opening of the session, transmit the claims which have not been paid by the county concerned in an appropriate legislative bill form, together with all accompanying data so presented, to the legislature."

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

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

(Approved May 24, 1973.)

ACT 179

S. B. NO. 920

A Bill for an Act Relating to the Implementation of the Hawaii Correctional Master Plan.

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

SECTION 1. **Purpose.** The purpose of this Act is to adopt and implement that portion of the Hawaii Correctional Master Plan pertaining to the management and establishment of intake service centers, correctional facilities and programs as authorized by Act 179, Session Laws of Hawaii, 1970, and to further a modern correctional system by establishing an integrated relationship among the agencies and institutions that have correctional responsibilities, altering the responsibilities given to such agencies and institutions, creating authority for introducing new programs, and cooperating with and utilizing agencies outside of the Hawaii correctional system. The system will be characterized by a diversity of programs and maximum effective utilization of government and community resources to provide a correctional treatment program which responds to the safety of the community and to the need of each individual offender processed through the system.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended to read:

"CHAPTER 353 CORRECTIONS"

SECTION 3. Section 353-2, Hawaii Revised Statutes, is amended to read:

"Sec. 353-2 Erection of correctional facilities, etc. The comptroller, with the approval of the governor, may erect correctional facilities, and intake service centers, as may be necessary."

*Edited accordingly.

SECTION 4. Section 353-3, Hawaii Revised Statutes, is amended to read:

“Sec. 353-3 Powers of director; rules. The director of social services and housing shall have the entire government, control, and supervision of state correctional facilities except intake service centers and of the administration thereof. The director may make and from time to time alter or amend rules relating to the conduct and management of such facilities and the care, control, treatment, furlough and discipline of persons committed to his care, which rules must be approved by the governor, but shall not require publication in order to be valid and binding upon all inmates, officers, and employees of such institutions, and which rules shall be printed from time to time.

The director, subject to the rules, shall enforce the rules and prescribe the disposition of committed persons for any breach of correctional facility rules or other misconduct.”

SECTION 5. Section 353-4, Hawaii Revised Statutes, is amended to read:

“Sec. 353-4 Special powers and duties. The director of social services and housing shall:

(a) See to it that the duties of all officers and employees are efficiently and faithfully performed;

(b) Keep himself fully informed at all times concerning the health, care, and treatment of committed persons, the sanitary and other conditions affecting the correctional facilities under his jurisdiction, and all other matters within his jurisdiction;

(c) Cause correctional facilities to be kept in a clean, healthful, and sanitary condition;

(d) Inquire into and deal justly with all complaints made by committed persons relating to their food, clothing, accommodations, training, education, work, individual correctional plan or treatment;

(e) Attend to the purchasing of all supplies, materials and equipment necessary for the proper maintenance and operation of correctional facilities and for the care and maintenance of committed persons, and see to the proper care, use, and disposition thereof, conformably with law;

(f) Keep all books, accounts, and records and make such reports as may be required of him by law;

(g) Negotiate with private organizations or agencies for participation and cooperation in programs which further the treatment, training, education and work of committed persons pursuant to law;

(h) Initiate the individual prescribed correctional plan for committed persons including privileges, placement, treatment, training, education and work in accordance with law.

(i) The director or his agent may transfer any committed person to or from any correctional facility under his jurisdiction. Nothing in this section shall be construed to prohibit the transfer of committed persons from any correctional facility to the Hawaii state hospital or other state institutions as provided by law.”

ACT 179

SECTION 6. Section 353-6, Hawaii Revised Statutes, is amended to read:

“Sec. 353-6 Duties of director; visitation of correctional facilities, etc. The director of social services and housing or his agent shall visit all state correctional facilities and inquire into the management and operation of the same, and the care, education, recreational, vocational training, employment opportunities and maintenance of committed persons.”

SECTION 7. Section 353-7, Hawaii Revised Statutes, is amended to read:

“Sec. 353-7 Access to correctional facilities and records; instituting of inquiries and securing of information. The board of paroles and pardons and every member thereof and the director of social services and housing shall at all times have free access to all correctional facilities throughout the State, wherein persons convicted of crime are confined, and to all records and books kept in connection therewith, and may institute inquiries about any committed person whether confined or on parole.

All circuit judges, district judges, prosecuting attorneys, sheriffs, police officers, and other court and corrections officials and employees shall furnish, when called upon by the board or director, all information that may be possessed concerning any committed person.

Upon the refusal of any person in charge of any such correctional facility to give free access thereto or to any records or books kept in connection therewith, or of any such officer, district judge, sheriff, official, or employee to furnish such information, the board or director may make informal application in writing to any circuit court, reciting the facts and requesting an order directing the person concerned to give such access, or furnish such information and the court, after such reasonable notice to the person as he shall direct, shall proceed to hear the application and shall have power to make such order as may appear proper. In case of the refusal of a circuit judge to furnish information as in this section required, the board or director may apply to the supreme court for relief in the same manner as in the case of an application to a circuit court hereinabove provided for. The circuit courts and the supreme court are given jurisdiction and all powers necessary for the purposes of this section.

In all investigations made by the board or director and in all proceedings before it or him, the board and each member thereof and the director shall have the same powers respecting administering oaths, compelling the attendance of witnesses, and the production of documentary evidence and examining witnesses as are possessed by circuit courts. In case of disobedience by any person of any order of the board or any member thereof or the director or of any subpoena issued by it or him or of the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit judge, on application by the board or a member thereof or the director, shall compel obedience as in case of disobedience of the requirements of a subpoena issued from a circuit court or a refusal to testify therein. The fees and traveling expenses of witnesses shall be the same as are allowed witnesses in the circuit courts and shall be paid by the State on vouchers approved by the director out

of any appropriation or funds available for the expenses of the department of social services and housing.”

SECTION 8. Section 353-8, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-8 Correctional records.** The department of social services and housing shall establish a record of all facts relating to the admission, sentence commutation, parole, pardon, discharge, escape, death and correctional programs of any committed person and also all actions that are taken for breach of correctional rules and all other occurrences of note concerning the committed person.”

SECTION 9. Section 353-10, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-10 Examination by medical officer.** The medical officer of a correctional facility shall carefully examine the committed person upon admission and shall establish a medical record and enter therein a statement of his physical condition upon entry and all subsequent medical treatment and examination made while he is residing at a state correctional facility.”

SECTION 10. Section 353-16, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-16 Establishment of temporary correctional facilities.** The director, with the prior approval of the governor, may, from time to time, establish temporary correctional facilities, if required in conjunction with projects or specialized service authorized by law. The temporary facilities shall be discontinued upon termination of the project.”

SECTION 11. Section 353-22, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-22 Establishment of conditional release centers for committed persons.** (a) The director of social services and housing may establish and operate facilities to be known as conditional release centers, either operated separately, or as part of community correctional centers, each of which will house not more than fifteen committed persons.

(b) The purpose of such facilities is to provide housing, meals, supervision, guidance, furloughs and other correctional programs for persons committed to the department of social services and housing and to give committed persons, 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.”

SECTION 12. Section 353-25, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-25 Compensation for labor or training by committed persons.** Every committed person who is working within a state correctional facility or who is in such training or educational programs as the director or his agent, pursuant to law prescribes, may be allowed such graduated sums of money as the director of social services and housing by rule may determine. Any committed person engaged in work, training, or education pursuant to this section

or work pursuant to chapter 353 or 354 shall not be affected by chapter 386.”

SECTION 13. Section 353-47, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-47 What officials may visit.** The governor, lieutenant governor, attorney general, director of finance, comptroller, the judges of the supreme, circuit and district courts, the ombudsman, the mayors of the counties, members of the legislature, and members of county councils shall be allowed at suitable hours freely to visit any state correctional facility.”

SECTION 14. Section 353-48, Hawaii Revised Statutes, is amended to read:

“**Sec. 353-48 Others by permission.** None but official visitors shall be allowed to visit any state correctional facility or to have any oral or written communication with the committed person, unless with the written permission of the administrator of the correctional facility or the director of social services, nor shall any visitor deliver to or receive from any committed person any letter or message except with permission granted by the administrator of a state correctional facility pursuant to rules adopted by the director of social services and housing or facility administrator. Unauthorized communications, passing of documents, or visiting is a grade C felony within the meaning of title 37.”

SECTION 15. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353 Committed person, furlough, employment.** The director or his agent may grant furloughs to committed persons in any correctional facility of the department for the purpose of employment, social reorientation, education, or training. Any committed person who is engaged in private employment, by contract or otherwise, not under the immediate custody of the State shall not be considered an agent or employee of the State.”

SECTION 16. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353- Establishment of community correctional centers.** There shall be a community correctional center for each of the counties under the direction and administration of the director of the department of social services and housing. Any community correctional center may be integrated and operated concurrently with any other correctional facility or facilities. Each center shall:

(a) Provide residential custody and correctional care for committed misdemeanants and for felony offenders committed to indeterminate sentences;

(b) Provide for committed persons, correctional services, including but not limited to social and psychiatric-psychological evaluation, employment counseling, social inventory, correctional programming, medical and dental services;

(c) Provide for committed persons, recreational, educational, and occupational training and social adjustment programs;

(d) Provide for persons released from the centers, referrals to community educational, vocational training, employment, and work study programs;

and aftercare, supervisory and counseling services.

The community correctional centers may be staffed by full-time or part-time professional staff appointed pursuant to chapter 76, or may utilize contractual professional services.”

SECTION 17. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353- Establishment of a high security correctional facility.** (a) The director of social services and housing shall establish a high security correctional facility for the residential care, correctional services, and control of high custodial risk convicted felons or the temporary detention of high custodial risk persons awaiting trial; the high security correctional facility may be integrated and operated concurrently with any other correctional facility or facilities.

(b) Provide extensive control and correctional programs for categories of persons who cannot be held or treated in other correctional facilities, including but not limited to:

- (1) Individuals committed because of serious predatory or violent crimes against the person;
- (2) Intractable recidivists;
- (3) Persons characterized by varying degrees of personality disorders;
- (4) Recidivists identified with organized crime;
- (5) Violent and dangerously deviant persons;
- (6) Persons in need of major medical, psychiatric or specialized care.

(c) Provide correctional services including but not limited to psychiatric and psychological evaluation, social inventory, correctional programming, medical and dental services.

(d) Provide recreational, educational, occupational training and social adjustment programs.

(e) The director is authorized to hire or contract for professional staff necessary to operate the facility appointed pursuant to chapter 76.”

SECTION 18. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

“**Sec. 353- Creation of intake service center advisory board.** There shall be an intake service center advisory board, hereinafter called the board. The board shall consist of fifteen members who shall be appointed by the governor for a term ending on the day that the governor completes his term in office, but who shall continue to serve on the board until their successors are appointed. Three members each shall be selected from the judiciary and among private social service agencies. Two members each shall be selected from the department of social services and housing, the department of health, from among the police departments of the counties, from among the prosecuting attorneys of the counties, and the remaining member shall be the public defender. A vacancy occurring in the membership shall be filled for the unexpired term thereof. The board shall select its chairman from one of its appointed members. The members shall receive no compensation for their services on the board, but shall be reimbursed for actual expenses incurred in

the performance of their duties.

The board shall advise and recommend to the governor policies and procedures for the operation of intake service centers and shall nominate and submit to the governor not less than three candidates for each vacancy for any vacant intake service center executive director position from which the governor shall appoint one.

SECTION 19. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 353- Creation of intake service center. (a) There shall be an intake service center for each of the counties, each of which shall be directed and managed by an executive director appointed by the governor pursuant to section 353- without regard to chapters 76 and 77, but who shall meet qualifications for the position determined by the department of personnel services. Any center may be integrated with and operated concurrently with a community correctional center.

(b) It shall provide guidance and technical services for volunteer referrals and to admitted persons, correctional diagnostic and evaluation services for diversionary determinations, pre-sentence investigations for the courts, and post-sentence correctional prescription program planning for committed persons;

(c) Provide short-term residential detention for persons awaiting judicial disposition who have not been conditionally released;

(d) Provide such other personal and correctional services as needed;

(e) Monitor and record the progress of persons admitted to the center, who undergo further treatment or who participate in prescribed correctional programs;

(f) Refer persons admitted to the center in selected cases, to community programs pending judicial disposition or where judicial proceedings are discontinued or suspended;

(g) Provide for adult persons, correctional services including but not limited to orientation, social, psychiatric-psychological evaluations, employment counseling, social inventory and programming, medical and dental services, and referral services to community programs;

(h) It may be staffed by full-time or part-time professional staff appointed pursuant to chapter 76, or utilize contractual professional services."

SECTION 20. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Sec. 353- Intake service centers integrated with community correctional centers. The community correctional centers for Maui, Hawaii and Kauai shall integrate their services and facilities with the intake service centers created under the authority of section 353- ."

SECTION 21. Chapter 353, Hawaii Revised Statutes, is amended by repealing sections 353-11, 353-12, 353-13, 353-14, 353-19, 353-20, 353-21, 353-23, 353-26, 353-31, 353-40, 353-41, 353-42, 353-43. Sections 353-91, 353-92, 353-93, 353-94, 353-95, 353-96, and 353-102 are repealed on the date of transfer of county jails to the Department of Social Services and Housing by Executive

order of the Governor.

SECTION 22. Section 354-2, Hawaii Revised Statutes, is amended to read:

“Sec. 354-2 Establishment of industries at the State prison and other correctional facilities. The department of social services and housing shall, with the advice and assistance of the department of planning and economic development, be responsible to study and evaluate any proposed or existing correctional industrial enterprise to determine if the enterprise conflicts with the orderly and planned economic development of the State. The department of social services and housing may:

- (1) Introduce productive industrial and agricultural enterprises in the state correctional facilities under the jurisdiction of the director of social services and housing and pay to assigned inmates an hourly wage based on the income that is derived from correctional industries.
- (2) Determine the advisability and suitability of establishing, expanding, diminishing, or discontinuing any industrial or agricultural enterprise involving a gross annual production of more than \$25,000 value, but in no case more than \$350,000 value, and authorize or prohibit such action. The department shall determine the gross annual production, within the limit set above, of each new enterprise at the time of its establishment. The annual production so set shall not be increased until a public hearing concerning the proposed increase has been held before the department. The department shall annually adjust the maximum gross annual production value of \$350,000 permitted for each enterprise, the purpose of such adjustment being to keep the limit in balance with changes in population of state institutions and changes in cost of production and any conflict with private business.
- (3) Provide contracted access for authorized industries to correctional facilities, adequate space to perform their industrial and agricultural enterprises, adequate facilities for loading and storing of raw materials, equipment, and tools, and procedures safeguarding the health and safety of the working residents, industry and correctional personnel, as well as the security of the facilities.

An industrial enterprise with a gross annual production of over \$25,000 shall not be established without a public hearing. Public notice of the hearing shall be given prior to the hearing. The department may hold public hearings on any subject within its jurisdiction.”

SECTION 23. Section 602, title 37, Hawaii Revised Statutes, is amended to read:

“Sec. 602 Pre-sentence diagnosis and report. The pre-sentence diagnosis and report shall be made by personnel assigned to the court, intake service center or other agency designated by the court and shall include an analysis of the circumstances attending the commission of the crime, the defendant’s history of delinquency or criminality, physical and mental condi-

tion, family situation and background, economic status, education, occupation, and personal habits and any other matters that the reporting person or agency deems relevant or the court directs to be included.”

SECTION 24. Section 603, title 37, Hawaii Revised Statutes, is amended to read:

“**Sec. 603 Pre-sentence psychiatric, psychological and medical examination.** Before suspending or imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to psychiatric, psychological, and other medical observation and examination for a period not exceeding sixty days or such longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. The defendant may be remanded for this purpose to any available clinic or hospital, intake service center or community correctional center and, in addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists or other physicians to make the examination. The report of the examination shall be submitted to the court.”

SECTION 25. Section 711-78, Hawaii Revised Statutes, is amended to read:

“**Sec. 711-78† Probation officers.** Any probation officer assigned to the courts may be placed in any correctional facility to perform his assigned duties.”

SECTION 26. Section 88-21, Hawaii Revised Statutes, is amended to read:

“**Sec. 88-21 Definitions.** The following words and phrases as used in this part, unless a different meaning is plainly required by the context, shall have the following meanings:

‘Accumulated contributions’: the sum of all the amounts paid by, or deducted from the compensation of, a member and credited to his individual account in the annuity savings fund together with regular interest thereon.

‘Actuarial equivalent’: a benefit of equal value to the accumulated contributions, annuity, pension or retirement allowance, when computed upon the basis of the actuarial tables in use by the system.

‘Annuity’: benefit payments for life derived from the accumulated contributions of a member.

‘Average final compensation’: the average annual compensation as described in section 88-81, which becomes part of the formula for the computation of a retirement allowance.

‘Beneficiary’: the recipient of any benefit from the system or, as the context may indicate, the natural person or persons designated by a member to receive the benefits payable in the event of his death.

‘Corrections officers’: all regularly employed personnel who are designated as adult corrections officers pursuant to the classification of positions under chapter 76.

‘County’: the counties of Hawaii, Honolulu, Kauai and Maui, including

†Revisor’s note. Section 711-78 was renumbered 726-72, pursuant to L. 1972, c 9, §1.

their respective boards of water supply and other quasi-independent boards, commissions and agencies.

'Credited service': prior service plus membership service.

'Elective officers, elective officials': elected officers of the State or any county including legislators and county councilmen.

'Employee': any employee or officer of the State or any county, including inspectors, principals, teachers and special teachers, regularly employed in the public schools, cafeteria managers and cafeteria workers, apprentices and on-the-job trainees whether or not supported in whole or in part by any federal grants, members of the legislature and other elective officers, legislative employees who are employed on a full-time basis during and between sessions, probationary and provisional employees, per diem employees and others who are made eligible by reason of their employment to membership in the system by or pursuant to any other provision of law, but excluding:

- (1) per diem employees who elect to withdraw or not to become members as provided in section 88-42;
- (2) members of the legislature who do not elect to be members as provided in section 88-42;
- (3) persons excluded by rules of the board pursuant to section 88-43.

An individual is an employee during the period of a leave of absence if he is in service, as defined in this part, during the period of the leave of absence and the board shall determine who are employees within the meaning of this part.

'Firemen': all regularly employed members of the fire departments of the counties, whose principal duties are to prevent and fight fires.

'Judge': a justice of the supreme court or a judge of the circuit court of this State.

'Medical board': the board of physicians provided for in section 88-31.

'Medical review board': a board of physicians appointed to review appeals from the decisions of the medical board.

'Member': any person included in the membership of the system.

'Membership service': all service rendered by a member for which he had made the required contributions to the system.

'Pensions': benefit payments for life derived from money provided by the State or county, as the case may be.

'Per diem worker': a person employed and compensated on an hourly or daily basis.

'Policemen': all duly commissioned members of the police department 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.

'Prior service': service rendered by a member to the State, territory or county or predecessor government prior to the establishment of the system or, as specifically provided in this part, prior to the admission of certain groups or classes of employees into the system membership.

'Regular interest': interest at four and one-half per cent a year, compounded annually.

ACT 179

'Retirant': a member who has retired and becomes a beneficiary of the system.

'Retirement allowance': the benefit payable for life to which a member is entitled upon his retirement.

'Service': service as an employee paid by the State or county, and also service during the period of a leave of absence or exchange if the individual is paid by the State or county during the period of the leave of absence or exchange or if the individual is not paid by the State or county during the period of the leave of absence but the individual is engaged in the performance of a governmental function or on an approved leave of absence for professional improvement with or without pay and the individual makes the same contribution to the system as he would have made if he had not been on such leave of absence. Cafeteria managers and cafeteria workers shall be considered as paid by the State, regardless of the source of funds from which they are paid.

'Service retirement': retirement of a member for age or length of service.

'System': the employees' retirement system of the State of Hawaii."

SECTION 27. Section 88-45, Hawaii Revised Statutes, is amended to read:

"Sec. 88-45 Employee contributions. After June 30, 1965, the normal contribution by each member to the annuity savings fund shall be six per cent of his compensation, provided that after June 30, 1967, all firemen and policemen shall contribute ten and four-tenths per cent of their compensation; and provided that after the actual transfer of all county jails pursuant to executive order of the governor, all corrections officers shall contribute ten and four-tenths per cent of their compensation.

In addition to the foregoing, all members including firemen, policemen, and corrections officers, shall contribute one and eight-tenths per cent of compensation to the post retirement fund."

SECTION 28. Section 88-74, Hawaii Revised Statutes, is amended to read:

"Sec. 88-74 Allowance on service retirement. Upon retirement for service, a member shall receive a retirement allowance as follows:

- (1) If the member has attained the age of fifty-five, a retirement allowance of one-fiftieth of the average final compensation of the member multiplied by the total number of years of his credited service; provided, that after June 30, 1968, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a fireman or a policeman; and provided that after June 30 following the date of actual transfer of the county jails by executive order of the governor, if the member has at least ten years of credited service of which the last five or more years prior to retirement is credited service as a corrections officer, then for each year of service as a fireman, a policeman or a corrections officer, the retirement allowance shall be two and one-half per cent of his average final compensation; provided further, that the maximum retirement allowance for such a member shall not exceed eighty per cent of his average final compensation. If the member has not at-

tained the age of fifty-five, his retirement allowance shall be 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.

- (2) If the member has made voluntary additional contributions for the purchase of an additional annuity and has not applied for the refund thereof as permitted by section 88-72, he may accept such refund at time of retirement or, in lieu thereof, receive in addition to the retirement allowance provided in (1) hereof, an annuity which is the actuarial equivalent of such additional contributions with regular interest.
- (3) If the member has credited service as a judge or an elective officer, his retirement allowance shall be computed on the following basis:
 - (A) irrespective of age, for each year of credited service as a judge or an elective officer, three and one-half per cent of his average final compensation in addition to an annuity which is the actuarial equivalent of his accumulated contributions allocable to the period of such service; and
 - (B) for all other credited service as provided in subsections (1) and (2) hereof. No allowance shall exceed seventy-five per cent of the average final compensation. If the allowance exceeds this limit, it shall be adjusted by reducing the annuity included in (A) of this subsection and the portion of the accumulated contributions specified in the same subsection as may be in excess of the requirements of the reduced annuity shall be returned to the member.

The allowance for judges under this section, together with the retirement allowance provided by the federal government for similar service, shall in no case exceed seventy-five per cent of average final compensation.”

SECTION 29. The department of social services and housing shall succeed to all of the rights and powers exercised by the respective counties in the planning, construction, improvement, maintenance and operation of county jails, whether mentioned in or granted by any law, regulation, rule, contract, or document effective on the date of transfer of all county jails by executive order of the governor. Thereafter all references to a county, in any law, regulation, rule, contract, or document relating to the functions herein assigned to the director of social services and housing by this Act shall be deemed to include the director of the department of social services and housing as if he were specifically named in such law, rule, regulation, contract or document in place of the county.

SECTION 30. All of the employees of the counties whose duties relate to the maintenance and operation of county jails, are made State employees effective on the date of transfer of all county jails by executive order of the governor and thereafter shall perform the duties prescribed for the administration, government and operations of the jail, subject to the provisions of the state personnel laws and of this Act. No police officer presently assigned to county jails whose principal training and experience relate to police work, including police cadets, shall be transferred under this Act.

No employee made a state employee by this Act shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act.

SECTION 31. Upon the appropriation of funds necessary to effect the transfer of county jails by further act of the legislature, the governor, in cooperation with the county governments, is authorized to effect by executive order the transfer of all personnel, records, equipment, files, supplies, contracts, books, papers, documents, maps, other personal property, land and improvements being used, or held by the counties for the maintenance and operation of county jails to the State without cost to the State or reimbursement to the county, and without compliance with any disposal procedure or requirement, any law to the contrary notwithstanding; provided, that the State shall assume the obligations of the counties of paying the interest and the principal on bonds which have been issued for improvements, property, or items described above. Nothing in this section shall obligate the legislature to appropriate funds for the transfer of county jails.

SECTION 32. The counties shall appropriate funds for the maintenance and operation of county jails until the transfer of county jails by executive order of the governor.

Any unencumbered and unexpended balance of state general funds and federal funds previously authorized for the design of correctional facilities and programs under Act 202, Session Laws of Hawaii, 1972, may be used for those purposes until they lapse. Any state general funds so authorized shall not be reduced in the event the State receives additional federal funds for the purpose of designing correctional facilities under the master plan.

Except as authorized, no state general funds shall be appropriated for implementing the provisions herein during the fiscal biennium 1973 to 1975.

SECTION 33. No offense committed and no penalty or forfeiture incurred under the laws of the State or any county ordinance or rule or regulation shall be affected by the assignment of functions to the department of social services and housing by this Act; provided that whenever any punishment, penalty, or forfeiture is mitigated by any provision of this Act, such provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of any administrative officer of the county to institute proceedings for prosecution of an offense, or any action to recover a penalty or forfeiture, shall henceforth be vested in the director of social services and housing or some person designated by the director or any person otherwise directed by law.

The right of appeal from administrative actions or determinations as provided by law shall not be impaired by this Act.

SECTION 34. Notwithstanding any other state law to the contrary, no state agency or department shall be required to provide any services or create any facilities authorized by this Act, not being provided or not in existence on the effective date thereof, until the legislature by further acts appropriate funds necessary for any services or facilities additional to those being provided

on the effective date of the Act. Nothing in this section shall obligate the legislature to appropriate funds hereinafter for any services or facilities not being provided by any state agency or department on the effective date of this Act.

SECTION 35. 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 provisions or application, and to this end the provisions of this Act are severable.

SECTION 36. For those statutory provisions which are being amended, statutory material to be repealed is bracketed and new material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 37. This Act shall take effect on July 1, 1973.

(Approved May 24, 1973.)

ACT 180

S. B. NO. 1014

A Bill for an Act Relating to Savings and Loan Associations.

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

SECTION 1. Section 407-31, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 407-31 Powers. Every association carrying on business under the authority of this chapter may:

- (1) Have succession by its corporate name for the period limited in its articles of association and during any extension thereof;
- (2) Sue and be sued in any court;
- (3) Make and use a common seal and alter it at its pleasure;
- (4) Purchase, hold, and dispose of any real estate upon which it may have a mortgage or in which it may have any interest; and it may sell, lease, mortgage, or otherwise deal with and dispose of the same at pleasure, but shall not otherwise acquire or deal in real estate; provided, that the association may acquire real estate or a leasehold interest therein, the whole or any part of which may be necessary for a location for the transaction of its business, provided that the cost of land and improvements shall not exceed the association's undivided profits and reserve accounts unless the prior approval of the bank examiner is obtained; provided, further, that any real estate except that used for its business location shall be sold by the association within five years from the time of acquisition thereof;
- (5) Hold, purchase, and dispose of such personal estate as the purposes of the association may require;

*Edited accordingly.

- (6) Borrow money for any of the purposes authorized by this chapter; provided, that if an association is not a member of a federal home loan bank, it may borrow not more than an aggregate amount equal to one-fourth of its capital on the date of borrowing, and if an association is a member of a federal home loan bank, it may borrow not more than an aggregate amount equal to one-half of its capital; provided, further, that within the amount equal to one-half of its capital, the association may borrow from sources other than such federal home loan bank an aggregate amount not in excess of twenty-five per cent of its capital; a subsequent reduction of capital shall not affect in any way outstanding obligations for borrowed money; all the loans and advances may be secured by property of the association;
- (7) Appoint such subordinate officers and agents as the business of the association requires;
- (8) Make bylaws, not inconsistent with law, for the management of its property, the election and removal of its directors and officers, the regulation of its affairs, and the issuance, manner of voting, transfer, withdrawal, and cancellation of its shares of stock pursuant to law; provided, that every member shall be entitled to one vote for each \$100 or fraction thereof of the withdrawal value of his share account, and each borrowing member shall be entitled to one vote in addition to any votes he may have as a shareholder. No member shall cast more than fifty votes. Nothing in this paragraph shall be deemed to limit the number of votes which a member may have in his capacity as a holder of guaranty stock.
- (9) Receive and accumulate funds to be loaned, and loan the same to its members, investors, or others;
- (10) Permit or require members and investors to withdraw part or all of their payments on shares or investment certificates, and prescribe the terms and conditions of such withdrawals, as authorized by this chapter;
- (11) Receive money for investment and issue investment certificates therefor."

SECTION 2. Section 407-61, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 407-61 Rights of members; meetings. The rights, privileges and powers, and the duties and liabilities of members of an association are fixed by the charter, bylaws, and this chapter. An annual meeting of the members of each association shall be held in the months of January, February, or March as fixed in the bylaws of such association. Every association shall prepare and deliver to each member upon application, a statement of its financial condition, in the form prescribed or approved by the bank examiner.

Membership. All shareholders of record and all borrowers from the association shall be members thereof. Any person, including an adult individual, male or female, single or married, a partnership, association, and corporation, may be a borrower from the association, provided the person has full legal

power to contract for the payment of a loan under the laws of this State.

Voting, proxies, quorum. Voting may be by proxy, provided the proxy instrument authorizing the proxy to vote has been executed in writing by the member. Any number of members present at a regular or special meeting of members constitutes a quorum. When not inconsistent with law, a majority of all votes cast at any meeting of members shall determine any question. For purposes of any provision of law which requires the vote of each class of stock of a corporation which has more than one class of stock issued and outstanding, borrowing members shall not be deemed to be the holders of a separate class of stock. The members who are entitled to vote at any meeting of the members shall be those owning accounts of record and borrowing members of record at the end of the calendar month next preceding the date of the meeting of members, except those who have ceased to be members. The number of votes of each member shall be determined pursuant to section 407-31(8).

Fees and fines, restrictions on. The association shall not directly or indirectly charge any membership, admission, repurchase, withdrawal, or any other fee or sum of money, for the privilege of becoming, remaining, or ceasing to be a member of the association, except as provided for by this chapter and excepting reasonable charges upon the making of a loan. This provision shall not prejudice the rights of any association to collect, receive, or charge fees contracted to be paid before May 16, 1941. The association shall not charge any member any sum of money by way of fine or penalty for any cause, except that a reasonable charge may be made against borrowers for defaults or prepayments.

Transfer of real estate security, effect of. A borrowing member obligated upon a real estate loan shall remain a member of the association, even though he has transferred the real estate security subject to the real estate loan, so long as the borrowing member remains obligated upon the real estate loan; provided, that the association may, at the request of the borrowing member and the transferee of the real estate security, transfer the membership to any transferee of the real estate security, who is obligated on the real estate loan. No such transfer of the membership, however, shall release the transferor from the obligation of the real estate loan."

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

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

(Approved May 24, 1973.)

A Bill for an Act Relating to Elevator Mechanics.

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

*Edited accordingly.

ACT 181

SECTION 1. Section 448H-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 448H-5 Powers and duties of the board. The board shall:

- (1) Adopt rules and regulations in accordance with chapter 91 to carry out the purposes of this chapter;
- (2) Develop and apply appropriate techniques, including examinations and investigations for determining whether a person meets the requirements of this chapter and standards to insure that elevator mechanics will be persons qualified to serve as such;
- (3) Issue licenses to persons determined, after application of such techniques, to have met such qualifications and revoke or suspend licenses, previously issued by the board pursuant to hearings held in accordance with chapter 91, in any case where the individual holding any such license is determined substantially to have failed to conform to such qualifications, this chapter, or the rules and regulations of the board;
- (4) Establish and carry out procedures designed to insure that persons licensed as elevator mechanics will, during any period they serve as such, comply with the requirements of this chapter, the rules and regulations of the board, and chapter 396 and the rules and regulations promulgated thereunder;
- (5) Receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as an elevator mechanic has failed to comply with the requirements of this chapter, the rules and regulations of the board, or chapter 396 and the rules and regulations promulgated thereunder;
- (6) Register apprentice elevator mechanics;
- (7) Maintain a record of its proceedings;
- (8) Assist and advise the department of labor and industrial relations in the promulgation of rules and regulations relating to the conditions of work for elevator mechanics including requirements related to equipment or facilities essential for the safe installation, repair, maintenance, or alteration of any elevator, dumbwaiter, escalator, moving walk or ramp, and manlift; and
- (9) Notify the department of labor and industrial relations of any fact or situation that, in the opinion of the board, constitutes a violation of chapter 396 or of any rule or regulation promulgated thereunder.”

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

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

(Approved May 24, 1973.)

*Edited accordingly.

ACT 182

S. B. NO. 1024

A Bill for an Act Relating to Grant for Civil Air Patrol.

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

SECTION 1. Section 261-6(b), Hawaii Revised Statutes, is hereby amended to read as follows:

“(b) There shall be expended from the sum granted only such amounts as shall be needed to repair or replace equipment which is not repaired or replaced by the United States Government, the United States Air Force, or any other agency; for defraying expenses incurred in actual rescue work or mercy missions; for aviation and civil defense training; for upkeep, replacement or purchase of communication equipment (provided that only such sums shall be expended on communication systems as will be necessary for the procurement or replacement of equipment not otherwise obtainable by grant or gift from any other source); for the purchase of aviation gasoline solely for the use of the Civil Air Patrol; for cost incurred in meeting the auditing requirements of CAP Manual 173-2. No sum of money shall be expended for uniforms or personal equipment of any member of the Civil Air Patrol nor shall any sum or sums of money be paid out from funds granted for any salaries except as hereinafter provided.”

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

SECTION 3. This Act shall take effect upon approval.

(Approved May 24, 1973.)

ACT 183

S. B. NO. 1178

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

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

SECTION 1. Section 386-151, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 386-151 Special compensation fund established and maintained.

(a) There is hereby created a fund to be known as the special compensation fund which shall consist of payments made to it as provided by law. The director of finance of the State shall be custodian of the fund, and all disbursements therefrom shall be paid by him upon orders by the director of labor and industrial relations.

(b) Every employer pursuant to an order made by the director, shall pay into the fund the amounts specified in sections 386-34(5) and 386-41(d) under the conditions prescribed for such payment. Whenever such amount is paid

*Edited accordingly.

into the fund and it is subsequently determined by the director, the appellate board, or a court having jurisdiction that a dependent is entitled to benefits excluding or diminishing the entitlement of the fund, the director, appellate board, or court shall order the refund of the sum to which the fund is not entitled and the director of finance as custodian shall immediately make such refund upon receipt by him of a certified copy of this order. In cases where an order of the director ordering payment into the fund is reversed on appeal the employer is relieved of any duty to make payments into the fund.

(c) The director shall appoint annually a certified public accountant to examine and audit all the books and records relating to the special compensation fund and shall advise the director as to the fund's solvency, including recommendations as to levies and charges provided for in section 386-152 and the required level of funding. The certified public accountant's fees for this service shall be paid out of the special compensation fund."

SECTION 2. Section 386-152, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 386-152 Levy and charges to finance special compensation fund. When the cash balance of the special compensation fund established in section 386-151 falls below as of December 31 of any year, an amount determined by the director to be insufficient to meet the fund's current and projected obligations, then the levy on the gross premiums of insurers of employers insured under section 386-121(a)(1) provided for in section 386-153, and the charge provided in section 386-154 against each employer not insuring and keeping insured, as provided in section 386-121(a)(1), shall be levied and collected during the succeeding year and each succeeding year thereafter until the cash balance of the fund equals or exceeds as of December 31 of any year an amount determined by the director to be sufficient to meet the fund's current and projected obligations. When the cash balance of the fund equals or exceeds as of December 31 of any year an amount determined by the director to be sufficient to meet the fund's current and projected obligations, then the levy on the gross premiums of insurance companies provided for in section 386-153 and the charge provided in section 386-154 against each employer not insuring and keeping insured as provided in section 386-121(a)(1) shall not be levied and collected during the succeeding year until the cash balance of the fund falls below as of December 31 of any year an amount determined by the director to be insufficient to meet the fund's current and projected obligations.

The director shall annually furnish each insurance company provided for in section 386-153 and each employer provided for in section 386-154 with a copy of the certified public accountant's audit report and recommendations. The cost of furnishing such report shall be paid out of the special compensation fund."

SECTION 3. Section 386-153, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 386-153 Levy on insurers of employers insured under section 386-121(a)(1). For the calendar year 1974 and for each calendar year thereafter insurers of employers, as defined in section 386-1, shall pay a levy determined

by the director which shall be based on a percentage on gross premiums, as defined in section 431-318(a), derived from workmen's compensation insurance issued during the prior year in accordance with chapter 386 and chapter 431, if the levying and collecting of such a levy is required pursuant to section 386-152, which levy shall be collected in the same manner as the tax provided for in section 431-318 is collected and shall be deposited in the special compensation fund established in section 386-151. This levy shall be in addition to any tax imposed in chapter 431 on gross premiums derived from workmen's compensation insurance."

SECTION 4. Section 386-154, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 386-154 Charge against employers not insured under section 386-121(a)(1). (a) As used in this section:

- (1) 'Employing unit' means an employer who has not secured compensation to his employees under section 386-121(a)(1).
- (2) 'Average annual compensation' means the average of annual compensation payments made by an employing unit for a period consisting of two consecutive calendar years immediately preceding the year for which the charge is assessed under this section; provided that if, at the end of a calendar year, an employing unit was subject to this chapter for a period less than twelve consecutive months the total amount of compensation payments made by him during such period shall constitute his average annual compensation.
- (3) 'Employing unit's compensation ratio' means the percentage ratio derived by dividing an employing unit's average annual compensation at the end of a calendar year by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.
- (4) 'Carrier's compensation ratio' means the quotient derived by dividing the total average annual compensation paid during the two most recent calendar years by all insurance carriers on behalf of employers insured and keeping insured under section 386-121(a)(1) by the total average annual compensation paid during the same two calendar years by all employers subject to this chapter.
- (5) 'Anticipated total assessment' means the amount derived by dividing the total amount of the levy to be paid by insurance carriers in a calendar year as required by section 386-153 by the most recent carrier's compensation ratio.

(b) For the calendar year 1974 and for each calendar year thereafter an employing unit shall, except as otherwise provided in section 386-152, pay into the special compensation fund a charge in an amount which is equal to the product derived by multiplying his most recent compensation ratio by the most recent anticipated total assessment.

For each calendar year the director of regulatory agencies shall determine the amount of the charge to be paid by each employing unit, and shall give notice of such charge to each employing unit by May 1 of the year for which the charge is assessed. The amount of the charge shall be paid on or be-

ACT 184

fore June 30 following notification.

The director of finance may withhold the additional charge due from a political subdivision from any moneys due the subdivision from the State if the subdivision has not paid its charge as required by this section and shall deposit the withheld amount in the special compensation fund.”

SECTION 5. Section 386-154.5, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 386-154.5 Special assessments.** (a) For the calendar year 1972 only, insurers of employers as defined in section 386-121(a)(1) shall pay a special assessment of one and one-quarter per cent on gross premiums as defined in section 431-318(a) and in accordance with the provisions of section 386-153. For the calendar year 1973 only, such insurers shall pay a special assessment established by rule of the director not to exceed 1.6 times the 1972 special assessment.

(b) For the calendar year 1972 only, employers not insured under section 386-121(a)(1) shall pay a special assessment equal to 1.67 times the special charge as defined and in accordance with the provisions of section 386-154. For the calendar year 1973 only, such employers shall pay a special assessment established by rule of the director not to exceed 1.6 times the 1972 special assessment.

(c) The assessments under this section shall be paid within 30 days from the receipt of notification by the department of regulatory agencies.”

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

SECTION 7. This Act shall take effect on July 1, 1973.

(Approved May 24, 1973.)

ACT 184

S. B. NO. 1183

A Bill for an Act Relating to Drug Abuse.

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

SECTION 1. Section 329-20, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 329-20 Schedule IV.** (a) The controlled substances listed in this section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a degree of danger or probable danger associated with a depressant effect on the central nervous system:

- (1) Barbital;
- (2) Chloral betaine;

*Edited accordingly.

- (3) Chloral hydrate;
- (4) Ethchlorvynol;
- (5) Ethinamate;
- (6) Methaqualone;
- (7) Methohexital;
- (8) Meprobamate;
- (9) Methylphenobarbital;
- (10) Paraldehyde;
- (11) Petrichloral;
- (12) Phenobarbital.

(c) The department may except by rule any compound mixture, or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this chapter if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the degree of danger or probable danger of the substances which have a depressant effect on the central nervous system."

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

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

(Approved May 24, 1973.)

ACT 185

H. B. NO. 22

A Bill for an Act Relating to Candidate Expenses.

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

SECTION 1. The Hawaii Revised Statutes is amended by repealing chapter 11, part XII, subpart B and substituting a new subpart B to read as follows:

"B. ELECTION CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

Sec. 11-191 Definitions. When used in this part:

- (1) 'Campaign treasurer' means a person appointed under section 11-198, and, unless expressly indicated otherwise, includes deputy campaign treasurers.
- (2) 'Candidate' means an individual who seeks nomination for election, or election, to office, and, for the purposes of this chapter, an individual shall be deemed to seek nomination for election, or election, if he has done any of the following:
 - (a) taken the action necessary under the law of the State to qualify

*Edited accordingly.

- himself for nomination for election, or election, to office, or
- (b) received any contributions in an aggregate amount of more than \$100, or make or incur any expenditure to bring about his nomination for election or election to office reportable under sections 11-207 or 11-208; or
 - (c) has given his consent for any other person to receive contributions or make expenditures with a view to bring about his nomination for election, or election, to office.
- (3) 'Committee' means:
- (a) Any organization or association which, or any individual who, accepts contributions or makes expenditures for or against, with or without the consent or knowledge of any candidate, candidates, individual who files for nomination at a later date and becomes a candidate, or party, or for or against any question or issue;
 - (b) Any organization or association which, or any individual who, raises or holds money or anything of value, with or without the consent or knowledge of any candidate, candidates, individual who files for nomination at a later date and becomes a candidate, or any party, and which subsequently contributes the money or anything of value to, or makes expenditures in behalf of, a candidate, candidates, individual who files for nomination at a later date and becomes a candidate, or party.
 - (c) Notwithstanding any of the foregoing, the term 'committee' shall not include an individual who contributes funds or anything of value owned by him.
- (4) 'Commission' means the campaign spending commission.
- (5) 'Contribution' means:
- (a) an offer, promise, agreement, or tender of money or anything of value by way of gift, subscription, loan, advance, or the purchase of tickets to testimonial dinners or fund raisings, for the purpose of:
 - (i) influencing the nomination or election of any candidate or any individual who files for nomination at a later date and becomes a candidate; or
 - (ii) influencing the outcome of any question or issue at any election; or
 - (iii) use of any party; or
 - (b) the payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge.
 - (c) Notwithstanding the foregoing, "contribution" shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate or committee.
- (6) 'Election' means any election for office provided by law.
- (7) 'Expenditure' means:
- (a) Any purchase or transfer of money or anything of value, or

promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of:

- (i) influencing the nomination or election of any candidate or of any individual who files for nomination at a later date and becomes a candidate;
 - (ii) influencing the outcome of any question or issue at any election; or
 - (iii) use by any party; or
 - (b) the payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to such candidate or committee.
- (8) 'Newspaper' means a publication of general distribution issued once or more per week that is written and published in the State of Hawaii.
- (9) 'Office' means any public or constitutional office including but not limited to the following: U.S. president, U.S. vice-president, U.S. senator, U.S. representative, governor, lieutenant governor, state senator and representative, board of education official, delegates to the constitutional convention, and county officers.
- (10) 'Party' means any qualified political party.
- (11) 'Person' means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees."

Sec. 11-192 Campaign spending commission. There is established a campaign spending commission, consisting of five members appointed by the governor as under Sec. 26-34 as follows:

The judicial council shall select a panel of ten persons, five persons each from two political parties which polled the largest vote in the last preceding general election. From this panel the governor shall appoint two members from each such political party and a chairman. Notwithstanding sec. 26-34, the governor's appointment shall not be subject to senatorial confirmation. The term of such members should be four years, except that this term of members first appointed shall be two years for two members, three years for two other members, and four years for the chairman.

The members of the commission shall serve without compensation but they shall be reimbursed for reasonable expenses, including travel expenses, incurred in the discharge of their duties. For administrative purposes the commission shall be in the office of the lieutenant governor.

Sec. 11-193 Challenges, investigation and notice. Challenges to a candidate's compliance with this subpart B, shall be filed with the commission. The commission shall investigate such challenges and shall advise the chief election officer of its findings. If, in the opinion of the commission, a violation has occurred, the state legislature in the case of a state office, or the respective county legislative body in the case of a county office, shall also be advised as to its findings.

Sec. 11-194 Duties of the chief election officer; commission. (a) The chief election officer's principal duty is to regulate the election process, and

ACT 185

under this subpart his duties are:

- (1) Develop prescribed and simple forms for the making of all reports required by this subpart;
 - (2) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform and simple methods of bookkeeping and reporting;
 - (3) Preserve all required reports for at least five years from the date of receipt; and
 - (4) Permit copying of any required report as requested by any person.
- (b) The commission's principal duty is to supervise campaign contributions and expenditures, and under this subpart its duties are:
- (1) Ascertain whether candidates, committees, or others have failed to file required reports or have filed defective reports, give notice to delinquents to correct or explain deficiencies, and make available for public inspection a list of such delinquents;
 - (2) Hold public hearings;
 - (3) Investigate any violations in reporting and issue subpoenas for the production of documents and the attendance of witnesses;
 - (4) Adopt a code of fair campaign practices;
 - (5) Establish rules and regulations pursuant to chapter 91; and
 - (6) Initiate the prosecution for the violation of this subpart pursuant to section 11-212.

Sec. 11-195 Registration. (a) Each candidate, committee or party shall file an organizational report on the earliest of the following applicable days:

- (1) on or before the day of filing for nomination or election;
- (2) at least 45 days before the primary election;
- (3) at least 45 days before the general, special general or special election, when there is no primary election; or
- (4) by the tenth day after (A) receiving any contributions in an aggregate amount of more than \$100, or (B) making or incurring any expenditure which is reportable under sections 11-207 or 11-208.

Sec. 11-196 Filing of reports, generally. All reports required to be filed under this subpart by a candidate or those committees directly associated with his candidacy shall be sworn to by the candidate. Reports required to be filed under this subpart by a party or committee that supports more than one candidate shall be sworn to by a person authorized to sign such reports. All reports required to be filed shall be open for public inspection.

Sec. 11-197 Organizational reports. (a) The organizational report shall include:

- (1) The name, address, office sought if known, and party affiliation of each candidate or individual whom the committee or party is supporting;
- (2) The names and addresses of the campaign treasurer and deputies;
- (3) The names and addresses of the campaign chairman and deputy campaign chairman;
- (4) A list of all banks, safety deposit boxes, or other depositories used; and

(5) The amount, name and address of each individual donor who has contributed an aggregate amount of more than \$100 since the last election applicable to the office being sought or to the issue in question.

(b) Any change in information submitted in the organizational report shall be reported not later than 4:30 p.m. on the tenth calendar day after such change is brought to the attention of the candidate, committee, party or campaign treasurer.

Sec. 11-198 Campaign treasurer. (a) Every committee, party, or candidate shall appoint a campaign treasurer on or before the day for filing an organizational report. Up to three deputy campaign treasurers may be appointed, provided such appointments are appropriately filed. A candidate may appoint himself as campaign treasurer.

(b) A campaign treasurer may be removed at any time. In case of death, resignation or removal of the campaign treasurer, the committee, party, or candidate shall appoint a successor and shall file his name and address with the commission not later than 4:30 p.m. on the day after the appointment.

(c) Each campaign treasurer shall be deemed to be authorized to receive contributions or make expenditures in behalf of the person or body appointing him.

Sec. 11-199. Campaign contributions, generally. (a) All funds contributed shall be deposited in a financial depository reported under section 11-197.

(b) Every candidate shall keep a record of every contribution received in the amount or value of more than \$10. Every candidate and campaign treasurer shall report every contribution received which is more than \$100.

Sec. 11-200 Campaign contributions, restrictions against transfer. (a) A candidate, campaign treasurer, or committee shall not receive any contributions, make any expenditures, or receive or make any transfer of money or anything of value:

- (1) for any purpose other than those directly related, in the case of the candidate, to his own campaign, and in the case of a campaign treasurer or committee, to the campaign of the candidate or issue with which they are directly associated; or
- (2) to support the campaigns of candidates other than the candidate, for whom the funds were collected or with whom the campaign treasurer or committee is directly associated;
- (3) to campaign against any other candidate not directly opposing the candidate, for whom the funds were collected or with whom the campaign treasurer or committee is directly associated.

(b) A committee, party, candidate or campaign treasurer shall not receive any contribution from a committee or party not registered with the chief election officer.

(c) This section shall not be construed to prohibit a party from supporting more than one candidate, or joint expenditure by two or more candidates seeking election to multiple offices from the same district whether such expenditures are equally or unequally incurred among such candidates.

Sec. 11-201 Candidates expenditures of own funds, not a contribution. A candidate's expenditure of his own funds in the pursuit of his campaign shall not be deemed a contribution for purpose of this subpart.

Sec. 11-202 Anonymous contributions; unlawful. No person shall make a payment of his own money or of another person's money to any candidate, party, or committee in connection with a nomination or election in any other name than that of the person who in truth supplies such money; nor shall any candidate, party, or committee knowingly receive such payment or enter or cause the same to be entered in his accounts in another name than that of the person by whom it was actually furnished.

This section shall not apply to amounts that aggregate less than \$250. Any anonymous contribution received by a candidate, party, or committee shall not be used or expended, but shall be returned to the donor. If the donor cannot be identified, the contribution shall escheat to the State.

Sec. 11-203 Testimonial affairs. (a) As used in this section, 'testimonial affair' means any function held for the benefit of a person and designed to raise funds for political purposes for which the total cost for attending the affair is more than \$15 per person.

(b) Any person for whom a testimonial affair has been held may not hold a successive testimonial affair until after an election in which he was a nominee or candidate for public office; provided that an additional testimonial affair may be held within six months after a general, special general or special election, in the case of a candidate having a deficit. No testimonial affair may be held unless a notice of intent to hold such an affair is filed with the chief election officer prior to the date of the affair setting forth the name and address of the person in charge.

(c) The following expenses incident to a testimonial affair held during the times specified in section 11-206 shall not be considered expenditures within the limitations set by that section.

- (1) The cost of food and beverages consumed at the affair;
- (2) Rent and utilities for the premises where the affair is held;
- (3) The cost of printing tickets; and
- (4) The amount paid for guest speakers and entertainment.

Sec. 11-204 Campaign expenditures: authority required. (a) A candidate may draw on the campaign treasurer for his political expenses for postage, telegrams, telephone calls, stationery, expressage, travel, meals, and lodging. The candidate shall make a detailed accounting of such political expenses and the accounting shall be made a part of the report as required in sections 11-207 and 11-208. The authorization shall state the amount and purpose of the proposed expenditures and shall be signed by the campaign treasurer.

(b) No funds shall be withdrawn for or paid by a campaign depository from any campaign fund account except upon the presentation of written authorization from a campaign treasurer.

(c) No expenditure on behalf of a candidate shall be made or incurred by any committee without specific written authorization of the candidate or his authorized representative. Every expenditure so authorized and made or in-

curred shall be attributed to the candidate with whom the committee is directly associated for purpose of imposing the expenditure limitations imposed by section 11-206.

Sec. 11-205 Campaign expenditures, restriction as to items. The following expenses, and no other, may be authorized by a campaign treasurer:

- (1) Hiring public halls for political meetings, furnishing music, costumes, banners, fireworks and the like, and reasonable refreshments, food, and entertainment for political meetings or public parades, and advertising the meetings or parades;
- (2) Printing and circulating political newspapers, pamphlets, and books;
- (3) Renting rooms for political committees;
- (4) Compensating campaign employees and furnishing reasonable entertainment to the employees and members of political committees;
- (5) Traveling expenses of campaign employees and committees and public speakers and reasonable compensation to public speakers;
- (6) Postage, telegram, telephone, printing, and express charges;
- (7) Preparing, circulating, and filing nomination papers;
- (8) Conveying voters to the polls;
- (9) Purchasing radio and television time, advertisements in newspapers and other communications media, and advertising materials;
- (10) Sundry items to be distributed to the general public in connection with a campaign or for the purpose of influencing a nomination for election or election; and
- (11) Donations to community organizations or other social groups including but not limited to youth athletics, clubs, scouting and recreation groups.

Sec. 11-206 Campaign expenditure, limits as to amounts. (a) The total expenditures for candidates, inclusive of all expenditures made or incurred by the candidate himself and all campaign treasurers and committees in his behalf, shall not exceed the following amounts expressed respectively as the product of the number of voters in the last preceding general election eligible to vote for the respective class of offices:

- (1) From January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of special primary or special election:
 - (A) for the office of governor—50 cents;
 - (B) for the office of lieutenant governor—40 cents;
 - (C) for the offices of mayor and prosecuting attorneys—40 cents;
 - (D) for the offices of state senators and county council members—25 cents;
 - (E) for the offices of state representatives and all other offices—25 cents; and
- (2) From the day after a primary or special primary election through the day of the general or special general election:
 - (A) for the office of governor—50 cents;

ACT 185

- (B) for the office of lieutenant governor—25 cents;
- (C) for the offices of mayor and prosecuting attorneys—40 cents;
- (D) for the offices of state senators and county council members—25 cents;
- (E) for the offices of state representatives and all other offices—25 cents; and

(3) In no event shall any portion of the amount allowable under subsections (a)(1) and (a)(2) be shifted from one period to another so as to increase the amount subsequently allowable under subsection (a)(1) or (a)(2).

(b) That part of expenditures in subsection (a) expended for time and space for advertising in newspaper, magazines, or radio, or television for nomination for election, and election, for the following classes of offices shall not exceed in the aggregate the following limits expressed respectively as the product of the number of voters in the last preceding general election eligible to vote for the respective class of offices:

(1) From January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of special primary or special election:

- (A) for the office of governor—15.5 cents;
- (B) for the office of lieutenant governor—12 cents;
- (C) for the offices of mayor and prosecuting attorneys—12 cents;
- (D) for the offices of state senators and county council members—10.5 cents;
- (E) for the offices of state representatives and all other offices—7.5 cents; and

(2) From the day after a primary or special primary election through the day of the general or special general election:

- (A) for the office of governor—15.5 cents;
- (B) for the office of lieutenant governor—12 cents;
- (C) for the offices of mayors and prosecuting attorneys—12 cents;
- (D) for the offices of state senators and county council members—10.5 cents;
- (E) for the offices of state representatives and all other offices—7.5 cents; and

(c) The aggregate expenditures for all preparation, talent and other costs attributable to the production of advertising in newspapers, magazines, and on radio and on television shall be limited to seventy-five percent of the total cost of advertising attributable to radio and television time and newspaper space.

Sec. 11-207 Preliminary reports. (a) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a preliminary report with the commission not later than 4:30 p.m. of the tenth calendar day prior to each election. The report shall be certified pursuant to section 11-196 and shall contain the current statement of the following:

- (1) The aggregate sum of all contributions received;
- (2) A list of the names and addresses of all identified or identifiable persons or groups contributing in the aggregate of more than \$100;
- (3) All expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount and purpose of each expenditure; and
- (4) A current statement of the balance on hand or deficit.

Sec. 11-208 Final and supplemental reports. (a) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file with the commission not later than 4:30 p.m. of the twentieth calendar day after a general election, special election or special general election, a final report, certified pursuant to section 11-196 which shall include where applicable:

- (1) A statement of the total contributions received;
- (2) A list of the names and addresses of all persons contributing in an aggregate amount of more than \$100;
- (3) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name of each payee and the amount and purpose of each expenditure; and
- (4) A statement of the balance on hand or deficit.

(b) A candidate who is not successful in a primary election shall file his final report not later than 4:30 p.m. of the twentieth calendar day after the primary election. A candidate who is successful in a primary election need not file a final report after the primary election although he is required to file one after the general election.

(c) **Deficit.** In the event of a deficit, the candidate shall, every ninety days until the deficit is eliminated, file supplemental reports identifying in accordance with section 11-199 all further contributions received subsequent to the previous report.

(d) **Surplus.** In the event of a surplus, the candidate shall:

- (1) Maintain the account in a registered depository; and
- (2) Every six months, until he becomes a candidate again, file supplemental reports including all items prescribed in subsection (a).

(e) A candidate who receives no contributions or makes no expenditures shall so report on the dates designated.

Sec. 11-209 Disposition of funds. (a) All candidates who withdraw or cease to be candidates, and individuals who have received contributions but fail to file for nomination, or committees or parties that discontinue, shall return any residual fund proportionately to the donors if their identities are known. This does not apply to elected officials or candidates who failed to be nominated or elected.

(b) If no donors are found, the residual shall be contributed to the campaign fund of any candidate, to a party, or charities, or escheated to the State General Fund.

(c) Upon such disposition, the candidate and campaign treasurer shall file a report with the commission indicating the amounts distributed under subsection (b), and the manner of disposition.

Sec. 11-210 Advertising. (a) All advertising published or circulated prior to or on the day of election shall state who paid for the advertisement and the address of such person, party, or committee.

(b) No newspaper, magazines, or radio, or television broadcasting station shall publish or broadcast any advertisement promoting any candidate unless such publication or broadcast is approved in writing by the candidate, his authorized representative or party chairman.

Sec. 11-211 Penalties; relief. Any person or corporation knowingly violating any provision of this subpart shall, unless otherwise expressly stated, be punishable in the manner prescribed as follows:

(a) If a natural person, he shall be guilty of a petty misdemeanor.

(b) If the person is a corporation, organization, or association, it shall be punished by a fine not exceeding \$1,000.

(c) Whenever a corporation, organization, or association violates this subpart, the violation shall be deemed to be also that of the individual directors, officers, or agents of the corporation, organization, or association, who have knowingly authorized, ordered, or done any of the acts constituting such violation.

(d) Any registered voter may sue for injunctive relief to compel compliance with this subpart.

Sec. 11-212 Prosecution. (a) For purposes of prosecution for violations of this subpart, the offices of the attorney general and the prosecuting attorney of the respective counties shall be deemed to have concurrent jurisdiction to be exercised as follows:

(1) No prosecution shall be commenced without the prior written request of the commission or upon the issuance of an appropriate order of the court;

(2) In the case of statewide offices, parties or issues, the attorney general or the prosecuting attorney for the City and County of Honolulu shall prosecute any violation.

(3) In the case of all other offices, parties or issues, the attorney general or the prosecuting attorney for the respective county shall prosecute any violation.

(4) In the commission's choice of prosecuting agency, it shall be guided by whether there will be any conflicting interest between such agency and its appointive authority.

(b) The court will give priority to the expeditious processing of suits under this section.

(c) Prosecution for violation of any provision of this subpart shall not be commenced after one year has elapsed from the date of the violation."

SECTION 2. Severability. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the validity of such provision to other persons and circumstances shall not be affected thereby.

SECTION 3. This Act shall take effect on January 1, 1974.

(Approved May 24, 1973.)

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

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

SECTION 1. Section 297-7, Hawaii Revised Statutes, reading as follows, is amended to read:

“Sec. 297-7 Principals and acting principals. Principals and acting principals shall meet the department’s certification requirements and shall have served as a teacher for a period of not less than five years of which one year must have been served as a teacher or as an exchange principal in the schools of Hawaii.”

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

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

(Approved May 24, 1973.)

A Bill for an Act Relating to Qualifications for a Collection Agency License.

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

SECTION 1. Section 443-7, Hawaii Revised Statutes, is amended to read:

“Sec. 443-7 No license issued when. No license hereunder shall be issued to a person unless:

- (1) He is of the age of eighteen years or more;
- (2) He is a citizen of the United States or has declared his intention to so become;
- (3) He is a high school graduate or proves to the satisfaction of the collection agency advisory board that he possesses the equivalent of a high school education, or is found to be otherwise qualified to operate a collection agency;
- (4) The applicant for a collection agency license, or the renewal thereof, shall apply therefor in writing, under oath, upon blanks furnished by the board, and shall state the full name and residence address of the applicant and the business name and address where he will conduct his collection agency, and in case of a partnership, the full name and residence address of each partner, and in case of a corporation, the full name and residence address of each of its officers and directors;
- (5) The individual applicant, or if the applicant is a partnership, then its partners, or if the applicant is a corporation or an association, then its managing officers and directors, has never been convicted of

*Edited accordingly.

ACT 188

forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or other similar offenses, or has never been disbarred from the practice of law;

- (6) He has been employed at least two years by a collection agency in a supervisory and/or credit and collections position or proves to the satisfaction of the collection agency advisory board that he possesses equivalent experience.”

SECTION 2. Section 443-9(b), Hawaii Revised Statutes, is hereby amended to read as follows:

“(b) The bond of each licensee shall be for \$25,000. However, when an applicant or licensee intends to operate more than one office, under one ownership, one bond shall be equal to the sum of \$25,000 for the first office and \$15,000 for each additional office. In all such cases the collection agency advisory board shall determine the facts and set the amount of the bond required.”

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

SECTION 4. This Act shall take effect on July 1, 1973.

(Approved May 24, 1973.)

ACT 188

H. B. NO. 659

A Bill for an Act Relating to Specific Duties of the Police.

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

SECTION 1. Section 52-37, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

“**Sec. 52-37 Specific duties.** The chief of police or any of his subordinates thereunto duly authorized shall:

- (1) Preserve the public peace;
- (2) Arrest and take before the nearest qualified magistrate for examination all persons who attempt to commit, or who have committed a public offense, and shall prosecute the same under the direction of the county attorney;
- (3) Prevent and suppress affrays, breaches of peace, riots, and insurrections;
- (4) Attend all circuit courts held within the county and obey all lawful orders and directions of all courts held within the county;
- (5) In an emergency requiring the same, command the aid of as many male inhabitants of the county as he may think necessary in the execution of his duties;
- (6) Take charge of and keep the county jail, and the prisoners therein;

*Edited accordingly.

- (7) Indorse upon all processes and notices the year, month, day, hour, and minute of reception, and issue therefor to the person delivering the same on payment of fees, a certificate showing the name of the parties, title of paper, and time when received;
- (8) Serve all processes and notices in the manner prescribed by law;
- (9) Certify, under his hand, upon every process or notice, the manner and time of service, or if he fails to make service, the reason of his failure, and return the same without delay;
- (10) Enforce any restraining order to cease and desist from any further spouse abuse or trespass made by any Hawaii family court."

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

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

(Approved May 24, 1973.)

ACT 189

H. B. NO. 661

A Bill for an Act Relating to Spouse Abuse.

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

SECTION 1. Chapter 709, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 709- Spouse abuse, penalty. (a) It shall be unlawful for any person, singly or in concert, to physically abuse his or her spouse, or to refuse compliance with the lawful order of a police officer under subsection (c).

(b) Any police officer may, with or without a warrant, arrest a person if he has reasonable grounds to believe that the person is physically abusing his or her spouse in his presence and that the person arrested is guilty thereof.

(c) Any police officer may, with or without a warrant, take the following course of action where he has reasonable grounds to believe that there was recent, substantial, physical harm inflicted by one spouse upon the other and where such physical harm has not occurred in his presence:

- (1) He may make reasonable inquiry of the spouse upon whom he believes recent, substantial, physical harm has been inflicted and other witnesses as there may be, to ascertain whether there is probable danger of further substantial, physical harm being inflicted upon such injured spouse by the other spouse; and
- (2) Where he has reasonable grounds to believe that there is such probable danger he may lawfully order such other spouse to voluntarily leave the premises for a cooling off period of three hours; and
- (3) If such other spouse refuses to comply with such reasonable request or returns to the premises before the expiration of three hours, he

*Edited accordingly.

may place such other spouse under arrest for the purpose of preventing further physical harm to the injured spouse.

(d) Spouse abuse, and refusal to comply with the lawful order of a police officer under subsection (c) are misdemeanors.

(e) The spouse who has been physically abused or harmed by his or her spouse may petition the family court for a bench warrant to issue forthwith.

(f) The respondent shall be taken into custody and brought before the family court at the first possible opportunity. The court may then dismiss the petition or hold the respondent in custody, subject to bail. Where the petition is not dismissed, a hearing shall be set.

(g) If it is established beyond a reasonable doubt at the hearing that the respondent physically abused his or her spouse, then the court may find the spouse guilty of a misdemeanor.

(h) It shall be the duty of the family court to assist any petitioner under this section in the preparation of the petition.

(i) This section shall not preclude the physically abused spouse from pursuing any other remedy under law or in equity.

(j) Upon dismissal of such person and discharge of the proceeding against him or her under this section, such person, if the offense is the only offense against the other spouse for a period of not less than one year, may apply for an order to expunge from all official records all recordation relating to his or her arrest, trial, finding of guilt, and dismissal and discharges pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him or her were discharged and that no other similar offenses were charged against him or her for a period not less than one year, it shall enter such order."

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

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

(Approved May 24, 1973.)

ACT 190

H. B. NO. 662

A Bill for an Act Relating to the Specific Duties of the Police.

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

SECTION 1. Section 52-68, Hawaii Revised Statutes, is amended by adding a new subsection to be appropriately designated and to read as follows:

"**Sec. 52-68 Other specific duties.** The chief of police shall:

- (1) Attend all circuit courts held within the city and county and obey all lawful orders and directions of all courts held within the city and county;

*Edited accordingly.

- (2) Take charge of and keep the Honolulu jail and all prisoners committed thereto;
- (3) Enforce any restraining order to cease and desist from any further spouse abuse or trespass made by any Hawaii family court.”

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

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

(Approved May 24, 1973.)

ACT 191

H. B. NO. 990

A Bill for an Act Relating to Juries.

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

SECTION 1. The Hawaii Revised Statutes are amended by adding a new chapter to be appropriately numbered and to read as follows:

“CHAPTER JURORS

Sec. -1 Declaration of policy. It is the policy of this State that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service in this State and an obligation to serve as jurors when summoned for that purpose.

Sec. -2 Prohibition of discrimination. A citizen shall not be excluded from jury service in this State on account of race, color, religion, sex, national origin, or economic status.

Sec. -3 Definitions. As used in this chapter:

- (1) “Clerk” and “clerk of the court” include any deputy clerk.
- (2) “Court” means the circuit courts of this State, and includes, when the context requires, any judge of the court. When there is an administrative judge, any administrative powers granted by this chapter may be exercised by that judge or his designee, unless otherwise provided.
- (3) “Jury wheel” means any physical device or electronic system for the storage of the names or identifying numbers of prospective jurors.
- (4) “Name,” when used in connection with prospective jurors, includes identifying numbers of the jurors.

Sec. -4 Grounds of disqualification. A prospective juror is disqualified to serve as a juror if he:

*Edited accordingly.

- (1) Is not a citizen of the United States and of the State, eighteen years old, and a resident of the circuit;
- (2) Is unable to read, speak, and understand the English language;
- (3) Is incapable, by reason of his physical or mental disability, of rendering satisfactory jury service; but a person claiming this disqualification may be required to submit a physician's certificate as to the disability, and the certifying physician is subject to inquiry by the court at its discretion; or
- (4) Has been convicted of a felony in a state or federal court and not pardoned.

Sec. -5 Disqualification by interest. No person shall sit as a juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the juror has, either directly or through such relative, any pecuniary interest.

Sec. -6 Exempt when. A person may claim exemption from service as a juror if he is:

- (1) An attorney at law;
- (2) A head of an executive department, an elected official, or a judge, of the United States, State or county;
- (3) A minister or priest following his profession;
- (4) A practicing physician or dentist;
- (5) A member of the armed forces or militia when on active service, or an active member of a police or fire department;
- (6) A person who has served as a juror, either in a court of this State or the United States District Court for the District of Hawaii, within one year preceding the time of filling out the juror qualification form.

Sec. -7 Excused when, for cause. A juror shall not be excused by a court for slight or trivial cause, but only when it appears that jury duty would entail a serious personal hardship, or that for other good cause he should be excused either temporarily or otherwise.

Sec. -8 Pay of jurors; mileage fee. The pay of jurors shall be \$10 for each day of actual attendance at court, and in addition 20 cents for each mile actually and necessarily traveled in going only. The mileage fee may be allowed to a juror although, upon his request, he is excused from jury service, or claims exemption from jury service, provided he reports in person at the time for which he was summoned. In the discretion of the court any juror who incurs expenses for transportation, board, lodging as a result of the distance he resides from the location of the court may be reimbursed for actual expenses.

Sec. -9 Certificate for jury pay. At least once each month, the clerk shall certify the number of days each juror has attended court and the amount due to him. Each juror shall state on oath to the clerk the number of miles traveled for which he is entitled to mileage.

Sec. -10 Jury commission. A jury commission of five members is established in each circuit to perform the duties prescribed by this chapter under the supervision and control of the court. The jury commission shall be com-

posed of the clerk of the circuit court and four jury commissioners appointed by the judge or judges of each circuit court prior to January 15 of each year, for a term of one year from and after January 15. The jury commissioners must be citizens of the United States and of the State and residents in the circuit in which they serve. Any jury commissioner may be removed by the appointing power for any reason deemed sufficient by the appointing power. No more than three commissioners shall be members of the same political party. If a vacancy occurs in the office of a jury commissioner at any time, another commissioner shall be similarly appointed to fill the vacancy. Each jury commissioner, except the clerk of court appointed to the commission, shall be allowed for services on the jury commission such compensation as may be determined by the judge or judges to be just and reasonable, not to exceed \$400 per year in the first circuit and \$175 per year in other circuits, payable out of circuit court expense funds. Any powers granted by this section to the judges of the first circuit may, by order signed by a majority of the judges, be delegated to any one or more of the judges.

Sec. -11 Master list. (a) Each year the jury commission for each circuit shall compile a master list. The master list shall consist of all voter registration lists for the circuit, which may be supplemented with names from other lists of persons resident therein such as lists of taxpayers and drivers' licenses. This includes names, addresses, and social security numbers taken from income tax returns and estimates notwithstanding the provisions of section 235-116.

(b) Whoever has custody, possession, or control of any of the lists which are to be used in compiling the master list, shall make the list available to the jury commission for inspection, reproduction, and copying at all reasonable times.

Sec. -12 Master jury wheel. Each year the jury commission for each circuit shall, by random selection, place in the master jury wheel the names of prospective jurors taken from the master list, in such number as the jury commission determines should be processed in order to provide the number of jurors required for the ensuing year. From time to time an additional number may be determined by the jury commission or ordered by the court to be placed in the master jury wheel.

Sec. -13 Juror qualification form. (a) The jury commission shall prepare an alphabetical list of the names in the master jury wheel, which shall not be disclosed to any person other than pursuant to this chapter or specific order of the court. The jury commission shall mail to every name on such list a juror qualification form accompanied by instructions to fill out and return the form by mail to the clerk within ten days after its receipt. The form shall be subject to approval by the court as to matters of form and shall elicit the name, address or resident, age of the prospective juror, other information pertinent to disqualification or exemption from jury service, and such other matters as may be ordered by the court. The form further shall contain the prospective juror's declaration that his responses are true to the best of his knowledge and his acknowledgment that a wilful misrepresentation of a material fact may be punished by a fine of not more than \$500 or imprisonment for not more than

ACT 191

thirty days, or both. Notarization of the juror qualification form shall not be required. If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor. Upon failure or refusal of any person duly receiving the juror qualification form to complete and return it as required, or in case of an omission, ambiguity, or error in a returned form, the court, after first summoning the person to appear before the clerk to complete or correct the form, may punish the person for contempt.

(b) At the time of his appearance for jury service, or at the time of any interview before the court, jury commission, or clerk, any prospective juror may be required or permitted to fill out another juror qualification form in the presence of the court, jury commission, or clerk, at which time the prospective juror may be questioned, but only with regard to his responses to questions contained on the form and grounds for his exemption, excuse or disqualification. Any information thus acquired by the court, jury commission, or clerk shall be noted on the juror qualification form.

(c) The jury commission may in its discretion, by circuit court process, summon prospective jurors before it for examination. A person summoned for examination shall receive mileage as provided in section -8.

(d) Any person who wilfully misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror is guilty of a petty misdemeanor.

Sec. -14 Qualified jury wheel. (a) Upon return of the juror qualification forms, the jury commission shall, after careful investigation in each case, select for jury service all those persons whom it believes are qualified and not exempt; provided, however, that any person who is exempt may be selected if he waives his exemption. The names of the persons so selected shall be placed in the qualified jury wheel, to be used in compiling lists of jurors subject to service during the ensuing year; provided, however, that the jury commission may, with the approval of the court, excuse a prospective juror for any cause set forth under section -7, in which case the name of such excused person shall not be placed in the qualified jury wheel.

Sec. -15 Certified jury lists. (a) Every year the jury commission of each circuit shall make and, not later than January 5, file with the clerk of its circuit court, one or more certified lists of the names and addresses of fifty citizens, or such greater number as the court may order, subject to serve as grand jurors during the ensuing year from and after January 15. At the same time the jury commission of each circuit shall likewise file a separate certified list of the names and addresses of citizens subject to serve as trial jurors during the ensuing year, from and after January 15, the number for each circuit to be such as the jury commission considers necessary. The certified lists of grand jurors and trial jurors shall be compiled from names drawn at random from the qualified jury wheel, and shall be prepared in alphabetical sequence. Upon the order of the court, from time to time, additional lists of persons subject to serve as grand jurors shall be compiled and filed, and additional names shall be added to a grand or trial jury list; provided, that all such additions shall be made by drawing from the qualified jury wheel for the appropriate year.

When more than one grand jury list has been compiled the sequence in which the lists are to be used shall be designated by the jury commission according to the sequence of drawing. The names on the certified lists shall be open to public inspection, subject to orders of the court.

(b) In the second, third and fifth circuits any circuit judge, and in the first circuit a majority of the circuit judges, may at any time, for reasons appearing sufficient to him or them, order the dissolution of any certified list of grand or trial jurors and order the jury commission to make and file a new list, which may include any of the persons so discharged, to serve for the remainder of the year. The new list shall be compiled in the manner prescribed by the court. Until such new list is filed, grand or trial jurors may be drawn from a list thereof compiled and filed by the judge or judges making the order or one or more of them designated by the remainder, which list shall expire no later than thirty days after the filing thereof unless said period is extended, except that any trial jury panel may sit beyond the end of the period above prescribed and after the filing of a new list by the jury commission, for the trial of any case in which the selection of the jury has already commenced.

Sec. -16 Grand jury. (a) The court shall order one or more grand juries to be impaneled at such times as the public interest requires; provided, however, that there shall be an annual initial impaneling not later than January 15.

(b) For the impaneling of a grand jury, the prospective jurors on a certified list of grand jurors shall be summoned and the names of those who are present, and not disqualified, exempted, or excused, shall be placed in appropriate container from which a drawing by lot shall be conducted in order to draw a sufficient number of names to constitute a grand jury. The drawing shall be made in open court in the presence of the judge, no earlier than one week after a publication of notice of the time and place of drawing in a newspaper of general circulation published within the circuit for which the grand jury is drawn; provided, however, that if there is no such newspaper, then after at least one week's posting of such notice in at least three conspicuous places in the circuit.

(c) A certificate listing the names of the grand jurors and stating the essential facts of the drawing, signed by the judge and attested by the clerk, shall be filed.

(d) The grand jury, being impaneled and sworn, shall be charged by the court. In doing so, the court shall give them such information as it may deem proper as to their duties and as to the law pertaining to such cases as may come before them. The court may further charge the grand jury from time to time, as it may deem necessary.

(e) Subject to section -22, a grand jury shall serve for a period of one year after being impaneled, unless sooner discharged by the court. Any vacancy occurring on a grand jury may be filled by the court by drawing at random from names on the certified list of grand jurors.

Sec. -17 Trial jury, first circuit. (a) In the first circuit, and in any other circuit in which the court so orders, this section shall be applicable to the drawing of a trial jury and service thereon.

(b) Not later than January 15 of each year, the clerk shall draw at random from the names on the certified list of trial jurors such number of trial jury panels as is deemed sufficient for the ensuing year, each panel to consist of twenty-six names. When directed by the court, additional panels shall be drawn. The names and jurors qualification forms for the prospective jurors on each panel shall be sealed in envelopes, one envelope for each panel. The envelopes shall remain sealed and in the custody of the clerk.

(c) Whenever a judge requires the services of a trial jury for use in proceedings before him or any other judge of the circuit, he may order the required number of panels from the clerk. Upon receipt by the judge of the envelopes containing the panels, the contents thereof shall be made available to the litigants concerned.

(d) The whole or any number of the jurors from a panel or panels ordered by a judge may be required to attend and serve. The names of those summoned and present, and not disqualified, excused or exempted, shall be placed in an appropriate container, from which there shall be drawn a sufficient number of names to constitute a trial jury. The drawing shall be by lot in open court under the supervision of the judge. There is no requirement that names on a particular panel be exhausted before those on another panel may be used in the drawing, and the names of jurors on different panels which have been transmitted to the judge may be mixed with each other in the container during the drawing. If a jury cannot be chosen for the trial of a case from the names placed in the container before the drawing commenced, additional names may be placed in the container. For this purpose additional panels may be ordered and the prospective jurors summoned. The judge may summon jurymen from among bystanders on consent of all parties.

(e) Prospective jurors in attendance but not actually serving in a trial before him shall be subject to such orders relative to further jury service as the judge deems appropriate, including service before other judges in the circuit.

(f) Each panel ordered by a judge shall serve for a period of thirty days, commencing from the first day the panel is required to appear for service; provided, however, that any juror may be required to serve beyond the thirty day period for the trial of any case in which the selection of the jury commenced within that period. Upon completion of service by all members of a panel, such panel shall be returned to the clerk which shall not transmit such panel again to any judge until all other panels have been exhausted and other panels which served at a more remote time have been first transmitted for service.

(g) A judge may, having regard to the equitable distribution of jury service, excuse any juror after actual service in a trial.

Sec. -18 Trial jury, second, third, fifth circuits. (a) In the second, third, and fifth circuits, if the court so orders, trial jurors shall be drawn, summoned, and further proceedings had as provided in section -17.

(b) If no order is made under subsection (a) in a particular circuit, the judge (or judges, if there are more than one) of that circuit may order a system of jury selection from the certified list of trial jurors which is not contrary to the general purposes of this chapter. In no case shall the trial jury panel or panels be chosen other than by lot, nor shall the trial jury be selected from the

jury panel or panels other than by lot in open court. In selecting the trial jury there is no requirement that the names on a particular panel be exhausted before those on another panel may be used in the drawing, and the names of jurors on different panels may be mixed with each other for the drawing.

(c) The names of prospective jurors on a trial jury panel which is to be summoned, and the contents of juror qualification forms completed by those jurors, shall be made available to the litigants concerned.

(d) A judge may, having regard to the equitable distribution of jury service, excuse any juror after actual service in a trial.

Sec. -19 Summoning of jurors. (a) When so ordered by the court, the clerk shall transmit to the chief of police or a bailiff the names of jurors to be summoned. The chief of police or bailiff, either personally or through an authorized subordinate, shall summon the persons named to attend the court by giving personal notice to each of the time and place of required appearance as fixed by order of the court. The court may order the summoning of jurors by any officer of the court, and the service of summons by any form of personal notice, including notice by telephone.

(b) A juror who wilfully or without reasonable excuse, fails to attend after personal service of written summons by a bailiff or police officer may be arrested and punished for contempt.

Sec. -20 Requests for exemption or excuse. If a person who is exempt or who believes himself to be entitled to be excused from jury duty, is summoned as a juror, he may, even though he did not request exemption or excuse previously, or was not exempted or excused by the jury commission, make his request for exemption or excuse to the judge of the court for which he is summoned. The request may be made to the clerk or bailiff, who shall deliver it to the judge and if sufficient in substance it shall be received as an excuse for nonattendance in person.

Sec. -21 Jurors disqualified, exempted, or excused. Whenever a juror has been disqualified, exempted, or excused, that fact shall be noted on his juror qualification form and he shall not be subject to service for the period of time commensurate with the nature and circumstances of his disqualification, exemption, or excuse.

Sec. -22 Jurors serve one year. The persons whose names are placed on the certified lists filed by the jury commission shall be subject to service for one year from and after January 15 and until the filing of new certified lists; provided, that jurors may sit beyond the end of the period above prescribed, (1) in the case of a trial jury for the trial of any case in which the selection of the jury commenced within said period, and (2) in the case of a grand jury until another grand jury is impaneled and sworn.

Sec. -23 Challenging compliance with selection procedures. (a) Promptly after the moving party discovered or by the exercise of diligence could have discovered the grounds therefor, and in any event before the trial jury is sworn to try the case, a party may move to stay the proceedings, and in a criminal case to quash the indictment, or for other appropriate relief, on the ground of substantial failure to comply with this chapter in selecting the

grand or trial jury.

(b) Upon motion filed under subsection (a) containing a sworn statement of facts which, if true, would constitute a substantial failure to comply with this chapter, the moving party is entitled to present in support of the motion the testimony of a jury commissioner or the clerk, any relevant records and papers not public or otherwise available used by the jury commission or the clerk, and any other relevant evidence. If the court determines that in selecting either a grand jury or a trial jury there has been a substantial failure to comply with this chapter and that the moving party has been prejudiced thereby, the court shall stay the proceedings pending the selection of the jury in conformity with this chapter, quash an indictment, or grant other appropriate relief.

(c) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the State, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(d) The contents of any records or papers used by the jury commission or the clerk in connection with the selection process shall not be disclosed, except as provided by other provisions of this chapter, or in connection with the preparation or presentation of a motion under subsection (a), or upon order of the court. The parties in a case may inspect, reproduce, and copy the records or papers at all reasonable times during the preparation and pendency of a motion under subsection (a).

Sec. -24 Preservation of records. All records and papers compiled and maintained by the jury commission or the clerk in connection with selection and service of jurors shall be preserved by the clerk for four years after the termination of the prescribed period of service and for any longer period ordered by the court.

Sec. -25 Protection of jurors' employment. (a) An employer shall not deprive an employee of his employment, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

(b) Any employer who violates subsection (a) is guilty of a petty misdemeanor.

(c) If an employer discharges an employee in violation of subsection (a) the employee within ninety days from the date of discharge may bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed lost wages for six weeks. If he prevails, the employee shall be allowed a reasonable attorney's fee fixed by the court.

Sec. -26 Use of electronic or electromechanical devices for drawing grand and trial juries. Selections of citizens who are subject to jury duty and drawings of jury lists and panels, may be made by means of electronic or electromechanical devices commonly designated as data processing equipment such as punch cards, electronic tape, random access files, and other solid state devices when the same are available for their use and the court so orders."

SECTION 2. Chapter 609, Hawaii Revised Statutes, is repealed.

SECTION 3. All laws and parts of laws heretofore enacted which are inconsistent or in conflict with the provisions of this act shall be superseded by the provisions of this act.

SECTION 4. The repeal of chapter 609 and the enactment of the new chapter on jurors shall take effect with respect to the 1974 jury lists, proceedings relating thereto, and jurors drawn therefrom, except that the provisions enacted by this act relating to the summoning of jurors and the period of service shall take effect on July 1, 1973.

SECTION 5. This Act shall take effect upon its approval, except as otherwise provided.

(Approved May 24, 1973.)

ACT 192

H. B. NO. 1162

A Bill for an Act Relating to Divorce.

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

SECTION 1. The purpose of this Act is to establish rights of divorced persons to dower and curtesy in their former spouse's estates when the divorce decree does not finally divide the property of the parties.

SECTION 2. Section 580-56, Hawaii Revised Statutes is amended to read as follows:

"Sec. 580-56 Property rights following dissolution of marriage. (a) Every decree of divorce which does not specifically recite that the final division of the property of the parties is reserved for further hearing, decision, and orders shall finally divide the property of the parties to such action.

(b) Following the entry of a decree of divorce in any matrimonial action in which the final division of the property of the parties to such action is reserved for further hearings, decisions, and orders, each party to such action shall continue to have all of the rights to and interests in the property of the other party to such action as provided by chapter 533 to the same extent he or she would have had such rights or interests if the decree of divorce had not been entered, until the entry of a decree or order finally dividing the property of the parties to such matrimonial action, or as provided in subsection (d).

(c) When a party to a matrimonial action has remarried following the entry of a decree of divorce, in which the final division of the property of the parties is reserved for further hearings, decisions and orders, but prior to the entry of a decree or order finally dividing the property owned by the parties to that action, notwithstanding the provisions of chapter 533, the spouse of such remarried party shall have none of the rights or interests in the former spouse's real property or personal estate as provided in chapter 533, or as otherwise provided by law, until such time as a decree or order finally dividing the property owned by the parties or either of them as of the effective date of the entry of the decree of divorce dissolving his or her prior marriage shall be entered. Upon the entry of a decree or order finally dividing the property of the parties to a matrimonial action in which a decree of divorce has been en-

ACT 193

tered, the spouse of a party to such action who has remarried shall have all of the rights of a spouse as provided by chapter 533, or as otherwise provided by law, in and to the property of the former spouse vested in such spouse by such decree or order finally dividing the property of the parties or either of them, as of the effective date of the entry of the decree of dissolution of the prior marriage.

(d) Following the entry of a decree of divorce, or the entry of a decree or order finally dividing the property of the parties to a matrimonial action if the same is reserved in the decree of divorce, or the elapse of one year after entry of a decree or order reserving the final division of property of the party, a divorced spouse shall not be entitled to dower or curtesy in the former spouse's real estate, or any part thereof, nor to any share of the former spouse's personal estate. whichever occurs first. [sic]

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

SECTION 4. This Act shall take effect upon approval.

(Approved May 24, 1973.)

ACT 193

H. B. NO. 1640

A Bill for an Act Relating to an Exemption Under the Motor Carrier Law.

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

SECTION 1. Section 271-5, Hawaii Revised Statutes, is amended by adding two new paragraphs to be appropriately numbered and to read as follows:

"Sec. 271-5 Exemptions, generally. Notwithstanding any other provisions of this chapter, its contents, except for the power of the public utilities commission to regulate safety of operations as provided for in section 271-9(a)(1), (2), (3), and (6), shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person, except where the transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.
- (2) Persons operating motor vehicles when engaged in the transportation of school children and teachers to and from school, and to and from school functions; provided, that these persons may engage in providing transportation at special rates for groups of persons belonging to an eleemosynary or benevolent organization or association domiciled in this State where the organization or association sponsors or is conducting a nonregular excursion, provided that whenever the persons engage in the transportation of persons other than

*Edited accordingly.

those exempted in this paragraph, that portion of their operation shall not be exempt from the provisions contained in this chapter. Nothing herein shall be construed to authorize any person to engage in the transportation of persons, other than the transportation of persons exempted by the terms of this paragraph, without a permit or a certificate issued by the commission authorizing such transportation.

- (3) Persons operating taxicabs or other motor vehicles utilized in performing a bona fide metered taxicab service. "Taxicab" means and includes:
 - (A) Any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and
 - (B) Any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, as defined in section 70-1, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between the fixed stands or may be delivered to their homes in the rural area.
- (4) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature and whose operations are presently regulated under chapter 269.
- (5) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.
- (6) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.
- (7) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals, magazines, messages, documents, letters or blueprints.
- (8) Persons operating funeral cars or ambulances.
- (9) Persons operating motor vehicles in the transportation of garbage or refuse.
- (10) Persons operating the type of passenger carrying motor vehicles known as "sampan buses" within the radius of twenty miles from the city of Hilo, Hawaii.
- (11) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.
- (12) Sugar plantations transporting sugar cane, raw sugar, molasses, sugar by-products, and farming supplies for neighboring farmers pur-

suant to contracts administered by the United States Department of Agriculture.

- (13) Persons engaged in the ranching or meat or feed business who transport cattle to slaughterhouses for hire where such transportation is their sole transportation for hire and where their earnings from the transportation constitute less than fifty per cent of their gross income from their business and the transportation for hire.
- (14) Persons transporting unprocessed raw milk to processing plants and returning any containers used in such transportation to dairy farms for reloading.
- (15) Persons transporting animal feeds to animal husbandry farmers and farming supplies directly to animal husbandry farmers and returning any containers used in such transportation to these sources of such feeds and supplies for reloading.”

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

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

(Approved May 24, 1973.)

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

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
STATE CHARTERED CREDIT UNIONS**

Sec. -1 Short title. This chapter may be cited as the Hawaii Credit Union Act.

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

“Commissioner” means the director of the department of regulatory agencies.

“Central credit union” means a credit union whose membership primarily consists of other credit unions organized under Hawaii or federal law; officials, committee members, and employees of any credit union organized under Hawaii or federal law.

“Credit union” means a cooperative, nonprofit corporation, incorporated under this chapter to encourage thrift among its members, create a source of credit at a fair and reasonable rate of interest and provide an opportunity for its members to improve their economic and social conditions.

*Edited accordingly.

“Deposit account” means an account limited to members and treated as a form of savings. These accounts are subject to conditions established by the board of directors. Deposit accounts differ from savings accounts in that a pre-declared dividend may be established, and that they have prior claim to savings accounts.

“Passbook” means any book, statement of account, or other record approved by the commissioner for use by credit unions.

“Regular reserves” means the reserve set aside to cover losses.

“Risk assets” means all assets except the following: cash on hand; deposits or shares in federally or state-insured banks, savings and loan associations, and credit unions; assets which are insured by, fully guaranteed as to principal and interest by, or due from the United States government, its agencies, the Federal National Mortgage Association, or the Government National Mortgage Association; loans to other credit unions; loans to students insured under the provision of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) or similar state insurance programs; loans insured under Title I of the National Housing Act (12 U.S.C. 1703) by the Federal Housing Administration; shares or deposits in central credit unions; common trust investments which deal in investments authorized by the Federal Credit Union Act; prepared expenses; accrued interest on nonrisk investments; furniture and equipment; and land and buildings owned by the credit union.

“Savings” means the same as share as defined in section -16.

Sec. -3 Credit union review board; powers and duties. (a) There shall be a credit union review board consisting of five members appointed pursuant to section 26-34 by the governor who shall also designate the chairman of the board. There shall be at least one member from each of the counties who shall serve for four years, except that the initial terms of the first members, other than the chairman, taking office shall expire as follows: one on December 31 after the year that this chapter becomes law and one at the end of each succeeding calendar year thereafter. The governor shall appoint persons of tested credit union experience and who are members of credit unions operating under this chapter. However, until such time that there are credit unions operating under this chapter, the governor may make temporary appointments to the board of persons with tested credit unions experience from any credit union operating in the State. The terms and number of these temporary appointees will terminate as the number of credit unions become operative under this chapter.

(b) The powers and duties of the board shall include, but not be limited to:

- (1) Advising the commissioner, supervisor of credit unions, and others in improving the condition and service of credit unions;
- (2) Reviewing the acts and decisions of the commissioner in relation to credit unions;
- (3) Serving as an appeal board for credit unions and performing other review functions in relation to credit unions as are provided by law;
- (4) Issuing subpoenas, taking testimony, and administering oaths to witnesses;
- (5) Making available the official actions of the commissioner for inspection of the board;

- (6) Making necessary recommendations as to procedural rules and regulations pursuant to chapter 91;
- (7) Adopting rules to safeguard the interest of depositors and shareholders; and
- (8) Keeping detailed minutes of each board meeting.

(c) Each member of the board and all employees of the board shall hold in confidence all information received in connection with his official duties and shall not release such information unless authorized by law. Any member or employee of the board violating this subsection shall be guilty of a misdemeanor.

(d) Three members of the board present shall constitute a quorum and a majority vote of those present shall prevail. No member of the board shall be qualified to act in any matter involving a credit union of which he is an officer, director, committeeman, member, employee, or to which he is indebted. The members of the board shall serve without compensation but shall be reimbursed for any expenses incurred in the performance of their duties.

Sec. -4 Commissioner of credit unions; powers and duties. (a) The director of the department of regulatory agencies shall be the commissioner.

(b) The powers and duties of the commissioner shall include, but not be limited to:

- (1) Enforcing the provisions of this chapter and other laws relating to credit unions;
- (2) Conferring with the credit union review board on matters affecting credit unions incorporated under this chapter;
- (3) Appointing a deputy pursuant to chapters 76 and 77 who shall receive a salary of not more than ninety per cent of the commissioner's salary, and shall possess all powers and perform all duties attached to the office of the commissioner of credit unions during a vacancy or during the absence or inability of the commissioner; and
- (4) Employing examiners and clerks pursuant to chapters 76 and 77 to assist him and his deputy in the discharge of the duties of the office.

The commissioner, his deputy, and the employees of the office shall be subject to the same requirements and penalties of the members of the board as provided in section -3(c).

Sec. -5 Acts, orders, or determinations of the commissioner; aggrieved persons. (a) Any interested persons aggrieved by any act, order, or determination of the commissioner may apply for review thereof by filing a petition with the secretary of the board within thirty days after the act, order, or determination to be reviewed. The petition shall state the nature of the petitioner's interest; facts showing that the petitioner is aggrieved and directly affected by the act, order, or determination to be reviewed and the ground upon which the petitioner claims that the act, order or determination should be modified or reversed. The issues raised by the petition for review shall be considered by the board upon giving at least ten days' written notice of the time and place when the matter will be heard to the commissioner and to the person applying for review or his attorney and to any other person who participated in the proceedings before the commissioner or his attorney. Notice

of hearing may be given by registered mail, return receipt requested, and the return receipt signed by the addressee or his agent shall be presumptive evidence that such notice was received by the addressee on the day stated on the receipt. Any other interested party shall have the right to appear in any proceeding before the board.

(b) The board shall base its determination upon the record made by the commissioner and may also receive additional evidence to supplement such record, if it finds it necessary. The board shall affirm, modify, or reverse the act, order, or determination under review. The burden of overcoming the act, order, or determination of the commissioner under review shall be on the person seeking the review. Any findings of fact made by the commissioner shall be sustained if supported by substantial evidence in the record made by him or in the record supplemented by evidence taken by the board. The board shall have the powers granted by this chapter and as provided by law. Any person causing a witness to be subpoenaed shall advance and pay the fees and mileage of such witness which shall be the same as in circuit court. The fees and mileage of witnesses which shall be the same called at the instance of the commissioner shall be paid by the State in the same manner that other expenses are audited and paid upon presentation of properly verified vouchers approved by at least one member of the board and charged to the appropriation of the office of the commissioner.

(c) Any final order or determination of the board shall be subject to review in the same manner provided in this chapter and the laws of this State.

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

Sec. -7 Credit union organization. Any seven or more natural persons who desire to form a credit union under this chapter may subscribe to the commissioner before some officer competent to administer oaths an organization certificate in duplicate which shall specifically state:

- (1) The name and location of the proposed credit union;
- (2) The territory in which it will operate;
- (3) The names and addresses of the subscribers to the certificate and the number of shares subscribed by each;
- (4) The par value of each share which shall be \$5 each;
- (5) The proposed field of membership, specified in detail;
- (6) The term of the existence of the corporation which may be perpetual; and
- (7) The fact that the certificate is made to enable such persons to avail themselves to the advantages of this chapter.

The organization certificate may also contain any provisions approved by the commissioner for the management of the business of the credit union and for the conduct of its affairs and relative to the powers of its directors, officers, committeemen, or shareholders.

Sec. -8 Approval of organization certificate. The organization certificate shall be presented to the commissioner for approval. Before any organi-

zation certificate is approved, an investigation shall be made for the purpose of determining:

- (1) Whether the organization certificate conforms to the provisions of this chapter;
- (2) The general character and fitness of the subscribers thereto; and
- (3) The economic advisability of establishing the proposed credit union.

Upon approval of the organization certificate by the commissioner, it shall be the charter of the corporation, and one of the originals thereof shall be delivered to the corporation after the payment of the fee required therefor. Upon the approval the credit union shall be a body corporate and as such, subject to the limitations herein contained, shall be vested with all the powers and charged with all of the liabilities conferred and imposed by this chapter upon corporations organized hereunder.

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

Total Assets	Maximum Fee
\$500,000 or less	25 cents per \$1,000
Over \$500,000 and not over \$1,000,000 . . .	\$125 plus 20 cents per \$1,000 in excess of \$500,000
Over \$1,000,000 and not over \$2,000,000 . .	\$225 plus 15 cents per \$1,000 in excess of \$1,000,000
Over \$2,000,000 and not over \$5,000,000 . .	\$275 plus 10 cents per \$1,000 in excess of \$2,000,000
Over \$5,000,000	\$675 plus 5 cents per \$1,000 in excess of \$5,000,000

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

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

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

Sec. -10 Use of name exclusive. No person, partnership, association, or corporation, except corporations formed under this chapter and the Federal

Credit Union Act, shall transact within this State the business authorized by this chapter, nor any business whatever under any name or title which includes the two words "credit" and "union," except that any organization whose membership is made up of credit unions may use the name, with the consent of the commissioner. Violation of this section may be enjoined at the instance of the commissioner or any credit union, and shall in addition be a misdemeanor.

Sec. -11 Bylaws. In order to simplify the organization of credit unions, the commissioner shall from time to time cause to be prepared a form organization certificate and a form of bylaws, consistent with this chapter, which shall be used by credit union incorporators and credit unions, and shall be supplied to them on request. At the time of presenting the organization certificate the incorporators shall also submit proposed bylaws to the commissioner for his approval.

The bylaws shall prescribe the following:

- (1) The conditions of residence or occupation which qualify persons for membership; provided, that:
 - (A) Credit unions shall be open to groups having common or related bonds of occupation or association, or to residents within a well-defined neighborhood, community, or rural district, or to employees of related or vicinal industries, or to members of bona fide fraternal, religious, cooperative, labor, rural, educational, or similar organization and employees of the credit union. Members of the immediate family of all qualified persons are eligible for membership. In this section "members of the immediate family" include the wife, husband, parents, and children of a member whether living together in the same household or not and any other relative of the member or spouse of a member living together in the same household as the member. Minimum requirements for the establishment of credit unions will be according to the rules and regulations promulgated by the commissioner.
 - (B) Organizations and associations composed of individuals, the majority of whom are eligible for membership, may be admitted to membership in the same manner and under the same conditions as individuals.
 - (C) An individual who ceases to qualify under subparagraph (A) may retain his full membership in the credit union at the discretion of the board of directors.
- (2) The par value of each share of capital stock which shall be \$5.
- (3) The conditions on which accounts may be paid in, transferred, and withdrawn.
- (4) The method of receipting for money paid on accounts.
- (5) The number of directors and the length of their terms, a credit committee or loan officer.
- (6) The duties of the several officers.
- (7) The time of the annual meeting of members, which shall be held within ninety days after the end of the calendar year.

- (8) The manner in which members and directors shall be notified of meetings.
- (9) The number of members which shall constitute a quorum at meetings.
- (10) Such other regulations as may seem necessary.

A credit union may have deposit accounts such as Christmas, vacation, education, deferred income, pension, and similar types. Credit unions may conduct elections by mail ballot which shall be signed by the member and valid only for the meeting designated.

Sec. -12 Members, fiscal year, meetings, powers. (a) The incorporators shall call the first meeting of the eligible membership with the primary purpose of electing a board of directors. No person may vote at a meeting unless he has been a member for at least three months, except during the first twelve months of the existence of the corporation. Members shall not have more than one vote. Fifteen members shall constitute a quorum.

(b) Special meetings may be held by order of the directors or the secretary shall call a special meeting upon written request of one-third of the members. Notice of the meeting shall state the purpose of the meeting.

(c) At any meeting the members may:

- (1) Decide, by a majority of members present, any question of interest to the corporation;
- (2) Reverse, by a two-thirds vote of the members present, if the notice of the meeting specified the questions to be considered and upon appeal of fifteen members, decisions of the credit committee, loan officers, or board of directors;
- (3) Remove, by a three-fourths vote of the members present, any officer or member of the credit committee, loan officer, or member of the board of directors, fill the vacancy caused by such removal and amend the bylaws if the notice of meeting specified the questions to be considered.

(d) The fiscal year of every credit union shall end at the close of business on December 31 and the credit union shall transfer funds to the regular reserve account at the end of each accounting period as required by section -23.

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

(f) The credit union shall have succession in its corporate name and during its existence and shall have power to:

- (1) Make contracts;
- (2) Sue and be sued;
- (3) Adopt and use a common seal and alter the same at pleasure;
- (4) Purchase, hold, and dispose of property necessary or incidental to its operations;

- (5) Make unsecured and secured loans to its members according to section -15;
- (6) Receive from its members or other credit unions payments on shares, share certificates, or share deposits;
- (7) Invest its funds according to section -22;
- (8) Make deposits in national banks and in state banks, and mutual savings banks operating as provided by law;
- (9) Borrow, in accordance with such rules and regulations as may be prescribed by the commissioner, from any source, in an aggregate amount not exceeding fifty per cent of its paid-in and unimpaired capital and surplus; provided, that any credit union may discount with or sell to any credit union or other financial institutions obligations up to the amount of its paid-in and unimpaired capital. Borrowing of funds under this paragraph is limited to a period of twelve months, except that such period may be extended when approved by the commissioner;
- (10) Levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the credit union;
- (11) Impress and enforce a lien upon the shares and dividends of any member, to the extent of any loan made to him or any dues or charges payable by him;
- (12) In accordance with rules and regulations prescribed by the commissioner, sell to members negotiable checks (including travelers checks) and money orders, and cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing such service;
- (13) In accordance with rules and regulations prescribed by the commissioner, purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed five per cent of the unimpaired capital and surplus of the credit union;
- (14) Exercise such incidental powers as shall be necessary or requisite to enable it to carry out effectively the business for which it is incorporated.

Sec. -13 Directors, credit committee, audit committee and loan officers. (a) The members shall elect at the first meeting a board of directors consisting of an odd number of directors of not less than five and not more than fifteen directors. The board of directors shall appoint a credit committee of not less than three nor more than five and an audit committee of not less than three nor more than five and such other officers as it determines are necessary. Only one director may be appointed to the credit committee. Only one director may be appointed to the audit committee. The directors, officers, and com-

ACT 194

mittee members of the credit union shall be sworn and shall hold their offices until others are elected or appointed, and qualified, in their stead. A record of every oath shall be filed and preserved with the records of the credit union. A majority of the board shall constitute a quorum.

(b) The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the corporation. Minutes of all meetings shall be kept.

(c) The board shall:

- (1) Act upon applications for membership;
- (2) Purchase a blanket fidelity bond, as prescribed by the commissioner for the credit union according to their asset categories, covering the officers, directors, committeemen, employees, attorneys-at-law, and other agents appointed by the board of directors, with protection against loss caused by dishonesty, burglary, robbery, larceny, theft, forgery, or alteration of instruments, misplacement or mysterious disappearance, and for faithful performance of duty. The commissioner shall prescribe in his rules and regulations the amount of minimum bond coverage required for all credit unions according to their asset categories;
- (3) Fill vacancies in the board until successors elected at the next annual meeting have qualified;
- (4) Have charge of investments other than loans to members;
- (5) Determine from time to time the maximum number of shares that may be held by an individual member;
- (6) Subject to the limitations of this chapter, determine the interest rates on loans and the maximum amount which may be loaned with or without security to any member;
- (7) Subject to such regulations as may be issued by the commissioner, authorize an interest refund to members of record at the close of business on the last day of any dividend period in proportion to the interest paid by them during the dividend period;
- (8) Provide for compensation of necessary clerical and auditing assistance requested by the audit committee, and of loan officers appointed by the credit committee;
- (9) Declare dividends as provided by section -24;
- (10) Authorize the employment and compensation of such person or persons as may be necessary to carry on the business of the credit union;
- (11) Designate a depository or depositories for the funds of the credit union;
- (12) Suspend from his official position any officer or director who fails to attend regular meetings for three consecutive meetings without cause, or who otherwise fails to perform any of the duties required of him as an official;
- (13) Appoint any committees deemed necessary;
- (14) Perform or authorize any action consistent with this chapter not specifically reserved by this chapter for the members, and perform such other duties as the members may from time to time require; and

- (15) Submit reports of financial condition to the commissioner annually as of December 31 and other reports as required by the commissioner. These reports shall be submitted to the commissioner by January 31 after the close of the preceding calendar year.

(d) The board of directors may appoint an executive committee of not less than three directors and delegate its authority to the committee to act for the board, within limitations established by the board.

(e) The credit committee shall hold such meetings as the business of the credit union may require and not less frequently than once a month to consider applications for loans. Reasonable notice of such meetings shall be given to all members of the committee. A majority of the members shall constitute a quorum. No loans shall be made unless it is approved by a majority of the committee members present at the meeting and unless a quorum of the committee was present at the meeting at which the application is considered; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee no later than thirty days from the date the application is forwarded to the credit committee. No individual shall have authority to disburse funds for the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer. Applications for loans shall be made on forms prepared by such committee, which shall set forth the purpose for which the loan is desired, the security, if any, and such other data as may be required. No loan which is not adequately secured may be made to any member, if, upon the making of that loan, the member would be indebted to the credit union upon loans made to him in an aggregate amount which would exceed the amount allowed in section -15.

For the purposes of this section any assignment of shares or the endorsement of a note shall be deemed security and, subject to such regulations as the commissioner may prescribe, except insurance obtained under Title I of the National Housing Act shall be deemed adequate security.

(f) The audit committee shall make or cause to be made a comprehensive annual audit and shall submit a report of that audit to the board of directors and a summary of the report to the members at the next annual meeting of the credit union. The committee shall make or cause to be made supplementary audits as it deems necessary or as may be ordered by the commissioner, and submit a report of the supplementary audits to the board of directors. The committee may by a unanimous vote suspend any officer of the credit union or any member of the credit committee or the board of directors, until the next membership meeting, which shall be held not less than seven nor more than fourteen days after any suspension, at which meeting any such suspension shall be acted upon by the members. The committee may call by a majority vote a special meeting of the members to consider any violation of this chapter, the charter, or the bylaws, or any practice of the credit union

deemed by the audit committee to be unsafe or unauthorized. Any member of the audit committee may be suspended by a majority vote of the board of directors. The members shall decide, at a meeting held not less than seven nor more than fourteen days after any such suspension, whether the suspended committee member shall be removed from or restored to the audit committee. The books and accounts of the members shall be verified with the records of the treasurer from time to time, and not less frequently than once every two years.

Sec. -14 Officers and their duties. (a) At their first meeting, within thirty days following the annual meeting of the members, the board of directors shall elect from their own number a chief executive officer who may be designated as chairman of the board, a vice-chairman, a treasurer and a secretary, of whom the last two may be the same individual. The board of directors may employ an officer in charge of operations whose title shall be either the president or general manager; or in lieu thereof, the board of directors may designate the treasurer or an assistant treasurer to be in active charge of the affairs of the credit union.

(b) Within ten days after election to any position, each person so elected or appointed shall execute an oath of office by which he agrees to accept and to diligently and faithfully carry out the duties and responsibilities of the position to which he has been elected and not to negligently or wilfully violate, or permit to be violated, any provisions of this chapter, rules and regulations issued by the commissioner, or the charter or bylaws of such credit union.

(c) The chairman of the board and secretary shall execute a certificate of election which shall set forth the names and addresses of the officers, directors, and committee members elected or appointed.

The oath of office and the certificate of election shall be executed on forms prepared by the commissioner, and one copy of each shall be filed with the commissioner within ten days after such election or appointment. The terms of the chairman of the board or president, vice-chairman or vice-president, treasurer, and secretary shall be for one year, or until their successors are chosen and have been fully qualified. No director of the credit union, or committee member, other than the treasurer, may be compensated, directly or indirectly, for his services as such. This shall not be construed to prevent reimbursement of directors and committee members for actual expenses they may incur in carrying out the duties of their office.

Sec. -15 Loans to members. (a) A credit union may loan to members for provident or productive purposes and upon such security approved by the board of directors, acceptable to the credit committee and not prohibited by this chapter. A credit union shall not grant unsecured loans with maturities exceeding five years, nor shall it grant secured loans, except as expressly herein otherwise provided, with maturities exceeding ten years; provided, that these limitations shall not apply to loans made under the National Higher Education Act and guaranteed in whole or in part by the United States government or any of its agencies, or any agency of the State. No loan shall bear an interest rate to exceed one per cent per month on the unpaid monthly balance. No credit union shall charge the borrower anything of value in connection or in associa-

tion with a loan other than repayment of the unpaid principal balance and interest; provided, that the credit union may require the borrower to pay fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction, fees, or premiums in connection with real estate loans, including fees or premiums for title examination, title insurance, or similar purposes, fees for preparation of deeds, settlement statements or other documents, escrows for future payments of taxes and insurance, fees for notarizing deeds and other instruments, appraisal fees, or credit reports. Each application for a loan shall be made upon a form, which the credit committee prescribes and the board of directors approves, which shall state the purpose for which the loan is desired and the security, if any, offered. Every loan shall be evidenced by a written instrument. Loans to any one member shall not exceed \$200 or ten per cent of the shares, deposits, and surplus, whichever shall be the larger.

(b) Loans may be made to members of the board of directors, credit committee, and audit committee under the same general terms and conditions as to other members of the credit union, but all such loans shall be reported to the commissioner at least annually, and such a loan may be made only if:

- (1) The loan complies with all lawful requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;
- (2) Upon application for the loan, if the aggregate amount of the official's outstanding loans and amount being applied for exceed \$5,000, the loan must be approved by the credit committee and board of directors after the submission to them of a detailed current financial statement by the loan applicant. However, loans that are fully secured by shares and deposits in the credit union need not be approved by the board of directors and the authority to approve these loans may be delegated to the loan officer by the credit committee;
- (3) The loan applicant takes no part in the consideration of his application and is not present during the taking of the vote by the credit committee or board of directors meeting while his application is under consideration; and
- (4) Upon the making of the loan, the aggregate amount of loans outstanding under authority of this section shall not exceed twenty per cent of the unimpaired capital and surplus of the credit union.

(c) Loans may be granted to members of the credit union, secured by a first mortgage on residential real estate. The term "residential real estate" shall mean land on which is situated a dwelling of not more than four family units, the primary use of which is occupancy as a home. Such loan shall not exceed ninety per cent of the appraised value of the real estate plus the unencumbered share or deposit balances of the borrowing member that are pledged to the loan, and such loans may provide additionally regular deposits for the payment of insurance premiums and taxes assessed against the security. No loan shall be made by a credit union on residential real estate for a maturity of more than thirty years.

(d) Loans may be granted to members of the credit union secured by a first mortgage on real estate other than residential real estate; provided, that the loan does not exceed eighty per cent of the appraised value of such real estate and such loan provides for the regular reduction of principal; and provided, that such loan does not exceed a maturity of thirty years. The loan shall also provide additionally regular deposits for the payment of insurance and taxes assessed against the property unless an amount equivalent to at least the annual insurance payment and annual taxes is maintained in the share account.

(e) The total outstanding balance of all first mortgage loans on real estate shall not exceed thirty per cent of the outstanding shares and deposits of the credit union.

(f) (1) The board of directors shall determine the policy regarding collateral acceptable for secured loans. Loans to individuals which in the aggregate exceed the amount shown in the schedule below shall be secured by such collateral having a value which, in the opinion of the credit committee or loan officer, is at least equal to any amount exceeding the following:

(A) \$250, in credit unions with assets of less than \$5,000.

(B) \$500, in credit unions with assets of \$5,000 and less than \$25,000.

(C) \$1,000, in credit unions with assets of \$25,000 and less than \$100,000.

(D) \$2,500, in credit unions with assets of \$100,000 and less than \$500,000.

(E) \$3,500, in credit unions with assets of \$500,000 and less than \$1,000,000.

(F) \$5,000, in credit unions with assets of \$1,000,000 or more.

(2) This subsection does not preclude the credit committee or loan officer from requiring security on any loan. Where such loans are secured by one or more co-makers, such co-makers shall furnish the credit union with written evidence of financial responsibility.

(g) The commissioner may reduce the loan limits specified in subsection (f) of this section on an individual basis.

(h) A credit union may loan to members under the provisions of Title I of the National Housing Act and such insurance on these loans shall be deemed adequate security. The terms of such loans shall be as defined by the credit committee under the provisions of Title I of the National Housing Act.

(i) In addition to generally accepted types of security, the endorsement of a note by a guarantor, co-maker or assignment of shares, in a manner consistent with state law, shall be deemed security within the meaning of this chapter and the adequacy of all securities shall be within the determination of the credit committee or loan officer subject to the provisions of this chapter and the bylaws. A member may receive a loan in installments or in one sum, and may pay the whole or any part of his loan on any day in which the credit union office is open for business without penalty.

(j) The credit committee or, when authorized, a loan officer may approve in advance upon its or his own motion or upon application by a member,

an extension of credit, and loans may be granted to such members within the limits of such extension of credit. Where an extension of credit has been approved, applications for loans need no further consideration as long as the aggregate obligation does not exceed the limits of such extension of credit. The credit committee shall, at least once a year, review, or cause to be reviewed, all such extensions of credit, and any such extension of credit shall expire if the member is more than ninety days delinquent in his obligations to the credit union.

(k) Loans to members secured by first mortgages on real estate may be made subject to the rules prescribed by the commissioner.

Sec. -16 Shares. A share is defined as a term applied to each \$5 standing to the share or deposit account of a member. The shares of stock of a credit union shall all be common shares of one class and shall have a par value of \$5 per share. No certificate shall be issued to denote ownership of a share in a credit union. Shares may be subscribed, paid for, and transferred in such manner as the bylaws may prescribe.

The credit union shall have and may exercise a lien on the shares or deposits of any member for any sum due the credit union from the member or for any loan endorsed by him.

Sec. -17 Thrift clubs. Christmas clubs, vacation clubs, and other thrift clubs, if provided for the use of members, shall be operated in accordance with such rules and regulations as the board of directors may prescribe.

Sec. -18 Deposits. Deposit accounts shall be operated in accordance with such rules and regulations as the board of directors may prescribe and as approved in writing by the commissioner. Interest rates on deposits shall not exceed six per cent a year unless a rate in excess of six per cent a year shall have first been approved by the commissioner.

Sec. -19 Joint accounts. (a) A member may, subject to approval of the board of directors, designate any person or persons to hold shares, deposits, and thrift club accounts with him in joint tenancy with the right of survivorship, but no joint tenant, unless a member in his own right, shall be permitted to vote, obtain loans, or hold office. Payment of part or all of such accounts to any of the joint tenants shall, to the extent of such payment, discharge the liability to all.

(b) No credit union organized under this chapter shall be required to recognize the claim of any third party to any deposits, or withhold payment of any deposit to the depositor or to his order, unless and until the credit union is served with a pleading filed in or order issued by a circuit court in connection with a suit instituted by such third party for the purpose of recovering or establishing an interest in such deposit.

(c) Share or share accounts issued by, or deposits made with, any credit union organized under this chapter, in the name of two or more persons or to two or more persons or the survivor of either, may be withdrawn on the signature of either party to whom such shares or share accounts are issued or deposits are made. Either party shall have power to act in all matters relating to such shares or person named in such shares or share accounts or deposits

whether the other person or persons is living or dead. The repurchase or withdrawal value of shares or share accounts or deposits issued in joint names and dividends thereon, or other rights relating thereto, may be paid or delivered, in whole or in part, to any of such persons who shall make requests therefor, whether the other person or persons is living or dead. The payment or delivery to any such persons, on a receipt or acquittance signed by any such person, to whom any such payment or any such delivery of right is made, shall be a valid and sufficient release and discharge of any credit union for the payment or delivery so made.

Sec. -20 Minor's accounts. Shares or deposits may be issued in the name of a minor, and such shares or deposits may be withdrawn by such minor, and payments made on such withdrawals shall be valid. No minor under sixteen years of age shall be entitled to vote in the meeting of the members either personally or through his parent or guardian, nor may he become a director or committee member until he shall have reached the age of majority.

Sec. -21 Trust accounts. Shares or deposits may be issued in the name of a member in trust for a beneficiary, including a minor, but no beneficiary, unless a member in his own right, shall be permitted to vote, obtain loans, hold office or be required to pay an entrance fee. Payment of part or all of such shares or deposits to the member shall, to the extent of such payments, discharge the liability of the credit union to the member and beneficiary, and the credit union shall be under no obligation to see the application of such payment. In the event of the death of the member, and if shares or deposits are so issued or held and the credit union has been given no other written evidence of the existence or terms of any trust, the shares or deposits and any dividends or interest thereon shall be paid to the beneficiary or to his legal representative.

Sec. -22 Investments. Funds not used in loans to members may be invested:

- (1) In capital shares, obligations, or preferred stock issues of any agency or association organized either as a stock company, mutual association, or membership corporation; provided, the membership or stockholdings, as the case may be, of such agency or association are confined or restricted to credit unions, or organization of credit unions, and provided the purposes for which such agency or association is organized are designed to service or otherwise assist credit union operations;
- (2) In obligations of the State or any political subdivision thereof;
- (3) In securities, obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the United States government or any agency thereof; or any trust or trusts established for investing directly or collectively in the same;
- (4) In loans to other credit unions in an amount not to exceed twenty-five per cent of the shares, deposits, and surplus of the lending credit union, or any trust or trusts established for lending directly or collectively to credit unions;
- (5) In an aggregate amount not exceeding two and one-half per cent of the credit union's total assets or the amount of its reserve fund,

whichever is less, in any agency or association of the type described in paragraph (1), provided the purposes of any such agency or association are designed to assist in establishing and maintaining liquidity, solvency, and security in credit union operations;

- (6) In certificates of passbook type accounts, insured by the Federal Savings and Loan Insurance Corporation, which are issued by a savings and loan association domiciled in the United States of America; and
- (7) In certificates of deposit issued by a state or national bank domiciled in the State; provided, no credit union may purchase, or own at any one time, certificates of deposit totaling in excess of twenty-five per cent of the paid-in capital and surplus of an issuing bank.

Sec. -23 Reserves. (a) Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside, an amount as a regular reserve against losses on loans and against such other losses as may be specified in regulations prescribed under this chapter. The amount and conditions of the transfer to the regular reserve and other reserves will be in accordance with the following schedule:

- (1) The regular reserve of a credit union shall be based on risk assets. The formula for transfer to the reserve is at the rate of ten per cent of gross income until such time as the reserve fund reaches five per cent of the risk assets; then the formula is decreased to seven per cent of gross income until such time as the reserve fund reaches six per cent of risk assets; and then the formula is decreased to five per cent of gross income until the reserve fund attains a maximum of seven per cent of risk assets. Subsequent transfers are required only to maintain the seven per cent requirement.
- (2) Special reserves may be required by the commissioner on an individual credit union basis for purchased accounts or when serious threat of impairment threatens the adequacy of the regular reserve.
- (3) Additional reserves for central credit unions may be required by the commissioner when adjustments of corporate investments are not offset by current transfer from gross income to the regular reserves.

Sec. -24 Dividends. (a) The board of directors shall establish the dividend period. Such dividends may be considered as a normal operating expense of the credit union. Rates of such dividends and terms of payment may be established and guaranteed in advance by action of the board of directors. The board of directors may classify its accounts and declare dividends which may be at variable rates. Savings deposited during the dividend period shall be entitled to an apportionate part of the dividend provided the savings are on deposit at the close of the dividend period.

(b) The commissioner may establish the maximum dividend that a credit union and a central credit union may pay in each classification of its savings. The commissioner may authorize a credit union to declare daily dividends provided minimum requirements established by the commissioner for the regular reserve, undivided earnings, expense to gross income, and operational efficiency are met by the credit union.

Sec. -25 Examinations. The department annually shall examine, or cause to be examined, each credit union chartered under this chapter. Each credit union and all of its officers and agents shall be required to give the department full access to all books, papers, securities, records, and other sources of information under their control. For the purpose of such examination, the department shall have power to subpoena witnesses, administer oaths, compel the giving of testimony, and require the submission of documents.

A report of the examination shall be forwarded to the chairman of the board of each credit union. The report shall contain comments relative to the management of the affairs of the credit union and also as to the general condition of its assets. Within thirty days after the receipt of the report a general meeting of the directors and committeemen shall be called to consider matter contained in the report. A reply to the department shall be forwarded by the board of directors if comments are required by the department.

For the purpose of the examinations each credit union shall pay an examination fee based upon the cost of performing the examination and which bear a proportionate share of the expenses of the department, in accordance with schedules adopted by the commissioner after approval has been secured from the credit union review board.

Sec. -26 Credit union officers bonded. (a) As a condition precedent to qualification or entry on the discharge of his duties, every person appointed or elected to any position requiring the receipt, payment, or custody of money or other personal property owned by a credit union or in its custody or control as collateral or otherwise, shall give a bond in some responsible corporate surety company, licensed to do business in this State, in such adequate sum as the directors shall require and approve. In lieu of individual bonds the commissioner may accept a schedule or blanket bond which covers all of the officers and employees of any credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the credit union. All bonds shall be in the form prescribed by the commissioner.

No officer or employee who is required to give bond shall be deemed qualified nor permitted to enter upon the discharge of his duties until his bond shall have been approved by a majority of the board of directors. Such bonds shall be filed with the commissioner within ten days after approval by the board of directors. The minute books of each credit union shall contain a record of each bond executed and approved. Each bond shall be sufficient in amount to protect the credit union from loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly, or through connivance with others. At any time the commissioner may require additional bonds or security, when, in his opinion, the bonds then executed and approved are insufficient.

(b) Every bond shall also include the following provisions:

(1) No cancellation or other termination of the bond shall be effective unless the surety gives in advance at least ten days written notice by registered mail to the commissioner. If the bond is canceled or terminated at the request of the insured, this provision nevertheless shall apply, it being the duty of the surety to give the required written no-

tice to the commissioner, such notice to be given promptly and in any event within ten days after the receipt of such request.

- (2) The surety agrees to furnish the commissioner a copy of all riders and endorsements executed subsequently to the effective date of this bond.

(c) For reasons which he deems valid and sufficient the commissioner may waive as to the cancellation or termination of any bond the ten-day written notice in advance required by subsection (b)(1) and may give his written consent to the termination or cancellation being made effective as of a date agreed upon and requested by the surety and credit union.

(d) The provisions required by subsection (b) to be in every such bond shall not in any way modify, impair or otherwise affect or render invalid a provision therein to the effect that the bond shall terminate as to any person covered thereby upon the discovery by the credit union of any dishonest act on the part of such person.

Sec. -27 Expelled member, rights and liabilities. The amounts paid in on shares by members who have withdrawn or have been expelled shall be paid to them, but in the order of withdrawal or expulsion and only as funds therefor become available and after deducting any amounts due by the members to the credit union; provided such expulsion or withdrawal shall not operate to relieve a member from any remaining liability to the credit union.

Sec. -28 Dissolution; voluntary liquidation. Upon the unanimous recommendation of the board of directors, the members may vote to dissolve the credit union provided that a majority of the members vote by ballot in person or by letter or other written communication in favor of dissolution, and provided that not more than fifteen members or ten per cent of the total membership, whichever is greater, by written notice, object thereto. A committee of three shall thereupon be elected to liquidate the assets of the credit union. Members may be paid a liquidating dividend in proportion to their savings after the debts of the credit union have been paid. The committee in charge of liquidation shall have the power and authority to sell or dispose of the assets in whole or in part at a public or private sale subject to confirmation by the board of directors and the commissioner.

Sec. -29 Credit unions promoted. It shall be the duty of the commissioner to promote the extension of credit at the lowest possible rates and cooperate with every group of people who may be or may become interested in the formation and development of a credit union in this State for that purpose, and he may do all things reasonably necessary for the discharge of this duty, including but not limited to:

- (1) Advertising of whatever character is most suitable and effective to acquaint the people of this State with the agencies and organizations dealing in consumer credit, and of the rates of interest, the condition of loans, the benefits and safeguards and the savings features of each such type, agency, and organization;
- (2) Offering without charge to any group, either joined in a credit union or considering such an organization, whatever advice and direction

on accounting practice and managerial problems that may be needful; and

- (3) Providing application blanks, model bylaws, and whatever other material may be needful or helpful in the organization, efficient functioning, and expansion of credit unions.

Sec. -30 Taxation. All credit unions, now or hereafter chartered under this chapter shall have the same immunity from state and local taxation that federally chartered credit unions have from time to time under the laws of the United States government.

Sec. -31 Conversion of federal credit union. Upon recommendation of its board of directors, any federal credit union may convert itself into a credit union under the provisions of this chapter by an affirmative majority vote of the members of such federal credit union. The officers and directors of the federal credit union shall be the officers and directors of the credit union after conversion takes effect, to hold office until their successors are elected and qualified.

The commissioner may conduct a joint audit of the federal credit union with federal examiners. Upon completion of the audit, he shall issue a certificate to the National Credit Union Administration showing the results of the audit. The commissioner may also certify that the transfer of the assets and liabilities from the federal credit union to a credit union subject to the laws of this State has been effected in compliance with this chapter. The costs of the audit shall constitute a charge against the credit union.

Copies of the minutes of the proceedings of the meeting of the members in which they voted to convert into a state credit union, verified by the affidavit of the board of directors of the credit union, shall be filed within ten days after the meeting in the office of the commissioner, and, in duplicate, with the National Credit Union Administration. The verified copies of the minutes of the meeting, when filed, are presumptive evidence of the holding of and action taken at such meeting.

After a meeting, the federal credit union shall take or cause to be taken such action in the manner prescribed and authorized by this chapter as shall make it a credit union of the State. The directors shall file the documents and take such proceedings as are required by this chapter in the case of the original incorporation of a credit union. The directors may insert in the articles of incorporation the following statement: "This credit union is incorporated by conversion from a federal credit union."

Within ten days after the filing of the articles of incorporation with the department of regulatory agencies, there shall be filed, with the National Credit Union Administration, two copies of the articles of incorporation, certified by the department. Upon the filing of the articles of incorporation with the department, the credit union ceases to be a federal credit union and is a credit union under this chapter. All of the property of such credit union, including all of its right, title, and interest in and to all property of every kind and character immediately, by operation of law and without any conveyance or transfer, and without any further act or deed, is vested in the credit union under its new name and style as a credit union and under its new jurisdiction.

The converted credit union shall have, hold, and enjoy the property in its own right as fully and to the same extent as the property was possessed, held, and enjoyed by it as a federal credit union and the converted credit union continues responsible for all of the obligations of the federal credit union to the same extent as though conversion had not taken place. The converted credit union is merely a continuation of the federal credit union under a new name and new jurisdiction and such revision of its corporate structure as is considered necessary for its proper operation under the new jurisdiction.

Sec. -32 Conversion into federal credit union. A credit union may convert itself into a federal credit union by the following procedures:

- (1) Upon recommendation of the board of directors the members of any credit union may by an affirmative majority vote of its members resolve to convert such credit union into a federal credit union;
- (2) Within ten days after the meeting at which the members determine to convert into a federal credit union, the credit union shall file in the office of the commissioner a certificate verified by the affidavit of the board of directors of such credit union. The certificate shall contain a copy of the minutes of the meeting and a statement that the members have approved the determination to convert such credit union into a federal credit union. A like certificate shall be filed with the department of regulatory agencies;
- (3) A certified copy of the certificate filed with the department is presumptive evidence of the holding of the meeting and the action taken thereat;
- (4) After the meeting of the members, the credit union shall take such action as is necessary to make it a federal credit union, and within ten days after receipt of the federal charter, the credit union shall file in the office of the commissioner and with the department, a copy of the charter issued to such credit union by the National Credit Union Administration or a certificate showing the organization of such credit union as a federal credit union certified by or on behalf of the National Credit Union Administration. Upon the filing of such instrument with the department, the credit union ceases to be a state credit union and is a federal credit union;
- (5) At the time the conversion into a federal credit union becomes effective, the credit union ceases to be supervised by this State and all of the property of the credit union including all of its right, title, and interest in and to all property of every kind, and character immediately, by operation of law and without any conveyance, or transfer and without any further act or deed, is vested in the credit union under its new name and style as a federal credit union and under its new jurisdiction; and
- (6) The converted federal credit union shall have, hold, and enjoy the property in its own right as fully and to the same extent as the property was possessed, held, and enjoyed by it as a state credit union and the federal credit union shall continue responsible for all of the obligations of the state credit union to the same extent as though the

conversion had not taken place. The federal credit union shall be merely a continuation of the state credit union under a new name and new jurisdiction and such revision of its corporate structure as is considered necessary for its proper operation under the new jurisdiction.

Sec. -33 Merger and consolidation of credit unions. (a) Any two or more credit unions, having a membership with similar associational, community, or occupational interest or with a similar common bond, as elsewhere defined in this chapter, may merge or consolidate into a single credit union. Such merger or consolidation may be with a credit union organized under this chapter or of the United States government and shall be subject to the approval of the commissioner. It shall be made on such terms as shall have been agreed upon by a vote of a majority of the board of directors of each credit union, and approved by a majority of the members of each credit union either in person or by proxy, at meetings of the members of each credit union affected called for that purpose. Notice of the meetings stating the purpose thereof shall be sent by the secretary of each credit union to each member thereof by United States mail at least seven days before the date of the meeting.

(b) One of the merging credit unions may continue after the consolidation either as a surviving credit union retaining its identity or as a new credit union as has been agreed upon under the terms of the merger. If a new credit union is to be organized under the terms of the merger, thereupon, at least fifteen members of the new proposed credit union shall apply to the credit union division for permission to organize the new credit union. The same procedure shall be followed and the same rules govern as elsewhere provided for the organization of a new credit union.

(c) A merger of two or more credit unions may be permitted with one of the merging credit unions continuing as the surviving credit union and the geographical limitations and similar associational or occupational interest as required by section -11 may be disregarded by the commissioner where the credit union seeking such a merger is forced to liquidate through loss of parent associational or occupational sponsorship; provided, the commissioner finds that such merger would benefit the members and be consistent with the purpose of this chapter. The merger or consolidation shall be made on such terms as shall have been agreed upon by a vote of the majority of the board of directors of each credit union, and approved by a majority of the members of each credit union, either in person or by proxy, at meetings of the members of each credit union affected, called for that purpose. Notice of the meetings, stating the purpose thereof, shall be sent by the secretary of each credit union to each member thereof by United States mail at least seven days before the date of the meeting.

Each merging credit union, by its president and secretary, shall submit to the credit union division a petition to merge, which shall contain the terms of the agreement and the members' approval thereof on forms prescribed by the commissioner. The commissioner shall thereupon act on the petition and if his decision is favorable he shall issue to each merging credit union a certificate approving the merger. The merging credit union shall return to the commis-

sioner its charter and bylaws. The surviving credit union shall continue its operation under its original charter and bylaws. Any rights to membership or any obligation or liability of any member in any such credit union, which is party to the consolidation or merger, shall be continued in the new credit union. A pending action or other judicial proceeding to which any of the consolidating or merging credit union is a party shall not abate by reason of the consolidation or merger.

Sec. -34 Name and change of place of business. Not more than one credit union shall bear the same name or be identified by the same title or description. Change of name or place of business of any credit union may be made only upon the written authorization of the commissioner upon proper application therefor.

Sec. -35 Possession by the commissioner. The commissioner may forthwith take possession and control of the business and property of any credit union to which this chapter is applicable whenever he finds a credit union violating this chapter or that the credit union:

- (1) Is conducting its business contrary to law;
 - (2) Has violated its charter, or any law;
 - (3) Is conducting its business in an unauthorized or unsafe manner;
 - (4) Is in an unsound or unsafe condition to transact its business;
 - (5) Has an impairment of its capital;
 - (6) Cannot with safety and expediency continue business;
 - (7) Has suspended payment of its obligations;
 - (8) Has neglected or refused to comply with the terms of a duly issued order of the commissioner;
 - (9) Has refused to submit its books, papers, records, or affairs for inspection to any examiner or person appointed by the commissioner;
 - (10) Has refused to be examined upon oath regarding its affairs; and
 - (11) The commissioner may suspend for a period up to one hundred twenty days the business or any officer, director, committee member, or employee of any credit union for the aforementioned conduct.
- (b) Upon taking possession of the business and property of the credit union the commissioner shall forthwith:
- (1) Serve a notice in writing upon the president and secretary of the credit union setting forth that he has taken possession and control of the business and property of the credit union. The notice shall be executed in duplicate, and immediately after the same has been served, one of the notices shall be filed with the clerk of the circuit court in the county where the credit union is located together with proof of service.
 - (2) Give notice to all individuals, partnerships, corporations, and associations known to the commissioner to be holding or in possession of any assets of the credit union.

The commissioner may appoint one or more liquidating agents to assist in the duty of liquidation and distribution of the assets of one or more credit unions of whose business and property the commissioner shall have taken possession pursuant to this chapter. A certificate of such appointment shall be

filed in the office of the commissioner and a certified copy in the office of the clerk of the circuit court for the county in which the credit union is located. The commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of the credit union, and may retain such of the officers or employees of the credit union as he deems necessary. The liquidating agent and assistants shall furnish such security for the faithful discharge of their duties as the commissioner deems proper. The liquidating agent may execute, acknowledge, and deliver any and all deeds, assignments, releases, or other instruments necessary and proper to effect any sale and transfer or incumbrance of real estate or personal property and may borrow for use in the liquidation after the same has been approved by the commissioner and an order obtained from the circuit court of the county in which the credit union is located as hereinafter provided.

Upon taking possession of the property and business of the credit union, the liquidating agent may collect all moneys due to such credit union, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. He shall collect all debts due and claims belonging to it, and upon a petition approved by the commissioner and upon order of the circuit court of the county in which such credit union is located, may sell or compound all bad or doubtful debts, or do any act or execute any other necessary instruments and upon like petition and order may sell all the real and personal property of such credit union on such terms as the court shall approve.

(c) The liquidating agent shall cause a notice, as required by the laws of the State, to be published, calling on all persons who may have claims against such credit union, to present the same to the liquidating agent and make legal proof thereof at a place and within a time, not earlier than the last date of publication, to be therein specified. He shall mail a similar notice to all persons at their last known address, whose names appear as creditors upon the books of the credit union. Proof of service of such notice shall be filed with the clerk of the court. The liquidating agent may reject any claim. Any party interested may also file written objections to any claim with the liquidating agent and after notice by registered mail of the rejection, the claimant shall be barred unless he commences an action thereon within three months. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets then in the hands of the liquidating agent equitably applicable thereto.

(d) Upon taking possession of the property and assets of the credit union, the liquidating agent shall make an inventory of the assets of the credit union, in duplicate, one to be filed in the office of the commissioner and one in the office of the clerk of the circuit court for the county in which the credit union is located. Upon the expiration of the time fixed for the presentation of claims the liquidating agent shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the commissioner, and one in the office of the clerk of the circuit court for the county in which the credit union is located. The inventory and list of claims shall be open at all reasonable times to inspection.

(e) The value of shares pledged upon a loan to such credit union shall be applied and credited to the loan and the borrower shall be liable only for the balance. The rate of interest charged upon such balance shall be the legal rate. The value shall be determined in such manner as the commissioner may prescribe. Upon the approval of the value by the commissioner and the circuit court of the county in which such credit union is located, the book value of each member will be determined. At least five days written notice of the determination of value shall be given to all shareholders of the time and place the value shall be submitted to the circuit court for approval. Should any shareholder of the credit union feel aggrieved by the determination of value, he may at any time within fifteen days after the mailing of notice by the commissioner, addressed to the last known address of the party, giving notice of the determination and value of the shares, appeal to the supreme court of the State.

(f) The compensation of the liquidating agent, counsel, and other employees and assistants, and all expenses of supervision and liquidation shall be fixed by the commissioner, subject to the approval of the circuit court for the county in which the credit union is located, and shall upon the certificate of the commissioner be paid out of the funds of the credit union. Expenses of supervision and liquidation shall include the cost of the service rendered by the credit union division to the credit union being liquidated and shall be determined from time to time by the commissioner and shall be paid to the office of the commissioner from the assets of the credit union as other expenses of liquidation are paid. The moneys collected by the liquidating agent shall be from time to time deposited in one or more banks domiciled in the State.

(g) At any time after the expiration of the date fixed for the presentation of claims, the special deputy commissioner in charge of the liquidation of the credit union may, upon a petition approved by the commissioner and an order of the circuit court of the county in which the credit union is located, out of the funds remaining, after the payment of expenses and debts, declare one or more dividends, and may declare a final dividend to be paid to the persons, and in such amounts as may be directed by the circuit court.

(h) Immediately upon filing the notice as provided for in subsection (b) the possession of all assets and property of such credit union of every kind and nature, wheresoever situated shall be deemed to be transferred from such credit union to, and assumed by the commissioner and filing of the notice mentioned herein, shall of itself, and without the execution or delivery of any instruments of conveyance, assignment, transfer, or endorsement, vest the title to all the assets and property in the commissioner. The filing shall also operate as a bar to any attachment, garnishment, execution, or other legal proceedings against such credit union, or its assets and property, or its liabilities.

(i) No credit union shall have a lien, or charge for any payment, advance, or clearance made, or liability thereafter incurred, against any of the assets of the credit union of whose property and business the commissioner shall have taken possession.

(j) Whenever any credit union, whose property and business the commissioner has taken possession of deems itself aggrieved thereby, it may, at any time within ten days after such taking, appeal to the credit union review

board for relief from the possession by the commissioner. In the event the credit union review board sustains the commissioner, the credit union may then at any time within ten days after the decision of the credit union review board, apply to the circuit court of the county in which the credit union is located to enjoin further proceedings; and the court, after requesting the commissioner to show cause why further proceedings should not be enjoined and hearing all allegations and proofs of the parties and determining the facts, may, upon the merits dismiss the application or enjoin the commissioner from further proceedings, and direct him to surrender the business and property to the credit union.

(k) Whenever the commissioner shall have taken over the possession and control of the business and property of any credit union, the same may resume business when and if:

- (1) The owners of at least two-thirds of the credit union dollar value of outstanding shares, execute a petition to such effect, the form of which shall be prescribed by the commissioner;
- (2) There is submitted to the commissioner by the shareholders or a committee duly selected by them, a plan for the reorganization and reinstatement of the credit union;
- (3) The commissioner recommends that control of the business and property of the credit union be returned to the shareholders; and
- (4) The court in which the liquidation is pending, upon application of the commissioner, makes an order approving the commissioner's recommendations, which order shall contain a finding that the credit union will be in a safe and sound condition when control is resumed by the shareholders.

(l) The credit union may also resume business upon a restricted basis, and upon such limitations and conditions as may be prescribed the commissioner when approved by the circuit court in and for the county in which such credit union is located, upon application of the commissioner. The restrictions and conditions may include, among others, a prohibition against the selling of shares, reasonable restrictions upon withdrawals, and the payment of other liabilities. The credit union shall thereupon be relieved from the control and supervision of the commissioner as provided in this section, but nothing herein shall, in any manner, prohibit the commissioner from again proceeding against the credit union as provided herein.

(m) Disposition of liquidating dividends and unclaimed funds:

- (1) Unclaimed liquidating dividends and unclaimed funds remaining unpaid in the hands of the liquidating agent for six months after the order for final distribution shall be deposited by him in one or more banks domiciled in the State, to the credit of the commissioner, in trust for the several shareholders and creditors.

The commissioner shall include in his annual report to the governor, the names of credit unions so taken possession of and liquidated, and the sums of unclaimed and unpaid liquidating dividends and unclaimed funds with respect to each of them respectively, including a statement of interest earned upon the funds.

- (2) The commissioner may pay over the moneys held by him to the per-

sons respectively entitled thereto, upon being furnished satisfactory evidence of their right to the same. In case of doubt or conflicting claims, he may require an order of the circuit court authorizing and directing the payment thereof. He may apply the interest earned by the moneys held by him towards defraying the expenses in the payment and distribution of the unclaimed liquidating dividends and funds to the stockholders and creditors entitled to receive the same.

- (3) After one year from the time of the order for final distribution, all unclaimed funds shall be turned over to the department of budget and finance by the commissioner and shall be kept in a separate fund. All claims subsequently arising shall be presented to the commissioner. If the commissioner determines that any claim so presented is a proper claim against the fund he shall certify to the department of budget and finance the name and address of the person entitled to payment and the amount thereof and shall attach the claim to the certificate. The department shall thereupon make payment of the amount stated in the certificate to the person named thereon.

Sec. -36 Charter cancellation. Upon completion of a voluntary liquidation as provided in section -28, or upon completion of the liquidation in cases under section -34, or after the assets and liabilities of a credit union for the purpose of consolidation is provided in section -33, the commissioner shall forthwith cancel the charter of the credit union or credit unions liquidated or absorbed in consolidation without any other or further notice to the credit union or to any person. A certified copy of the order or certificate of the commissioner shall be recorded with the department of regulatory agencies. The department of regulatory agencies shall note on the margin of the record of the articles of incorporation of the credit union the volume and page where the order or certificate canceling its charter is recorded and shall be entitled to a fee of \$2 therefor. In case of voluntary liquidation under section -28 or consolidation under section -33, the credit union shall record the order or certificate of the commissioner and pay the fee therefor. In case of liquidation under section -35, the commissioner or liquidating agent as therein provided shall record the order or certificate of the commissioner and pay the fee therefor out of the assets of the credit union as an expense of liquidation.

Sec. -37 Central credit unions. Central credit unions may be organized and operated under the conditions and provisions of this chapter and subject to all of the provisions of this chapter not inconsistent herewith. It shall be lawful for other credit unions located in this State to become members of central credit unions. A credit union having membership in a central credit union may be represented at annual or special meetings of the central credit union by one member duly authorized by the board of directors of the member credit union and shall be entitled to one vote, and the representative shall be eligible for office in the central credit union the same as though he were a member of the central credit union. The representative must be a member of the credit union he is representing while he is a representative.

A central credit union may pay to the accounts of member credit unions

dividends on a basis other than that required by this section for other members of a central credit union. The dividends may be considered as a legitimate expense of the central credit union's operation and the rate of the dividends and terms of payment may be established and guaranteed in advance by action of the central credit union's board of directors. Any resident in the State who is not eligible for membership in any credit union in the State, may be eligible for membership.

Sec. -38 Rules and regulations. The commissioner shall issue orders prescribing reasonable rules and regulations, pursuant to chapter 91, in conducting the business of credit unions or corporations operating as provided in this chapter and it may in like manner issue orders amending, modifying, repealing, or supplementing rules or orders. The violation of any rule may be cause for the removal of any officer, director, or employee of any credit union or corporation operating under this chapter.

Sec. -39 Credit union services. A credit union may:

- (1) If the need and necessity exists, establish subsidiary offices within the State with the approval of the commissioner;
- (2) Share office space with one or more credit unions and contract with a corporation to provide facilities or personnel;
- (3) Provide nonprofit financial counseling;
- (4) Charge for perfection of security interest and investigations of borrowers;
- (5) Issue third-party checks upon request of the member;
- (6) Provide pension savings programs and deferred income accounts;
- (7) Purchase or acquire conditional sales contracts or similar instruments executed by credit union members; and
- (8) Exercise all powers necessary and proper to carry out the purposes of the credit union.

Sec. -40 Immunity of the commissioner. The commissioner of credit unions shall not be subject to any civil liability or penalty, nor to any criminal prosecution, for any error in judgment or discretion made in good faith and upon reasonable grounds in any action taken or omitted by him in his official capacity under this chapter.

Sec. -41 Bookkeeping. Books and records shall be maintained in a proper accounting manner acceptable to the commissioner. Any credit union that refuses or neglects to maintain books and records in a proper and acceptable manner shall be upon written notification of the commissioner, subject to a penalty not to exceed \$10 for each day it fails to keep such books and accounts as required.

Sec. -42 Compensation of officers. No member of the board of directors, credit committee, or the audit committee, except the treasurer, may receive any compensation for his services in that particular capacity.

Sec. -43 Expulsion. The board of directors may expel a member from the credit union who neglects or refuses to comply with this chapter or the by-laws, or for any other just case; but no member may be expelled until he has

been informed in writing of the charges against him, and given an opportunity to refute the charges against him at a combined meeting of the board of directors and the audit committee. After the hearing at the combined meeting, the board of directors has the authority to, by majority vote, reinstate or expel the member.

Sec. -44 Procedures in the removal of officials of a credit union. (a) Whenever the commissioner is of the opinion that the loaning, investing, other policies and practices of any officer, director, or committeeman of any credit union have been prejudicial to the best interest of the credit union or its members, or that such policies or practices, if put into operation or continued, will endanger the safety of solvency of the credit union or impair the interest of its members, the commissioner may request the removal of the officer, director, or committeeman. This request shall be served on the credit union and on the officer, director, or committeeman in the manner provided by law for serving a summons in a court of record, or shall be transmitted to the credit union and the officer, director, or committeeman by registered mail, with return receipt requested. The request shall specify the reasons for the removal of the officer, director, or committeeman, and also shall advise the officer, director, or committeeman relative to his rights to a hearing before the credit union review board as provided in this section. A copy of the request for removal shall be transmitted to each member of the credit union review board at the same time such request is being served upon the credit union and officer, director, or committeeman involved. If the request for removal is not complied with within a reasonable time fixed by the commissioner, he may by order, with like approval of the credit union review board, remove the officer, director, or committeeman, but no order for removal shall be entered until after an opportunity for a hearing before the credit union review board is given such officer, director, or committeeman upon not less than thirty days notice. An order for removal shall take effect as of the date issued.

(b) Any removal under this section shall be effective in all respects the same as if made by the board of directors or shareholders of the credit union. Any officer, director, or committeeman removed from such office under this section shall not be re-elected as an officer, director, or committeeman of any credit union without the approval of the commissioner and the credit union review board.

Sec. -45 Application for and share insurance coverage. (a) All credit unions chartered under this chapter, or credit unions in operation at the time of issuance of a charter under this chapter must apply for share insurance coverage, within one hundred twenty days of the date of the charter, from the administrator of the National Credit Union Administration, other governmental agency, or a commercial corporation especially organized to provide share insurance coverage. Whenever a credit union attempts to secure share insurance coverage from a governmental agency or a commercial corporation other than from the administrator of the National Credit Union Administration, the board of directors of the credit union must first obtain approval from the commissioner that the governmental agency or commercial corporation is acceptable

ACT 195

as an organization capable of providing share insurance for credit unions chartered under this chapter.

(b) A credit union which does not obtain share insurance coverage within one hundred eighty days after the date of its charter must meet the share insurance requirements and obtain the insurance coverage within a two-year period from the date of notice that it did not meet the requirements. Credit unions that do not obtain share insurance coverage as specified in this section shall be liquidated by the commissioner in accordance with section -35."

SECTION 2. 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, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of regulatory agencies for the purposes of this Act; provided that any amount thereof which is expended shall be reimbursed to the general fund of the State from fees collected by the commissioner attributable, but not limited to filing and approval of organization certificates, annual supervision and examinations, and other revenues realized from or on account of credit unions organized under this chapter, until repaid in full.

SECTION 3. This Act shall take effect on July 1, 1974.

(Approved May 29, 1973.)

ACT 195

S. B. NO. 980

A Bill for an Act Relating to Interruption of Commerce.

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

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

"Sec. 125-1 'Emergency' defined. As used in this chapter, unless otherwise indicated by the context, 'emergency' means any state of affairs or circumstances which imperils the availability to the public of commodities necessary to public health, safety, or welfare or which results in any substantial interruption of commerce to or within the State."

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

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

- (1) Whenever the availability of shipping space depends upon determination by the governor or his authorized representatives, of the emergency needs of the population, allocate space to and among types of commodities and consignees, such distribution of space among consignees to be upon an equitable basis so far as reasonably practicable.

- (2) Charter or affreight a ship or ships, make any other arrangements, including contracts of guaranty, for the procurement of ships and any other means of transportation, and transport cargoes to the State. Cargoes from the State may be transported on any return voyage.
- (3) Purchase and resell, or otherwise distribute commodities.”

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

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

(Approved May 29, 1973.)

ACT 196

S. B. NO. 5

A Bill for an Act Relating to Programs on Aging.

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

SECTION 1. Purpose. The purpose of this Act is to permit the commission on aging and appropriate county agencies on aging to hold annual senior citizen's fair in their respective counties.

SECTION 2. Chapter 349, Hawaii Revised Statutes, is amended by adding a new section thereto to read as follows:

“**Section 349- Annual senior citizen's fair.** Each county committee may hold an annual senior citizen's fair in its respective county. The committee shall be responsible for the planning, organizing, and coordinating of the fair in every respect. The commission on aging may assist the county committee in any aspect upon the request of such committee. Proceeds earned from this fair are deemed to be proceeds earned from casual sales as defined in chapter 237, Hawaii Revised Statutes. The committee shall distribute such proceeds to the various senior citizen organizations and individuals who participate in the fair in accordance with appropriate methods of distribution as determined by the committee.”

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

(Approved May 29, 1973.)

ACT 197

S. B. NO. 51

A Bill for an Act Relating to the Interdepartmental Transportation Control Commission.

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

SECTION 1. Section 279-2, Hawaii Revised Statutes, is amended to read:

*Edited accordingly.

“Sec. 279-2 Interdepartmental transportation control commission. There is established the interdepartmental transportation control commission consisting of the director of environmental quality control, the director of health, the director of transportation, and the director of planning and economic development. The commission shall determine annually, after consultation with the department of traffic and other appropriate departments of the respective counties, the number, size and use of transportation units of any kind that may be within the territory of any island of the State at any one time. The commission shall make its determination on the basis of preserving, safeguarding, and enhancing the physical and mental health of the residents of the State, and the ecology and environmental quality of the State, and shall take into consideration the need for high priority and vital movement of people and goods.”

SECTION 2. Chapter 248, Hawaii Revised Statutes, is amended by adding a new section to read:

“Sec. 248- Expenditures for motor vehicle controls and regulations. The department of transportation may expend funds out of the state highway fund to support the operations of the interdepartmental transportation control commission and programs designed to regulate and control motor vehicles and their operations.”

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

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

(Approved May 29, 1973.)

ACT 198

S. B. NO. 873

A Bill for an Act Relating to Amending Chapter 94-6, Hawaii Revised Statutes.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 94-6 of the Hawaii Revised Statutes is amended to read as follows:

“Section 94-6 Studies. Within 10 days following the initiation of any study to be done on a contractual basis by the State or one of its political subdivisions, or any agency thereof, the initiating department or agency shall notify the State archivist of the initiation of said study in the form of notice prescribed by the archivist.

The archivist shall maintain a complete and current index of all studies so initiated and shall, at least semi-annually send current copies of this index to the governor, the mayors of the respective counties, the legislative reference bureau and the legislative auditor.

*Edited accordingly.

The archivist may at any time request that a copy of any study or portion of a study be deposited with the archives and this request shall be complied with by the department or agency initiating said study.

This section shall apply to all studies of whatever nature provided however that to the extent that the governor or mayor of any county initiating a study determines that compliance with any portion of this section would be contrary to the public interest they may waive compliance with respect to any study initiated under their jurisdiction.”

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

(Approved May 29, 1973.)

ACT 199

S. B. NO. 1274

A Bill for an Act Relating to Legislative Support.

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

SECTION 1. There is hereby appropriated from the general revenues of the State the sum of \$100,000, or so much thereof as may be necessary, to defray increases in the salary requirements of employees of the legislature and the legislative support agencies.

SECTION 2. The allocation of the appropriated amount in section 1 shall be determined by joint action of the President of the Senate and the Speaker of the House of Representatives.

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

(Approved May 29, 1973.)

ACT 200

H. B. NO. 33

A Bill for an Act to Adopt the Revised Uniform Principal and Income Act.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER

REVISED UNIFORM PRINCIPAL AND INCOME ACT

Sec. -1 Definitions. As used in this chapter:

- (1) “Income beneficiary” means the person to whom income is presently payable or for whom it is accumulated for distribution as income;
- (2) “Inventory value” means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but in the case of a testamentary trust the trustee may use any value finally determined for the purposes of an estate or inheritance tax;

- (3) "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal;
- (4) "Trustee" means an original trustee and any successor or added trustee.

Sec. -2 Duty of trustee as to receipts and expenditure. (a) A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each:

- (1) In accordance with the terms of the trust instrument, notwithstanding contrary provisions of this chapter;
- (2) In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this chapter; or
- (3) If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion, and judgment would act in the management of their own affairs.

(b) If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to a provision of this chapter.

Sec. -3 Income; principal; charges. (a) Income is the return in money or property derived from the use of principal, including return received as:

- (1) Rent of real or personal property, including sums received for cancellation or renewal of a lease;
- (2) Interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in section -7 on bond premium and bond discount;
- (3) Income earned during administration of a decedent's estate as provided in section -5;
- (4) Corporate distributions as provided in section -6;
- (5) Accrued increment on bonds or other obligations issued at discount as provided in section -7;
- (6) Receipts from business and farming operations as provided in section -8;
- (7) Receipts from disposition of natural resources as provided in sections -9 and -10;
- (8) Receipts from other principal subject to depletion as provided in section -11;
- (9) Receipts from disposition of underproductive property as provided in section -12.

(b) Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return or use of the principal is in the meantime

taken or received by or held for accumulation for an income beneficiary. Principal includes:

- (1) Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;
- (2) Proceeds of property taken on eminent domain proceedings;
- (3) Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;
- (4) Stock dividends, receipts of liquidation of a corporation, and other corporate distributions as provided in section -6;
- (5) Receipts from the disposition of corporate securities as provided in section -7;
- (6) Royalties and other receipts from disposition of natural resources as provided in sections -9 and -10;
- (7) Receipts from other principal subject to depletion as provided in section -11;
- (8) Any profit resulting from any change in the form of principal except as provided in section -12 on underproductive property;
- (9) Receipts from disposition of underproductive property as provided in section -12;
- (10) Any allowances for depreciation established under sections -8 and -13(a)(2).

(c) After determining income and principal in accordance with the terms of the trust instrument or of this chapter, the trustee shall charge to income or principal expenses and other charges as provided in section -13.

Sec. -4 When right to income arises; apportionment of income. (a)

An income beneficiary is entitled to income from the date specified in the trust instrument, or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate.

(b) In the administration of a decedent's estate or an asset becoming subject to a trust by reason of a will:

- (1) Receipts due but not paid at the date of death of the testator are principal;
- (2) Receipts in the form of periodic payments (other than corporate distributions to stockholders), including rent, interest, or annuities, not due at the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal, and the balance is income.

(c) In all other cases, any receipt from an income producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

(d) On termination of an income interest, the income beneficiary whose interest is terminated, or his estate, is entitled to:

- (1) Income undistributed on the date of termination;

- (2) Income due but not paid to the trustee on the date of termination;
- (3) Income in the form of periodic payments (other than corporate distributions to stockholders), including rent, interest, or annuities, not due on the date of termination, accrued from day to day.

(e) Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

Sec. -5 Income earned during administration of a decedent's estate.

(a) Unless the will otherwise provides and subject to subsection (b), all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, (other than commissions on estate income) and court costs, shall be charged against the principal of the estate.

(b) Unless the will otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trustee under this chapter and distributed as follows:

- (1) To specific legatees and devisees, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses of management and operation of the property and an appropriate portion of interest accrued since the death of the testator and of taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration;
- (2) To all other legatees and devisees, except legatees of pecuniary bequests not in trust, the balance of the income, less the balance of taxes, ordinary repairs, and other expenses of management and operation of all property from which the estate is entitled to income, interest accrued since the death of the testator, and taxes imposed on income (excluding taxes on capital gains) which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of inventory value. Provided, however, that the amount of income earned during the further administration of the estate from and after the date of payment of any estate or inheritance tax shall be distributed to such legatees and devisees in proportion to their respective interests in the undistributed assets of the estate after the making of such payment on the basis of the fair market value of such assets immediately after the making of such payment.

(c) Income received by a trustee under subsection (b) shall be treated as income of the trust.

Sec. -6 Corporate distributions. (a) Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on

account of their stock ownership and the proceeds of any sale of the right are principal.

(b) Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to:

- (1) A call of shares;
- (2) A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or
- (3) A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distributions of the particular assets.

(c) Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

(d) Except as provided in subsections (a), (b), and (c), all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subsections (b) and (c), if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

(e) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this chapter concerning the source or character of dividends or distributions of corporate assets.

Sec. -7 Bond premium and discount. (a) Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subsection (b) for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

(b) The increment in value of a bond or other obligation for the payment of money payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued is distributable as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized.

Sec. -8 Business and farming operations. (a) If a trustee uses any part of the principal in the continuance of a business of which the settlor was a sole proprietor or a partner, the net profits of the business, computed in accordance

with generally accepted accounting principles for a comparable business, are income. If a loss results in any fiscal or calendar year, the loss falls on principal and shall not be carried into any other fiscal or calendar year for purposes of calculating net income.

(b) Generally accepted accounting principles shall be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.

Sec. -9 Disposition of natural resources. (a) If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on, or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

- (1) If received as rent on a lease or extension payments on a lease, the receipts are income.
- (2) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income.
- (3) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resources was being taken from the land at the time the trust was established. Twenty-seven and one-half per cent of the gross receipts (but not to exceed fifty per cent of the net receipts remaining after payment of all expenses, direct and indirect, computed without allowance for depletion) shall be added to principal as an allowance for depletion. The balance of the gross receipts after payment therefrom of all expenses, direct and indirect, is income.

(b) If a trustee, on the effective date of this chapter, held an item of depletable property of a type specified in this section he shall allocate receipts from the property in the manner used before the effective date of this chapter, but as to all depletable property acquired after the effective date of this chapter by an existing or new trust, the method of allocation provided herein shall be used.

(c) This section does not apply to timber, water, soil, sod, dirt, turf, or mosses.

Sec. -10 Timber. If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with section -2(a)(3).

Sec. -11 Other property subject to depletion. Except as provided in sections -9 and -10, if the principal consists of property subject to de-

pletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, receipts from the property, not in excess of five per cent per year of its inventory value, are income, and the balance is principal.

Sec. -12 Underproductive property. (a) Except as otherwise provided in this section, a portion of the net proceeds of sale of any part of principal which consists of property, other than securities listed on a national securities exchange or traded in over the counter, which has not produced an average net income of at least one percent per year of its inventory value for more than a year (including as income the value of any beneficial property by the income beneficiary) shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in disposition and less any carrying charges paid while the property was underproductive.

(b) The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at four per cent per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, is income, and the balance is principal.

(c) An income beneficiary or his estate is entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficiary.

(d) If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages (for example, realty acquired by or in lieu of foreclosure), the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

Sec. -13 Charges against income and principal. (a) The following charges shall be made against income:

- (1) Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee, interest paid by the trustee, and ordinary repairs;
- (2) A reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance shall be made for depreciation of that portion of any real

property used by a beneficiary as a residence or for depreciation of any property held by the trustee on the effective date of this chapter for which the trustee is not then making an allowance for depreciation;

- (3) One-half of court costs, attorney's fees, and other fees on periodic judicial accounting, unless the court directs otherwise;
 - (4) Court costs, attorney's fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise;
 - (5) Any tax levied upon receipts defined as income under this chapter or the trust instrument and payable by the trustee.
- (b) If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.
- (c) The following charges shall be made against principal:
- (1) Charges not provided for in subsection (a), including the cost of investing and reinvesting principal, the payments on principal of an indebtedness (including a mortgage amortized by periodic payments of principal), expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;
 - (2) Extraordinary repairs or expenses incurred in making a capital improvement to principal including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subsection (a)(2) and by section -8;
 - (3) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the taxing authority;
 - (4) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest and penalties, even though the income beneficiary also has rights in the principal.
- (d) Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under section -4.

Sec. -14 Application of chapter. Except as specifically provided in the trust instrument or the will or in this chapter, this chapter shall apply to any receipt or expense received or incurred after the effective date of this chapter by any trust or decedent's estate whether established before or after the effective date of this chapter and whether the asset involved was acquired by the trustee before or after the effective date of this chapter.

Sec. -15 Uniformity of interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. -16 Short title. This chapter may be cited as the Revised Uniform Principal and Income Act.

Sec. -17 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are severable.”

SECTION 2. Section 554-5, Hawaii Revised Statutes is repealed.

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

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

(Approved May 29, 1973.)

ACT 201

H. B. NO. 60

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

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

SECTION 1. Part III of chapter 12 of the Hawaii Penal Code is hereby amended to read as follows:

“PART III. GAMBLING OFFENSES

Sec. 1220 Definitions of terms in this part.

In this part unless a different meaning plainly is required, the following definitions apply.

(1) “Advance gambling activity.” A person “advances gambling activity” if he engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device, or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor, toward the solicitation of inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. A person advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue or makes no effort to prevent its occurrence or continuation. A person advances gambling activity if he plays or participates in any form of gambling activity.

(2) “Bookmaking” means advancing gambling activity by accepting bets from members of the public upon the outcomes of future contingent events.

*Edited accordingly.

(3) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(4) "Gambling." A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health, or accident insurance.

(5) "Gambling device" means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition.

(6) "Lottery" means a gambling scheme in which:

(a) the players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones; and

(b) the winning chances are to be determined by a drawing or by some other method based on an element of chance; and

(c) the holders of the winning chances are to receive something of value.

(7) "Mutuel" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(8) "Player" means a person who engages in gambling solely as a contestant or bettor.

(9) "Profit from gambling activity." A person "profits from gambling activity" if he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(10) "Social gambling" is defined in section 1231.

(11) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service or entertainment.

Sec. 1221 Promoting gambling in the first degree.

(1) A person commits the offense of promoting gambling in the first degree if he knowingly advances or profits from gambling activity by:

- (a) engaging in bookmaking to the extent that he receives or accepts in any one day more than five bets totaling more than \$500; or
 - (b) receiving in connection with a lottery, or mutuel scheme or enterprise money or written records from a person other than a player whose chances or plays are represented by such money or records; or
 - (c) receiving, in connection with a lottery, mutuel, or other gambling scheme or enterprise, more than \$1,000 in any one day of money played in the scheme or enterprise.
- (2) Promoting gambling in the first degree is a class C felony.

Sec. 1222 Promoting gambling in the second degree.

- (1) A person commits the offense of promoting gambling in the second degree if he knowingly profits from gambling activity.
- (2) Promoting gambling in the second degree is a misdemeanor.

Sec. 1223 Gambling.

- (1) A person commits the offense of gambling if he knowingly advances or participates in any gambling activity.
- (2) Gambling is a misdemeanor.

Sec. 1224 Possession of gambling records in the first degree.

(1) A person commits the offense of possession of gambling records in the first degree if he knowingly possesses any writing, paper, instrument, or article:

- (a) of a kind commonly used in the operation or promotion of a book-making scheme or enterprise, and constituting, reflecting, or representing more than five bets totaling more than \$500; or
 - (b) of a kind commonly used in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise, and constituting, reflecting, or representing more than 500 plays or chances therein.
- (2) Possession of gambling records in the first degree is a class C felony.

Sec. 1225 Possession of gambling records in the second degree.

(1) A person commits the offense of possession of gambling records in the second degree if he knowingly possesses any writing, paper, instrument, or article:

- (a) of a kind commonly used in the operation or promotion of a book-making scheme or enterprise; or
 - (b) of a kind commonly used in the operation, promotion, or playing of a lottery or mutuel scheme or enterprise.
- (2) Possession of gambling records in the second degree is a misdemeanor.

Sec. 1226 Possession of a gambling device.

(1) A person commits the offense of possession of a gambling device if he manufactures, sells, transports, places, possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody, or use of any gambling device, knowing it is to be used in the advancement of gambling activity which is not social gambling.

- (2) Possession of gambling device is a misdemeanor.

Sec. 1227 Possession of gambling records; defense.

In any prosecution under sections 1224 and 1225, it is a defense that the writing, paper, instrument, or article possessed by the defendant was neither used nor intended to be used in the advancement of gambling activity, except for records used in social gambling.

Sec. 1228 Gambling offenses; prima facie evidence.

(1) Proof that a person knowingly possessed any gambling record specified in sections 1224 and 1225 or any gambling device in section 1226 is prima facie evidence that the person possessed the record or device with knowledge of its contents and character.

(2) In any prosecution under this part in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine, or other periodically printed publication of general circulation, shall be admissible in evidence and shall constitute prima facie evidence of the occurrence of the event.

Sec. 1229 Lottery offenses; no defense.

It is no defense to a prosecution under any section of this part relating to a lottery that the lottery itself is drawn or conducted outside this State and is not in violation of the laws of the jurisdiction in which it is drawn or conducted.

Sec. 1230 Forfeiture of gambling devices, records, and proceeds.

Any gambling device or gambling record possessed in violation of a section in this part, or any money used as a bet or stake in gambling activity in violation of a section in this part, is forfeited, subject to the requirements of section 119, to the State.

Sec. 1231 Social gambling; definition and specific conditions; affirmative defense.

(a) Definition. "Social gambling" means gambling in which all of the following conditions are present:

- (1) Players compete on equal terms with each other; and
- (2) No player receives, or becomes entitled to receive, anything of value or any profit, directly or indirectly, other than his personal gambling winnings; and
- (3) No other person, corporation, unincorporated association, or entity receives or becomes entitled to receive, anything of value or any profit, directly or indirectly, from any source, including but not limited to permitting the use of premises, supplying refreshments, food, drinks, service, lodging or entertainment; and
- (4) It is not conducted or played in or at a hotel, motel, bar, nightclub, cocktail lounge, restaurant, massage parlor, billiard parlor, or any business establishment of any kind, public parks, public buildings, public beaches, school grounds, churches or any other public area; and
- (5) None of the players is below the age of majority; and
- (6) The gambling activity is not bookmaking.

(b) Affirmative defense:

- (1) In any prosecution for an offense described in paragraphs 1223,

1224, 1225 or 1226, a defendant may assert the affirmative defense that the gambling activity in question was a social gambling game as defined in paragraph 1231(a).

- (2) If the defendant asserts the affirmative defense, he shall have the burden of going forward with evidence to prove the facts constituting such defense unless such facts are supplied by the testimony of the prosecuting witness or circumstance in such testimony, and of proving such facts by a preponderance of evidence.

(c) In any prosecution for an offense described in this part the fact that the gambling activity involved was other than a social gambling game shall not be an element of the offense to be proved by the prosecution in making out its prima facie case.”

SECTION 2. If the affirmative defense in section 1231 is held invalid, such section shall be severed and inapplicable as a defense to prosecution of offenses there enumerated.

Additionally, if any provision or clause of this Act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

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

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

(Approved May 29, 1973.)

ACT 202

H. B. NO. 1091

A Bill for an Act Relating to Traffic Lane Markings.

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

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

“**Sec. 291C- Longitudinal traffic lane markings.** (a) Traffic lane markings shall be yellow, white or red in color. Black may be used in combination with these colors where the pavement itself does not provide sufficient contrast.

(b) Lane markings shall conform to the following concepts:

- (1) White lines indicate the separation of lanes of traffic flowing in the same direction.
- (2) Yellow lines indicate the separation of lanes of traffic flowing in opposing directions or the left boundary of a traffic lane at a particularly hazardous location.

*Edited accordingly.

- (3) Red markings indicate a roadway that shall not be entered or used by the viewer of those markings.
- (4) Broken lines are permissive in character.
- (5) Solid lines are restrictive in character.
- (6) A wider line indicates a greater degree of emphasis.
- (7) Double lines indicate maximum restriction.
- (8) Markings which require visible emphasis at night shall be reflectorized.
- (c) Longitudinal traffic lane markings shall have the following applications:
 - (1) A broken white line is used to indicate the edge of the traffic lane where travel is permitted in the same direction on both sides of the line and may be crossed by vehicular traffic when the crossing can be made with safety.
 - (2) A broken yellow line is used to indicate the left edge of a traffic lane where traffic on the other side of the line moves in the opposite direction and may be crossed by vehicular traffic only when overtaking or passing a vehicle proceeding in the same direction or when executing a left turn and then only if the movement can be made with safety and does not interfere with traffic moving in the opposite direction.
 - (3) A solid white line is used to indicate the edge of the traffic lane where travel in the same direction is permitted on both sides of the line but where movement from lane to lane is considered to be hazardous. A solid white line may be crossed only in unusual circumstances and then only with great care. A double-width solid white line is used to emphasize a greater degree of hazard.
 - (4) A solid white line is also used to indicate the right edge of the pavement.
 - (5) A double solid white line is used to indicate the edges of traffic lanes where travel in the same direction is permitted on both sides of the double line but where movement from lane to lane is considered to be dangerous. The crossing of a double solid white line by vehicular traffic is prohibited.
 - (6) A solid yellow line is used to indicate the left edge of a traffic lane where overtaking and passing on the left is prohibited. The crossing of a solid yellow line by vehicular traffic is prohibited except when the crossing is part of a left turn movement.
 - (7) A solid yellow line is also used to indicate the left edge of the pavement on a divided street or highway where there is inadequate clear space to the left of the line to safely allow any stops, including emergency stops, by vehicles. The operation, parking or stopping, including emergency stopping of any vehicle, including a disabled vehicle, on, or to the left of, a solid yellow line is prohibited.
 - (8) A double solid yellow line is used to indicate the separation between lanes of traffic moving in opposite directions. The crossing of a double solid yellow line by vehicular traffic is prohibited except when the crossing is part of a left turn movement.
 - (9) A double line consisting of a broken yellow line and a solid yellow

line is used to indicate a separation between lanes of traffic moving in opposite directions and vehicular traffic adjacent to the broken line is permitted to overtake or pass if the movement can be made with safety and does not interfere with traffic moving in the opposite direction. The crossing of this double line by vehicular traffic adjacent to the solid line is prohibited except when the crossing is part of a left turn movement.

- (10) A double broken yellow line is used to indicate the edge of a reversible traffic lane where the direction of the vehicular traffic may be changed from time to time.
- (11) A dotted line is used to indicate the extension of a line through an intersection or interchange. It shall be the same color as the line it extends. The crossing of a dotted line by vehicular traffic is subject to the same prohibitions and exceptions as are applicable to the line it extends.”

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

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

(Approved May 29, 1973.)

ACT 203

H. B. NO. 637

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

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
THE HAWAII MOTOR VEHICLE
ACCIDENT REPARATIONS ACT**

PART I. NO-FAULT INSURANCE

Sec. -1 Purpose. The purpose of this chapter is to create a system of reparations for injuries and loss arising from motor vehicle accidents, to compensate these damages without regard to fault, and to limit tort liability for these accidents.

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

- (1) “Accidental harm” means bodily injury, death, sickness, or disease caused by a motor vehicle accident while in or upon or entering into or alighting from, or through being struck by a motor vehicle or object drawn or propelled by a motor vehicle.

*Edited accordingly.

- (2) "Commissioner" means the State Commissioner of motor vehicle insurance as defined in section 431-31(c).
- (3) "Criminal conduct" means: the commission of an offense punishable by imprisonment for more than one year; or the operation or use of a motor vehicle with the specific intent of causing injury or damage; or the operation or use of a motor vehicle as a converter without a good faith belief by the operator or user that he is legally entitled to operate or use such vehicle.
- (4) (Reserved.)
- (5) "Injury" means accidental harm not resulting in death.
- (6) "Insured motor vehicle" means a motor vehicle (A) which is insured under a no-fault policy, or (B) the owner of which is a self-insurer with respect to such vehicle.
- (7) "Insurer" means any person engaged in the business of issuing or delivering motor vehicle insurance policies.
- (8) "Monthly earnings" means:
 - (A) In the case of a regularly employed person, one-twelfth of the average annual compensation before state and federal income taxes at the time of injury or death;
 - (B) In the case of a person regularly self-employed, one-twelfth of the average annual earnings before state and federal income taxes at the time of injury or death;
 - (C) In the case of an unemployed person or a person not regularly employed or self-employed, one-twelfth of the anticipated annual compensation before state and federal income taxes of such person paid from the time such person would reasonably have been expected to be regularly employed;
- (9) "Motor vehicle" means any vehicle required to be registered under chapter 286, including a vehicle with less than four wheels or a trailer.
- (10) "Motor vehicle accident" means an accident arising out of the operation, maintenance, or use of a motor vehicle.
- (11) "No-fault benefits" with respect to any injury or death shall be subject to an aggregate limit of \$15,000 per person or his survivor and means:
 - (A) All appropriate and reasonable expenses necessarily incurred for medical, hospital, surgical, professional nursing, dental, optometric, ambulance, prosthetic services, products and accommodations furnished, x-ray and any federally recognized religious remedial care and treatment;
 - (B) All appropriate and reasonable expenses necessarily incurred for psychiatric, physical, and occupational therapy and rehabilitation;
 - (C) Monthly earnings loss measured by an amount equal to the lesser of:
 - (i) \$800 per month, or
 - (ii) The monthly earnings for the period during which the in-

- jury or death results in the inability to engage in available and appropriate gainful activity, or
- (iii) A monthly amount equal to the amount, if any, by which the lesser of (i) or (ii) exceeds any lower monthly earnings of the person sustaining injury at the time he resumes gainful activity.
- (D) All appropriate and reasonable expenses necessarily incurred as a result of such injury or death, including, but not limited to,
- (i) expenses incurred in obtaining services in substitution of those that the injured or deceased person would have performed for the benefit of himself or his family up to \$800 per month,
- (ii) funeral expenses not to exceed \$1,500, and (iii) attorney's fees and costs to the extent provided in section -30(a).
- (12) "Operation, maintenance, or use" when used with respect to a motor vehicle includes loading or unloading the vehicle, but does not include conduct within the course of a business of repairing, servicing, or otherwise maintaining vehicles unless the conduct occurs outside the premises of such business.
- (13) "Owner" means a person who holds the legal title to a motor vehicle; except that in the case of a motor vehicle which is the subject of a security agreement or lease with option to purchase with the debtor or lessee having the right to possession, such term means the debtor or lessee. Whenever transfer of title to a motor vehicle occurs, the seller shall be considered the owner until delivery of the executed title to the buyer, from which time the buyer holding the equitable title shall be considered the owner.
- (14) "Person" means, when appropriate to the context, not only individuals, but corporations, firms, associations, and societies.
- (15) "Regulation" means any rule and regulation promulgated by the commissioner pursuant to chapter 91.
- (16) "Without regard to fault" means irrespective of fault as a cause of injury or death, and without application of the principle of liability based on negligence.

Sec. -3 Right to no-fault benefits. (a) If the accident causing injury or accidental harm occurs in this State, every person, insured under this chapter, suffering loss from injury or death arising out of maintenance or use of a motor vehicle has a right to no-fault benefits.

(b) If the accident causing injury occurs outside this State, the following persons and their survivors suffering loss from injury arising out of maintenance or use of a motor vehicle have a right to no-fault benefits:

- (1) No-fault insureds; and
- (2) The driver and other occupants of an insured vehicle, other than (A) a vehicle which is regularly used in the course of the business of transporting persons or property and which is one of five or more vehicles under common ownership.
- (c) "Maximum limit." The aggregate limit payable, regardless of the

number of motor vehicles involved or insured, to each person or to his survivors for no-fault benefits shall not exceed \$15,000.

(d) "No-fault insured" means:

- (1) Person identified by name as an insured in a no-fault policy complying with section -10; and
- (2) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of no-fault policy complying with this chapter: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with a named insured. A person resides in the same household if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

Sec. -4 Obligation to pay no-fault benefits. Every no-fault and self-insurer shall provide no-fault benefits for injury and death as follows:

- (1) Except as otherwise provided in section -5(c):
 - (A) In the case of injury arising out of a motor vehicle accident to any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian struck by said vehicle, the insurer shall pay, without regard to fault, to such person an amount equal to the no-fault benefits payable to such person as a result of such injury; or
 - (B) In the case of death arising out of a motor vehicle accident of any person, including the owner, operator, occupant, or user of the insured motor vehicle, or any pedestrian struck by said vehicle, the insurer shall pay, without regard to fault, to the legal representative of such person, for the benefit of the surviving spouse and any dependent, as defined in section 152 of the Internal Revenue Code of 1954, of such person, an amount equal to the no-fault benefits payable to such spouse and dependent as a result of the death of such person.
- (2) Payments for no-fault benefits shall be made as such benefits accrue except that in the case of death, payment for such benefits may, at the option of the beneficiary, be made immediately in a lump sum payment. Amounts of benefits accrued unpaid thirty days after the insurer has received reasonable proof of the fact and amount of benefits accrued, and demand for payment thereof shall, after the expiration of such thirty days, bear interest at the rate of one and one-half per cent per month.
- (3) No part of no-fault benefits paid shall be applied in any manner as attorney's fees in the case of injury or death for which such benefits are paid. The insurer shall pay, subject to section -30, in addition to the no-fault benefits due, all attorney's fees and costs of settlement or suit, necessary to effect the payment of any or all no-fault benefits found due under the contract. Any contract in violation of this provision shall be illegal and unenforceable, and it shall constitute

an unlawful and unethical act for any attorney to solicit, enter into, or knowingly accept benefits under any such contract.

Sec. -5 Payment from which insurer. (a) A claim for no-fault benefits based upon injury to or death of a person who is not an occupant of any motor vehicle involved in an accident may be made against the no-fault insurer of any involved vehicle. The no-fault insurer against whom the claim is asserted shall process and pay the claim as if wholly responsible, but such insurer shall thereafter be entitled to recover from the no-fault insurers of all other involved vehicles proportionate contribution for the benefits paid and the costs of processing the claim.

(b) All no-fault benefits shall be paid secondarily and net of any benefits a person receives because of the injury from social security laws, workmen's compensation laws, public assistance laws, and any medical or health insurance policy applicable.

(c) No payment of no-fault benefits may be made to the occupants of a motor vehicle other than the insured motor vehicle or to the operator or user of a motor vehicle engaging in criminal conduct which causes any loss.

Sec. -6 Abolition of tort liability. (a) Tort liability of the owner, operator or user of an insured motor vehicle, or the operator or user of an uninsured motor vehicle who operates or uses such vehicle without reason to believe it to be an uninsured motor vehicle, with respect to motor vehicle accidents occurring in this State, is abolished, except as to the following persons or their administrators, executors, or legal guardians, and in the following circumstances:

- (1) Death occurs to a person in such a motor vehicle accident; or injury occurs which consists, in whole or in part, in a significant permanent loss of use of a part or function of the body; or injury occurs which consists of a permanent and serious disfigurement which results in subjection of the injured person to mental or emotional suffering;
- (2) Injury occurs to a person in a motor vehicle accident in which the amount paid or accrued exceeds the medical-rehabilitative limit established in section -10(b);
- (3) Injury occurs to a person in such an accident and as a result of such injury the maximum no-fault benefits are exhausted.

(b) No provision of this chapter shall be construed to exonerate, or in any manner to limit, the liability of any person in the business of manufacturing, retailing, repairing, servicing, or otherwise maintaining motor vehicles, arising from a defect in a motor vehicle caused, or not corrected, by an act or omission in the manufacturing, retailing, repairing, servicing, or other maintenance of a vehicle in the course of his business.

(c) No provision of this section shall be construed to exonerate, or in any manner to limit the criminal or civil liability of any person who, in the maintenance, operation, or use of any motor vehicle:

- (1) Causes damage to property; or
- (2) Intentionally causes injury or damage to a person or property; or
- (3) Engages in criminal conduct which causes injury or damage to person or property; or

(4) Engages in conduct resulting in punitive or exemplary damages.

Sec. -7 Rights of subrogation. Whenever any person effects a tort liability recovery, whether by suit or settlement, the no-fault insurer shall be subrogated to fifty per cent of the amount of all no-fault benefits paid.

Sec. -8 Conditions of operation and registration. (a)

(1) No person may register any motor vehicle in this State or operate or use a motor vehicle upon any public street, road, or highway of this State at any time unless such motor vehicle is insured under a no-fault policy, containing the requirements of this chapter and pursuant to such regulations, including those determining the manner and term of proof of such insurance as the commissioner shall prescribe.

(2) The requirements of this subsection may be satisfied by any owner of a motor vehicle if:

(A) Such owner provides a surety bond, proof of qualifications as a self-insurer, or other securities affording security substantially equivalent to that afforded under a no-fault policy, as determined and approved by the commissioner under regulations, and

(B) The commissioner is satisfied that in case of injury or death or property damage, any claimant would have the same rights against such owner as the claimant would have had if a no-fault policy had been applicable to such vehicle.

(b) Any person who knowingly violates the provisions of subsection (a) of this section shall be guilty of a misdemeanor.

Sec. -9 Obligations upon termination of insurance. (a) An owner of a motor vehicle registered in this State who fails to maintain insurance as required by section -8, shall immediately surrender the registration certificate and license plates for the vehicle to the county director of finance and may not operate or permit operation of the vehicle in this State until insurance has again been provided and proof of the insurance furnished as required by this chapter.

(b) Except as provided in subsection (d), an application for a no-fault policy covering a motor vehicle may not be rejected by an insurer authorized to issue such a policy unless:

(1) The principal operator of such vehicle does not have a license which permits him to operate such vehicle, or

(2) The application is not accompanied by a reasonable portion of the premium, as determined under regulations of the commissioner.

(c) A no-fault policy once issued may not be canceled or refused renewal by an insurer except for:

(1) Suspension or revocation of the license of the principal operator to operate a motor vehicle, or

(2) Failure to pay the premium for such policy after reasonable demand therefor.

In any case of cancellation or refusal to renew the insurer shall continue all

no-fault and optional additional coverages in force, to the date of expiration, or for thirty days following notice, whichever date first occurs. Within fifteen days of a cancellation, the insurer shall refund the pro rata unearned portion, if any, of any prepaid premiums. In any case of cancellation or refusal to renew written notice shall be given to the insured, the commissioner, and the county director of the appropriate county of registration not less than thirty days prior to the effective date of such cancellation or refusal to renew.

(d) An insurer may reject or refuse to accept additional applications for, or refuse to renew no-fault policies (1) if the commissioner determines that the financial soundness of such insurer would be impaired by the writing of additional policies of such insurance, or (2) such insurer ceases to write any new policies of insurance of any kind in this State.

(e) Whoever knowingly violates, or conspires to violate, the provisions of subsection (b) or (c) shall be assessed a civil penalty in an amount not to exceed \$1,000 for each separate violation. Each violation of subsection (b) with respect to any policyholder or applicant for insurance shall constitute a separate violation.

Sec. -10 Required policy coverage. (a) In order to be a no-fault policy, an insurance policy covering a motor vehicle shall provide, in addition to the coverage specified in section -4, insurance to pay on behalf of the owner or any operator of the insured motor vehicle sums which the owner or operator may legally be obligated to pay for injury, death, or damage to property of others which arise out of the ownership, operation, maintenance, or use of the motor vehicle:

- (1) Liability coverage of not less than \$25,000 for all damages arising out of bodily injury sustained by any one person as a result of any one accident applicable to each person sustaining injury caused by accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle;
- (2) Liability coverage of not less than \$10,000 for all damages arising out of injury to or destruction of property including motor vehicles and including the loss of use thereof, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading, of the insured vehicle.

(b) The commissioner shall accumulate experience data for all motor vehicle accidents in the State on a yearly basis commencing January 1, 1973, and shall tabulate the amounts of benefits paid to individual claimants for expenses specified in sections 2-11(A) and (B) for each of these accidents. He shall arrange the claims made by dollar value from maximum to zero and then determine that specific figure in dollar value paid to the individual claim below which are ninety per cent of all motor vehicle accident claims made during the year. This specific figure shall be utilized as the medical-rehabilitative limit during the succeeding year for all accidents occurring during that year for purpose of section -6(a)(2).

Sec. -11 Required optional additional insurance. (a) In addition to the no-fault coverages described in section -10 every insurer issuing a no-

fault policy shall make available to the insured the following optional insurance under the following conditions:

- (1) At the option of the insured, every insurer shall offer provisions covering loss resulting from damage to the insured's motor vehicle with such deductibles as the commissioner, by rule, shall provide.
- (2) At the option of the insured, every insurer shall offer to compensate for damage, not covered by no-fault benefits, to the insured, his spouse, any dependents, or any occupants of the insured's vehicle.
- (3) Additional coverages and benefits with respect to any injury, death, or any other loss from motor vehicle accidents or loss from operation of a motor vehicle; and
- (4) Terms, conditions, exclusions, and deductible clauses consistent with the required provisions of such policy and approved by the commissioner who shall only approve terms, conditions, exclusions, deductible clauses, coverages, and benefits which are fair and equitable, and which limit the variety of coverage available so as to give buyers of insurance reasonable opportunity to compare the cost of insuring with various insurers.
- (5) At appropriately reduced premium rates, no-fault insurers shall offer each of the following deductibles applicable only to claims of no-fault insureds and, in case of death of a no-fault insured, of his survivors:
 - (A) Deductibles in the amounts of \$100, \$300, and \$500 from all no-fault benefits otherwise payable, except that if two or more no-fault insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them; and
 - (B) Deductibles in the amounts of \$100, \$300, \$500, and \$1,000 per accident from all no-fault benefits otherwise payable for injury to a person which occurs while he is operating or is a passenger on a motor vehicle with less than four wheels.

(b) Any policy of insurance described in this section shall contain a provision in accordance with regulations of the commissioner specifying the periods within which claims may be filed and actions against the insurer may be brought.

Sec. -12 Prohibitions, penalty. (a) No insurer shall issue or offer to issue any policy which he represents is a no-fault policy unless such insurer meets the requirements of this part.

- (b) (1) Any insurer who violates subsection (a) shall be assessed a civil penalty of not to exceed \$5,000 for each policy which the insurer issues or offers to issue in violation of such paragraph.
- (2) Any insurer who knowingly violates subsection (a) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

Sec. -13 Motor vehicle insurance rates. (a) Except as otherwise provided in this chapter, all premium rates for motor vehicle insurance shall com-

ply with the provisions of the casualty rating law contained in chapter 431.

(b) All premium rates for motor vehicle insurance shall be made in accordance with the following provisions:

- (1) Due consideration shall be given to past and prospective loss experience within this State, to catastrophe hazards, if any, to a reasonable margin for profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers, to past and prospective loss experience within the State; reasonable margin for profit from and contingencies in the administration of motor vehicle insurance sold within the State; past and prospective expenses in the sale and administration of motor vehicle insurance within the State; and, optionally, to past or prospective loss, sales and administrative costs experience in the nation or regionally, whenever such consideration will serve to reduce rates.
- (2) Due consideration shall be given to the investment income from reserves and unearned insurance premiums and other unearned proceeds received on account of motor vehicle insurance sold in this State, and all other factors that may be deemed relevant, such as but not limited to types of vehicles, occupations, and involvement in past accidents, provided they are established to have a probable effect upon losses or expense, or rates.
- (3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
- (4) Risks may be grouped by classifications for the establishing of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
- (5) Rates shall not be excessive, inadequate, or unfairly discriminatory.
- (6) Rate making and regulation of rates for all insurance subject to this chapter shall be governed by chapter 431; subject, however, to the following:
 - (A) To assure the proper implementation and evaluation of the chapter the commissioner shall fully comply with the provisions of section 431-703;
 - (B) Except as provided in subsection (j) the commissioner shall establish rates and shall consider with other relevant factors loss experience in this State and the investment income of the insurers, and insofar as section 431-694 and section 431-695 are in

conflict with this provision, sections 431-694 and 431-695 shall not be applicable herein;

- (C) To afford all interested persons an opportunity to be heard the commissioner shall, after notice is published pursuant to chapter 91, hold a public hearing whenever rates are to be increased;
- (D) The initial rates shall be reviewed prior to July 1, 1975, and thereafter shall be reviewed at least every two years. The commissioner shall issue a public statement or an order approving the rates for the benefit of the public;
- (E) The commissioner shall order insurers to rebate to policyholders any excessive profit realized by insurers from their operations.

(c) Except to the extent necessary to meet the provisions of item (4) of subsection (b) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(d) No manual of classification, rule, rate, rating plan, designation of rating territories, or standard for motor vehicle insurance shall be effective unless approved by the commissioner. The commissioner shall have the power to set and approve rates under this chapter, pursuant to and following the procedure under chapter 91, except as specifically provided herein. The commissioner shall not set any rates without a public hearing at which all affected and interested parties have a full opportunity to examine and comment on the impact and application of the proposed establishment of, or revision of rates. The commissioner shall publish a notice of the date, time, and place of the public hearing at least once in each of three successive weeks in a newspaper of general circulation.

(e) Any person aggrieved by the application as to him of any classification, rule, standard, rate, or rating plan made, followed, or adopted by an insurer may make written request to the commissioner to review such application and grant the relief requested. If the commissioner finds that probable cause for the complaint exists or that the complaint charges a violation of this chapter or any applicable provisions of the casualty rating law, he shall conduct a hearing on the complaint. The hearing shall be subject to the procedure provided in section 431-705(a).

(f) If the commissioner has good cause to believe that a classification, rule, standard, rate, rating territory, or rating plan made, followed, or adopted by an insurer does not comply with any of the requirements of this chapter or any applicable provisions of the casualty rating law, he shall, unless he has good cause to believe that such noncompliance is wilful, give notice, in writing, to each insurer stating therein in what manner and to what extent such noncompliance is alleged to exist and specifying therein a reasonable time, not less than ten days thereafter, within which such noncompliance may be corrected. Notices under this subsection shall be confidential as between the commissioner and the parties unless a hearing is held as provided in subsection (g).

(g) If the insurance commissioner has good cause to believe such noncompliance to be wilful, or if, within the period prescribed by the commissioner in the notice, the insurer does not make such changes as may be necessary to correct the noncompliance specified by the commissioner or established to

the satisfaction of the commissioner that such specified noncompliance does not exist, then the commissioner may proceed with a hearing which shall be subject to the hearing procedure provided in section 431-705(a).

(h) If, after a hearing conducted pursuant to subsection (b) or (e), the commissioner finds that the complainant is entitled to relief or that any classification, rule, standard, rate, rating territory, or rating plan violates this chapter or any applicable provisions of the casualty rating law, he shall issue an order granting the complainant's claim for relief or prohibiting the insurer from using such classification, rule, standard, rate, rating territory, or rating plan. The order shall contain the commissioner's finding of facts and conclusions of law, including, as appropriate, a specification of the respects in which a violation of this chapter or any applicable provision of the casualty rating law exists and shall specify a reasonable time period within which the insurer shall comply with the terms of the order. Any such order shall be subject to judicial review in accordance with the provisions of section 431-705(b).

(i) The commissioner shall periodically review and evaluate the motor vehicle insurance program described in this chapter, including an annual review of the premium rates, benefit payments, and insurers' loss experience.

(j) For the period of one year from July 1, 1974, and terminating on June 30, 1975, the commissioner shall be prohibited from setting, maintaining, or in any way fixing the rates charged by motor vehicle insurers for motor vehicle insurance issued in conformity with this chapter as either no-fault insurance or as optional additional insurance except as provided under section

-25. This one-year period shall be a period of open rating. Each firm licensed to underwrite no-fault insurance in the State shall establish its own rate schedule. The commissioner shall, however, monitor and survey the several companies' rate making methods and systems. The commissioner may require of each insurer and of each self-insurer any and all information, data, internal memoranda, studies, and audits, he deems desirable for the purpose of evaluation, comparison, and study of the methods and schedules.

On April 1, 1975, the applicable transition provisions of this chapter shall be effective as to rate making and the commissioner shall perform all acts required by this chapter for the setting and regulation of uniform rates conforming to this chapter to be effective on and after July 1, 1975.

In the establishment of their individual rate schedules, each insurer shall conform fully to paragraphs (b)(1), (2), and (4), during the open rating period.

(k) Notwithstanding any other law to the contrary, no insurer shall agree, combine, or conspire with any other private insurer or enter into, become a member of, or participate in any understanding, pool, or trust, to fix, control, or maintain, directly or indirectly, motor vehicle insurance rates. Any violation of this section shall subject the insurer and each of its officers and employees involved to the penalties of chapter 480 without benefit of any exemption otherwise permitted by section 480-11.

(l) Notwithstanding subsection (j), commencing with July 1, 1974, the commissioner shall enforce a mandatory reduction of not less than fifteen per cent by each insurer, calculated as a percentage of the insurer's premium for a comparable combination of insurance coverage in effect on January 1, 1973.

There shall be no exception to the requirements of this provision, unless the commissioner shall find that the use of the rates required herein by any insurer will be inadequate to the extent that such rates jeopardize the solvency of the insurer required to use such rates. No rate for the insurance required by this chapter shall be increased prior to July 1, 1975, unless the insurer proposing such rate increase shall show that the rates herein are inadequate as stated above.

(m) Notwithstanding subsection (j), and commencing with July 1, 1974, each insurer shall assess, and the commissioner shall enforce, a premium for any student purchasing a no-fault policy, or for any policyholder becoming a student in the future, not less than ten per cent less than the regular premium each insurer assesses for such policy. A student shall be defined for purposes of this subsection as any person enrolled in any accredited institution of the secondary or higher education level, and defined by the institution as a full-time student for academic purposes, regardless of any extracurricular employment.

Sec. -14 Insurers' requirements. (a) Prior to licensing an insurer to transact no-fault or the optional additional motor vehicle insurance business in this State, the commissioner:

- (1) Shall effect a thorough examination of the insurer's business experience, financial soundness and general reputation as an insurer in this and other states. In the discretion of the commissioner, this examination may include an examination of any or all the business records of the insurer, and an audit of all or any part of the insurer's motor vehicle insurance business, each to be performed by the commissioner's staff or by independent consultants. No license shall be issued until the commissioner is satisfied as to the business experience, financial solvency, and the economic soundness of the insurer; and
- (2) Shall require of each insurer, and determine that satisfactory arrangements have been made for, the provision of a complete sales and claims service office in each county in the State.
- (3) Notwithstanding any other requirements of this section or of chapter 431, may require a bond in a reasonable amount and with deposits or sureties determined in his discretion of any applicant for a license hereunder. The commissioner may, at any time, make and enforce such a requirement of any licensed insurer or self-insurer.

(b) The commissioner may, prior to issuing a certificate of self-insurance to any person, require the applicant to provide for a complete claims service office and an officer for purpose of service of process on each island upon which the self-insurer may at any time operate his self-insured vehicles.

(c) The commissioner shall promulgate rules to permit any licensed health insurer to secure a license to engage in the business of motor vehicle insurance to provide only those no-fault benefits described in section -2(15)(A) and (B), and optional additional benefits as described in section -2(15)(A) and (B).

Sec. -15 Inspection and audit. Each insurer licensed to transact

motor vehicle no-fault or optional additional insurance businesses in this State shall provide the commissioner with periodic reports on every aspect of the no-fault and the optional additional insurance business the insurer transacts in the State, including, but not limited to, reports on the investment, reserve, reinsurance, loss and profit experience, rate making and schedules, claims received and paid.

The commissioner shall have the right and the duty of visitation, inspection, and audit of all business records, including internal memoranda and correspondence related in any way to the insurer's motor vehicle insurance business in this State.

Each insurer shall, not less frequently than monthly, report to the commissioner the detail of each claim received, claim paid, application for and sale of a motor vehicle insurance policy, each termination and renewal refusal notice posted and of each cancellation and refusal to renew effected on both no-fault and optional additional insurance policy transactions.

The commissioner shall, in his discretion, cause an audit to be made of all or any segment of the motor vehicle insurance books and business records of any insurer by the staff of the division or by an independent auditor. A copy of every audit, internal or external, performed by any insurer of any aspect of its motor vehicle books and business records shall be submitted immediately upon completion to the commissioner.

The commissioner shall assess and collect from each insurer, self-insurer, and from every applicant for a certificate of self-insurance or a license to transact the motor vehicle no-fault and optional additional insurance business in this State such portion of the full costs of every audit, inspection, examination, visitation, and other service related to motor vehicle insurance required by this or any other chapter, or performed by the commissioner in his discretion under this chapter or chapter 431, as he deems equitable in the rendering of such service. The charges shall be collected and paid into the general fund of this State.

Any insurer failing to report information in the manner and within the time required by the commissioner, or failing fully to cooperate with the commissioner and his staff in the fulfillment of their duties under this chapter and chapter 431 shall be subject to the penalty provided in section 431-707.

Sec. -16 Annual report of the commissioner. The commissioner shall prepare and submit to the legislature annually, twenty days prior to the convening of each regular session, a report containing his evaluation of the insurance program, with respect to both required and optional coverages. The report shall include a summary of abuses and deficiencies in benefit payments, the complaints made to the commissioner and their disposition, and the extent of compliance and noncompliance by each insurer with the provisions of this chapter and any applicable provision of the Hawaii insurance law.

PART II. ASSIGNED RISKS AND CLAIMS PLAN

Sec. -20 Assigned risks and claims plan, establishment. (a) The commissioner shall establish, direct, and maintain an assigned risks and claims plan in accordance with this part. Every insurer writing motor vehicle no-fault

and optional-additional insurance in this State shall, as a condition precedent to the issuance of his license and the continuation of such licensing, participate in this plan.

The commissioner shall establish and maintain an assigned risks and claims bureau in the division of motor vehicle insurance to receive, assign and supervise the servicing of all assigned claims and all applications for assigned risk coverage. The commissioner shall adopt rules for the operation of the bureau, the assignment of assigned claims and risks, and the inspection, supervision and maintenance of this service on a fair and equitable basis in accordance with this chapter.

All costs incurred in the operation of the assigned risks and claims bureau and the operation of this plan, including claims paid, shall, under regulations to be established by the commissioner, be allocated fairly and equitably among the no-fault insurers.

(b) The assigned risks and claims bureau shall promptly assign each claim and application and notify the claimant or applicant of the identity and address of the assignee of the claim or application. Claims and applications shall be assigned so as to minimize inconvenience to claimants and applicants. The assignee thereafter has rights and obligations as if he had issued a no-fault policy complying with this chapter applicable to the injury or, in case of financial inability of a no-fault insurer to perform its obligations, as if the assignee had written the applicable basic no-fault insurance, undertaken the self-insurance, or lawfully obligated itself to pay no-fault benefits.

Sec. -21 Assigned claims. (a) Each person sustaining injury or death, or his legal representative, may, except as provided in subsection (b) of this section, obtain the no-fault benefits through the assigned risks and claims plan if:

- (1) No insurance benefits under no-fault policies are applicable to the injury or death; or
 - (2) No such insurance benefits applicable to the injury or death can be identified; or
 - (3) The only identifiable insurance benefits under no-fault policies applicable to the injury or death will not be paid in full because of financial inability of one or more insurers to fulfill their obligations.
- (b) A person, or his legal representative, shall be disqualified from receiving benefits through the plan, if:
- (1) Such person is disqualified for criminal conduct under section -6(c)(3) from receiving the no-fault benefits, or
 - (2) Such person was:
 - (A) The owner or registrant of an uninsured motor vehicle at the time of its involvement in the accident out of which such person's injury or death arose, or
 - (B) The operator of such a vehicle at such time with reason to believe that such vehicle was an uninsured motor vehicle.

Sec. -22 Assigned risks. (a) The commissioner shall establish, implement, and supervise a plan assuring that insurance for motor vehicles will be conveniently and expeditiously afforded, subject only to payment or provision

for payment of the premium, to all applicants for insurance required by this chapter to provide insurance for payment of no-fault and tort liability insurance or optional additional benefits and who cannot reasonably obtain insurance through ordinary methods at rates not in excess of those applicable to applicants under the plan.

(b) The plan shall provide all no-fault benefits and services, and tort liability coverage, to the limits and coverages specified in part I for all classes of persons, motor vehicles, and motor vehicle uses specified in this section upon the payment of premiums as provided in section -23, as follows:

- (1) The plan shall provide no-fault benefits and policies for each of the following classes, and each category shall secure a no-fault and tort liability policy through the plan:
 - (A) All motor vehicles owned by licensed assigned risk drivers as defined under subparagraph (C).
 - (B) All motor vehicles owned by licensed drivers convicted at any time in any jurisdiction of any one or more of the offenses of, or of the offenses cognate to:
 - (i) Heedless and careless driving,
 - (ii) Driving while license suspended or revoked,
 - (iii) Leaving the scene of an accident,
 - (iv) Manslaughter, if resulting from the operation of a motor vehicle,
 - (v) Driving under the influence of an intoxicating liquor as provided in section 291-4 or any drug, except marijuana, as provided in section 291-7.
 - (C) All motorcycles, motor scooters, and vehicles with less than four wheels required to be registered under chapter 286.
- (2) The plan shall provide no-fault benefits and policies for all classes of persons, motor vehicles and motor vehicle uses, at the premiums specified under section -23, at the options of the owners, for the following classes, which the commissioner shall, by regulation, further define and regulate:
 - (A) All licensed driver-owners receiving any public assistance benefits in any form through the department of social services and housing,
 - (B) Any licensed physically handicapped driver, including drivers with any auditory limitation.

Each category of driver-owner (A) or (B) may secure no-fault coverage through the plan at the individual's option, provided any previous no-fault policy has expired or has been cancelled. Any person becoming eligible for plan coverage under subparagraph (A) shall first exhaust all paid coverage under any no-fault policy then in force before becoming eligible for plan coverage.

Any person eligible or becoming eligible, under rules to be adopted by the commissioner, under subparagraph (B) may at any time elect coverage under the plan and terminate any prior private insurer's coverage.

Any person covered by the plan under subparagraph (A) shall

remain eligible for coverage under the plan for a consecutive period of three months following the month in which eligibility for any public assistance benefits terminate.

- (3) Under the plan, optional additional coverages shall be offered by every insurer, in conformance with section -11 for each class, as the commissioner shall, by regulation, provide.

(c) The commissioner shall, by regulation, define and regulate the class of assigned risk drivers in accordance with the general practice of the industry, the applicable results, if any, of his examination of the motor vehicle insurers' business records and experience, and any applicable and scientifically credible governmental or academic studies of the multi-accident or high-risk driver.

Sec. -23 Rate making for assigned risks and claims plan. (a) All premium rates for motor vehicle insurance issued under the assigned risks and claims plan shall be made in accordance with the following provisions:

- (1) Consideration shall be given to the plan's past and prospective loss experience within the State; contingencies in the administration of motor vehicle insurance sold; past and prospective expenses in the sale and administration of motor vehicle insurance; income from investments of premiums and other proceeds received on account of motor vehicle insurance sold; and all other factors demonstrated to be relevant by a current actuarially sound study of the definable risks involved, provided, that no premium rate shall exceed the comparable rate not under the plan by a factor of more than two.

- (2) Rating territories may be established and risks may be grouped by classifications for the establishing of rates and minimum premiums. The commissioner may by rule or regulation provide for a uniform classification of risks and rating territories for the various coverages. Classification rates may be modified to produce rates in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks including vehicles, occupations, past traffic violations and involvement in past accidents, provided they are established to have a demonstrably negative effect upon losses or expense. No standard or rating plan shall be based, in whole or in part, directly or indirectly, upon race, creed, ethnic extraction, age, sex, length of driving experience, credit bureau rating, or marital status.

- (3) Rates shall not be excessive, inadequate, or unfairly discriminatory.

(b) The commissioner shall periodically set rate schedules in accordance with this part and the following criteria, so that the total premium income, from all plan and nonplan motor vehicle insurance, when combined with the investment income, shall annually fund the costs of all classes and administration of the plan for each of the following classes:

- (1) Class 1(A), assigned risk drivers as defined by rules made pursuant to section -22(c);
- (2) Class 1(B), driver-owners convicted of an offense specified in section -22(b)(1)(B);

- (3) Class 1(C), motorcycles and motor scooters, which class shall be assessed a premium not in excess of that assessed the same driver for automobile coverage;
- (4) Class 2, public assistance driver as defined in section -22(b)(2)(A), which class shall not be assessed any premium;
- (5) Class 4, physically handicapped drivers as defined in section -22(b)(2)(B).

The commissioner shall set various systems of rates based upon the risks involved, the experience with various exposures, uses, and drivers, and may include the establishment of surcharges for specific risks, drivers, and uses, for each of the enumerated classes except classes 2 and 3, provided that no premium rate under the plan shall exceed the comparable premium rate not under the plan by more than a factor of two.

(c) The commissioner shall, in the same manner as under subsection (b), set rates for any optional additional coverages the plan shall offer.

(d) During any premium year, or in any subsequent premium year, the commissioner may adjust any rate to reflect any excess premiums charged. He may make a refund to any class.

PART III. GENERAL PROVISIONS

Sec. -30 Claimant's attorney's fees. (a) A person making a claim for no-fault benefits may be allowed an award of a reasonable sum for attorney's fee, based upon actual time expended, and all reasonable costs of suit in an action brought against an insurer who denies all or part of a claim of benefits under such policy unless the court determines that the claim was fraudulent, excessive, or frivolous.

(b) A person suing in tort, as permitted under this chapter, may enter into any arrangement with an attorney.

Sec. -31 Fraudulent claims. Within the discretion of the court, an insurer or self-insurer may be allowed an award of a reasonable sum as attorney's fee, based upon actual time expended, and all reasonable costs of suit for its defense against a person making claim against such insurer or self-insurer where such claim was fraudulent, and such attorney's fee and all such reasonable costs of suit so awarded may be treated as an offset against any benefits due or to become due to such person.

Sec. -32 Arbitration. Any dispute relating to a no-fault policy may be submitted to an arbitrator upon written request filed by a claimant or insurer with the clerk of the circuit court in the circuit where the accident occurred. Any fee or cost of the arbitrator shall be borne equally by the parties unless otherwise allocated by the arbitrator. The administrative judge of each circuit court shall maintain a current list of persons qualified and willing to act as arbitrators and shall, within ten days of the date of filing of a request for arbitration, appoint an arbitrator from such list to hear and determine the claim. Except as otherwise provided herein, the arbitration shall be in accordance with and governed by the provisions of chapter 658. An appeal may be taken from any judgment of the arbitrator to the circuit court in the manner provided for in Rule 72 of the Hawaii Rules of Civil Procedure.

Sec. -33 Discriminatory practices prohibited. No insurer shall base any standard or rating plan, in whole or in part, directly or indirectly, upon race, creed, ethnic extraction, age, sex, length of driving experience, credit bureau rating, or marital status.

Sec. -34 Equitable allocation of burdens among insurers. (a) Insurers paying no-fault or optional additional benefits are entitled to proportionate reimbursement from other insurers to assure that the allocation of the financial burden of losses will be reasonably consistent with the propensities of different vehicles to affect probability and severity of injury to persons because the vehicles are of different weight or have different devices for the protection of occupants, other different characteristics, or different regular uses. Insurers paying no-fault benefits for loss arising from injury to persons, and self-insurers who are natural persons bearing equivalent losses arising from their own injuries, are entitled to proportionate reimbursement from insurers of other involved vehicles.

(b) Insurers shall maintain in accordance with regulations of the commissioner statistical records from which can be determined the propensities of different vehicles to affect probability and severity of injury to persons.

(c) When the commissioner determines that adequate supporting information is available, he may establish by regulation and maintain a system under which rights of reimbursement are determined through pooling, reinsurance, or other form of reallocation procedure in lieu of case-by-case reimbursement. The system may apply to (1) all insurers or (2) all insurers except those who are parties to an agreement entered into under this subsection and approved by the commissioner. Two or more insurers, with approval of the commissioner, may enter into an agreement for settlement of their rights of proportionate reimbursement through a system of pooling, reinsurance, or other reallocation procedure in lieu of case-by-case reimbursement.

(d) The commissioner may not approve or establish case-by-case proportionate reimbursement on the basis of fault in cases involving only privately owned passenger motor vehicles designed to carry ten or fewer passengers.

(e) All claims for case-by-case proportionate reimbursement between insurers, if not settled by agreement, may be settled through litigation.

Sec. -35 Allocation of burdens until system established. The commissioner shall within one year after the effective date of this chapter establish a system of proportionate reimbursement as authorized by the provisions on equitable allocation of burdens among insurers under section -34(c). Until the commissioner has adopted by regulation other criteria for proportionate reimbursement consistent with those provisions of section -34(a),

- (1) In accidents involving motor vehicles with a gross weight of more than ten thousand pounds and a vehicle with a gross weight of less than ten thousand pounds, the insurer of the heavier vehicle shall reimburse seventy-five per cent of the no-fault benefits paid by the insurer of the lighter vehicle;
- (2) In accidents involving motor vehicles with four or more wheels and motor vehicles with less than four wheels, the insurer of the motor vehicle with four or more wheels shall reimburse eighty per cent of

the no-fault benefits paid by the insurer of the motor vehicle with less than four wheels.

Sec. -36 Statute of limitations. (a) No suit shall be brought on any contract providing no-fault benefits or any contract providing optional additional coverage more than:

- (1) Two years from the date of the motor vehicle accident upon which the claim is based; or
- (2) Two years after the last payment of no-fault or optional additional benefits; or
- (3) Two years after the entry of a final order in arbitration; whichever is the last to occur.

(b) No suit arising out of a motor vehicle accident shall be brought in tort more than:

- (1) Two years after the date of the motor vehicle accident upon which the claim is based; or
- (2) Two years after the date of the last payment of no-fault or optional additional benefits; whichever is the later.

Sec. -37 Administration. In order to carry out the provisions and fulfill the purpose of this chapter the commissioner shall:

- (1) Consult with representatives of the private insurance business, and such other persons, public and consumer organizations, and agencies of the federal, state, or local governments as he deems necessary;
- (2) Make, promulgate, amend, and repeal such regulations, pursuant to chapter 91, as he deems necessary; and
- (3) Appoint such personnel as necessary for the performance of his functions under this chapter. All personnel appointed under this section shall be subject to chapters 76 and 77.

Sec. -38 Jurisdiction. Any person may bring suit for breach of any contractual obligation assumed by an insurer under a policy of insurance containing such mandatory or optional provisions in any state court of competent jurisdiction.

Sec. -39 Short title. This chapter shall be known and may be cited as the "Hawaii no-fault law."

SECTION 2. Chapter 431, the Hawaii Revised Statutes, is amended as follows:

1. Section 431-31 is amended to read as follows:

"Sec. 431-31 Insurance commissioner, commissioner of motor vehicle insurance. (a) The director of regulatory agencies shall be the insurance commissioner.

(b) Commissioner, where used in this chapter means the insurance commissioner of this State.

(c) There is established in the department of regulatory agencies for administrative purposes only the office of state commissioner of motor vehicle insurance, separate from and exclusive of all other state officers. Upon the effective date of this section, the commissioner of motor vehicle insurance shall

have and exercise all the powers and duties assigned to the director of regulatory agencies with respect to motor vehicle insurance. No duties shall be assigned the commissioner of motor vehicle insurance other than those arising in the administration of all statutes regulating motor vehicle insurance in this State. The commissioner of motor vehicle insurance shall be appointed by the governor, with the advice and consent of the senate, for a term of six years.”

2. Section 431-33 is amended to read as follows:

“**Sec. 431-33 Salary.** The insurance commissioner shall not receive any salary in addition to his salary as director of regulatory agencies. The motor vehicle insurance commissioner shall receive an annual salary which shall be ninety-five per cent of the salary of the director of regulatory agencies.”

SECTION 3. Transitional requirement. (a) During the period between the approval of this Act and July 1, 1974, policies of motor vehicle insurance insuring the insured against liability in tort for bodily injury and property damages arising out of motor vehicle accidents may continue to be issued. Any such policy may be issued for a term expiring beyond June 30, 1974, or for a term expiring on June 30, 1974, provided that if a policy of liability insurance is issued for a term expiring beyond June 30, 1974, on July 1, 1974, such policy of insurance shall provide for compliance with the provisions of this Act.

(b) During the period between the approval of this Act and July 1, 1974, the commissioner shall do all things necessary, for the full implementation of the provisions of this Act on July 1, 1974, including promulgating rules and regulations, approving manuals of classifications, rules, standards, rates, rating territories, and rating plans, and prescribing forms, all in the manner provided in this Act.

(c) After approval of this Act and before July 1, 1974, insurers authorized to transact the business of motor vehicle insurance in this State may sell motor vehicle insurance complying with the provisions of this Act to be effective July 1, 1974, provided that the commissioner has approved all such matters pertaining to such insurance which require his approval under this Act and, for the purpose of securing such approval and effectuating such sale, may take such actions as necessary to formulate plans and determine rates complying with the provisions of this Act.

SECTION 4. Laws repealed. All other laws relating to motor vehicle insurance which are inconsistent with this Act are repealed as of July 1, 1974. Chapter 287, Hawaii Revised Statutes, relating to Motor Vehicle Safety Responsibility Act, is hereby repealed as of July 1, 1974.

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before July 1, 1974.

SECTION 6. Severability. If any provision of this Act or the application thereof to any person or circumstance is held unconstitutional, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby, and it shall be conclusively presumed that the legislature would have enacted the remainder of this Act without such invalid or unconstitutional provision.

SECTION 7. With respect to section 2 of this Act, material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. **Effective date.** This Act shall take effect upon its approval.

(Approved May 31, 1973.)

ACT 204

S. B. NO. 37

A Bill for an Act Relating to State Population and Planning.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
STATE POPULATION AND PLANNING**

Sec. -1 Findings and purpose. The State of Hawaii assumed a leadership role in the nation when it established the temporary commission on population stabilization. The temporary commission was an expression of the State's interest and concern in our population growth and its impact on the quality of life of the Hawaiian people. Subsequent to Hawaii's progressive approach to population and planning, a national commission on population growth and the American future was established by the Congress of the United States to address the implications of national growth. There is in Hawaii a widespread awareness that positive means and policies must be established to provide for a balancing between the steady natural increase of Hawaii's population and the ability of the State to provide services, as well as accommodate the needs of its citizens. The legislature recognizes that population size and density alone are inadequate measurements regarding the desired equilibrium. Therefore, efforts must also be directed toward determining the optimal population capacities of the counties, as well as means of controlling the number of incoming residents. The legislature thus finds that a permanent commission on population and planning can play a vital role in the overall state planning process.

Sec. -2 State commission on population and the Hawaiian future. There is established a state commission on population and the Hawaiian future consisting of eleven members, not excluding state department heads, to be appointed by the governor. The governor shall appoint one member to serve as chairman.

Two of the members first appointed by the governor shall serve one year terms. Three shall serve two year terms, and three shall serve three year terms. Thereafter, the members shall serve for four year terms. The members of the

*Edited accordingly.

commission shall serve without compensation but shall be reimbursed for expenses, including travel expenses, incurred in the discharge of their duties on the commission. The commission shall implement this chapter and shall be placed in the office of the governor. The commission shall serve the governor in an advisory capacity on all matters relating to population and planning.

Sec. -3 Executive secretary. The commission shall appoint and employ, subject to chapters 76 and 77, an executive secretary and necessary staff to effectuate the purposes of this chapter.

Sec. -4 Responsibilities of the commission. The state commission on population and the Hawaiian future shall:

- (1) Study, research, and examine the effects and changes of population growth and in-migration on the attainment of state goals in the areas of health care, education, urban planning, transportation, housing, welfare and recreation;
- (2) Direct its focus on conducting research on migration in or out of the state and on developing means of influencing the population of the state and its distribution;
- (3) Calculate the capacity of the state with reference to agricultural production, waste production, recycling and regeneration time of natural resources, and technological advances in these areas;
- (4) Coordinate and expedite, in cooperation with the department of education and the University of Hawaii, all efforts in establishing population and environmental awareness and knowledge in current and new curricula in the educational system of the state;
- (5) Coordinate the establishment and conduct of effective family planning service delivery and contract or delegate the operational responsibility for such a comprehensive state family planning program to the appropriate state operating agency;
- (6) Study the interrelationship between the state, the United States, and the world with reference to this section;
- (7) Cooperate with the office of environmental quality control in matters involving their mutual areas of concern relating to population and its effects on the environment;
- (8) Consider and incorporate in its research already existing efforts in this area.
- (9) Apply for any available funds from the federal or other governmental agencies, to be used for purposes of this chapter;
- (10) Formulate policies and administrative mechanisms for the attainment of objectives under this section;
- (11) Hold public hearings and conferences, as often as it deems necessary.

Sec. -5 State agency cooperation. The commission may request from any state department or agency any information and assistance it deems necessary to carry out its functions. Each department or agency shall cooperate with the commission, and, to the extent permitted by law, furnish information and assistance to the commission upon request made by the chairman or any other member acting as chairman.

Sec. -6 Reports. The state commission on population and the Hawaiian future shall report to the governor, the legislature and the people of Hawaii as often as it deems necessary, but no less than once a year. The commission shall share its information and make recommendations to the state, governmental subdivisions thereof, and the government of the United States and cooperate with all groups concerned with demographic problems. Whenever possible, the commission shall work in conjunction with the Hawaii public broadcasting authority and other agencies and media providing for the distribution of public information to effectuate the purposes of this Act.

Sec. -7 Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary, for the purposes of this chapter. This sum shall not include those funds which the commission has independently derived, in accordance with Sec. -4(9) of this chapter.

Sec. -8 Severability. If any provision of this chapter, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are severable.

Sec. -9 Construction. This chapter shall be liberally construed to effectuate its purposes.”

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

(Approved May 31, 1973.)

ACT 205

S. B. NO. 178

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

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

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

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

- (1) Dispose of public land in fee simple, by lease, lease with option to purchase, license, or permit; and
- (2) Grant easement for particular purposes for a term not to exceed sixty-five years on such terms and conditions as may be set by the board, subject, however, to revert to the State upon termination or abandonment of the specific purpose for which it was granted, provided that any easement may be granted by direct negotiation and without recourse to public auction when the sale price of such easement as determined pursuant to Section 171-17(b) is less than \$500.”

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

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

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

(Approved May 31, 1973.)

A Bill for an Act Relating to the Regulation of Controlled Substances.

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

SECTION 1. Section 329-38, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 329-38 Prescriptions.** (a) No controlled substance in Schedule II may be dispensed without a written prescription of a practitioner, except:

- (1) In an emergency situation such drugs may be dispensed upon oral prescription of a practitioner, provided that promptly thereafter the prescription is reduced to writing by the practitioner and filed by the pharmacy; or
- (2) When dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. The practitioner in dispensing a controlled substance in Schedule II shall affix to the package a label showing the date of dispensing, the dispensing practitioner's name and address, name of the patient, directions for use and cautionary statements, if any, contained in such prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. No prescription for a controlled substance in Schedule II may be refilled.

(b) No controlled substance in Schedule III or IV may be dispensed without a written or oral prescription of a practitioner, except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user. The practitioner in dispensing a controlled substance in Schedule III and IV shall affix to the package a label showing the date of dispensing, the dispensing practitioner's name and address, name of the patient, directions for use and cautionary statements, if any, contained in such prescription or as required by law. Prescriptions and records of dispensing shall be retained in conformance with the requirements of section 329-36. Such prescriptions may not be filled or refilled more than three months after the date thereof or be refilled more than two times after the date of the prescription unless renewed by the practitioner.

(c) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medical purpose.”

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

*Edited accordingly.

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

(Approved May 31, 1973.)

ACT 207

S. B. NO. 1029

A Bill for an Act Relating to College-Credit Equivalency.

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

SECTION 1. Declaration of findings. The legislature finds that there is considerable duplication between the content of courses taught in the secondary, business, trade and adult education schools and the content of courses offered in the lower division programs of the University of Hawaii and the programs of the community colleges. The legislature believes that a credit equivalency program which automatically awards college-equivalent credits to students upon the successful completion of high school, business school, trade school and adult education learning experiences will serve to eliminate duplications on a statewide basis. Such a program will permit college students to graduate faster and enable the State's higher education resources to serve more students.

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

**“CHAPTER
COLLEGE-CREDIT EQUIVALENCY PROGRAM**

Section -1. College-credit equivalency program established; purpose. There is established at the University of Hawaii and the community colleges a college-credit equivalency program. The purpose of this program is to award college credits to students who are enrolled in a degree or certificate program at the University of Hawaii or at a community college and who have successfully completed at a high school, business school, trade school, or adult education school, courses which are equivalent to courses offered for credit in the University of Hawaii system.

Section -2. Policies and procedures. The University of Hawaii shall be responsible for the establishment of policies and procedures to administer the program. In this regard, the university shall, among other things, prepare and make public the following:

- (1) the list of the high school, business school, trade school and adult education school courses for which college credits may be earned,
- (2) the number of credits which may be earned for each course, and
- (3) the minimum standards or grades necessary to earn college credits.

Section -3. Eligibility. All students enrolled in a degree or certificate program at the University of Hawaii or at a community college and who meet the requirements established under section -2 shall be eligible and awarded college-credit equivalents.”

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

(Approved May 31, 1973.)

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

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

SECTION 1. Paragraph (12) of section 485-1, Hawaii Revised Statutes, relating to definitions of words and phrases used in chapter 485, Hawaii Revised Statutes (Uniform Securities Act (Modified)) is amended to read as follows:

“(12 “Security” means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting trust certificate, certificate of deposit for a security, certificate of interest in an oil, gas, or mining title or lease, option on commodity futures contracts or, in general, any interest or instrument commonly known as a “security,” or any certificate for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. “Security” does not include any insurance of endowment policy or annuity contract.”

SECTION 2. Section 485-4, Hawaii Revised Statutes, which enumerates securities that are exempt from the Uniform Securities Act (Modified) is amended by adding a new paragraph to read as follows:

“(12) Any option on a commodity futures contract subject to regulation under the Commodity Exchange Act.”

SECTION 3. Section 485-10, Hawaii Revised Statutes, relating to registration by qualification is amended by adding a new subsection to read as follows:

“(g) With respect to options on commodity futures contracts the following shall be observed:

- (1) An application for registration of options on commodities futures contracts shall contain the same information specified in paragraph (b) of this section, except in the case of subparagraph (b)(3).
- (2) The prospectus shall contain the following information in lieu of the information required in subparagraph (b)(3) of this section:
 - (A) Name and address of issuer and issuer’s principal office in the State, if any.
 - (B) Total dollar value of contracts to be offered, specifying the commodities involved.
 - (C) How the offering price is calculated.
 - (D) A brief description of the method by which the contracts are to be offered, and if the offering is to be made through underwriters, the name and address of each underwriter and the amount of the participation of each underwriter with a statement of any material relationship between the issuer and underwriter.
 - (E) The policy which the issuer plans to follow to assure that it will

- have sufficient funds to pay its investors upon the exercise of option contracts.
- (F) Summary of the terms and conditions of the customers agreement.
 - (G) Information requested by the following provisions in paragraph (b)(3) shall be stated:
(I), (J), (K), (L), (N), and (O)
 - (H) Such information that may be required by rules and regulations.
- (3) No option contracts shall be offered or sold in the state under this section, unless the issuer has a paid-in capital of at least \$100,000, and unless its net cash value is 1.25 times its open option cash position.
- (4) As used in this section, the following meanings shall apply:
- (A) "Option on a commodity futures contract" means right to buy or sell a commodity futures contract at a fixed price during a pre-determined period of time;
 - (B) "Net issuers cash value" means all cash in customers accounts payable plus net value of issuers hedging account.
 - (C) "Hedging account" means account with which issuer maintains to buy or sell commodity futures as a protection against loss due to price fluctuation.
 - (D) "Open option cash position" means the value of all outstanding open options.
- (5) The net issuers cash value and the open option cash position shall be compiled at the end of each business day. In the event the issuer's cash value goes below one hundred twenty-five per cent of its open option cash position, the issuer shall be prohibited to sell new options and will be limited to liquidating its existing options and it shall immediately notify the director of regulatory agencies.
- (6) Options on commodity futures contracts registered with the Securities and Exchange Commission under the Securities Act of 1933, shall be exempt from registration under this section."

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

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

(Approved May 31, 1973.)

A Bill for an Act Relating to Child Services.

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

*Edited accordingly.

SECTION 1. Purpose and findings. The legislature finds that:

- (1) Research in recent years has revealed that the years between birth and six are critical to a child's life since they are the formative years.
- (2) The pre-school years of a child are of such crucial importance that it places an enormous responsibility on each family to provide for an intellectually and socially stimulating environment in which the child may have the opportunity to develop to his fullest potential.
- (3) In today's society, social, economic and psychological exigencies placed on the family may result in fragmentation, discord, deprivation, as well as social and economic frustration, which may lead to an inability on the part of the family to provide full educational and developmental opportunities for the child.
- (4) Services to families and children are likewise fragmented due to the lack of a systems approach to data gathering, planning, and delivery of services in child development that includes related family services.
- (5) Presently, there is a nationwide shortage of sound educational and developmental child care services for all pre-school children with particular reference but not limited to the culturally disadvantaged child.
- (6) Nationally, the growing number of women, even those with young children, who seek employment outside the home are contributing to the problem of child care, such that the number of licensed available spaces for child care is 640,000 while the number of pre-school children whose mothers work part-time or full-time is now estimated at five million. For the State of Hawaii there are presently some 8,000 spaces available in licensed day care centers for a pre-school population of 70,811 established by the 1970 census survey.
- (7) The State of Hawaii has the highest percentage of women in the labor force in the nation as well as the highest percentage of working mothers in the nation.
- (8) Data compiled in recent years on arrangements made by parents on their own for their children revealed a number of children being cared for by siblings only a few years older; a number of children on their own with or without keys to their homes; with the rest either in day care centers or in homes of friends and relatives.

In view of these facts, the legislature finds that there is a crucial and definite need to assist the family, especially the family with working mothers or the family in a culturally deprived socio-economic environment, in the educational and social development of the child during the critically important pre-school years. The legislature further finds that it is within their concern and responsibility to provide the best opportunities for the children of the State to develop their fullest potential, thereby contributing to the total well-being of the State. Further, the legislature finds child care programs, properly planned and structured, can effectively assist in meeting some of the needs of pre-school children which the family may be unable to provide.

The purpose of this Act is to develop a systems approach to comprehensive, coordinated planning and delivery of child development services for children, birth through age 12, by maximizing the utilization of existing facilities,

services, and fiscal resources of federal, state, county, and private sources.

SECTION 2. Chapter 581, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . STATEWIDE PLANNING AND SYSTEMS DEVELOPMENT

Sec. 581- Definitions. As used in this part:

- (1) "Childhood" means that period of life from 0-12 in which the child's intellectual, social, emotional, and physical qualities are in the formative stages and in which the foundation for his future development is established.
- (2) "Comprehensive childhood development services" includes, but is not limited to, the following program components: physical health services, mental health services, diagnostic services, child care services both in the home and outside, services for handicapped children, parent education, preschool education, social services, and transportation services necessary to make the programs effective and accessible.
- (3) "Family services" means those services directed toward the parents or guardians of children which are designed to strengthen the family unit and to assist the parents in providing for sound childhood development.
- (4) "Pilot program" includes any program, service, or activity designed to experiment with alternative models of service delivery or models to fill determined service gaps.
- (5) "Systems approach" means the necessary structure, process, and procedures which will enable the most efficient and effective utilization of resources to meet the determined objectives.

Sec. 581- Statewide planning and systems development. (a) There shall be a statewide planning and systems development program which shall develop systems for child services in accordance with the following priorities:

- (1) Children—birth to 4 years of age;
- (2) Children—5 years to 8 years of age;
- (3) Children—9 years to 12 years of age.
- (b) The development of systems for child services delivery shall include:
 - (1) Determining the support and delivery of needed services including the identification of service gaps which may call for the support of pilot programs as well as the enhancement of existing programs;
 - (2) Determining how needed resources shall be coordinated to meet local needs; and
 - (3) Planning the system to permit coordinated delivery of services.

Emphasis shall be on preventative measures designed to provide services which will enable children to develop to the maximum level the physical, mental, and social potentials which they possess, to strengthen to the role of the family as the first and most fundamental influence on child development, and to provide improved services to child development and family services through a coordinated partnership between family, federal, state, county, and private resources.

Sec. 581- Responsibility for development. (a) For purposes of comprehensive statewide planning and child development services systems development, the coordinated child care committee shall make policy and enable implementation by negotiating working agreements and policy understandings among its membership.

(b) The coordinated child care committee shall:

- (1) Develop a statewide plan to meet children's needs; subject however, to the approval of the commission on children and youth and the governor. Specifically, the committee shall design, develop, and review annually a comprehensive, statewide, community-based program to meet children's needs, which shall be responsive to county and neighborhood needs and priorities;
- (2) Establish a comprehensive child development services information system;
- (3) Receive from any department, division, board, bureau, commission, or other agency of the State such information as will enable the coordinated child care committee and staff properly to exercise their powers and perform their duties;
- (4) Coordinate the delivery of services by agencies operating programs which include components of the State's comprehensive child development and related family services plan;
- (5) Provide professional and technical assistance to state and local coordinated child care committees, and consult with agencies and individuals regarding children's services;
- (6) Promote and provide for, but not necessarily conduct, the evaluation of all childhood development and related family service programs and facilities pursuant to this part;
- (7) Advise the governor on the availability and expenditure of all state and federal funds utilized for child development and related family service programs and facilities pursuant to this part;
- (8) Apply for, receive, and administer funds which are, or may become, available under federal programs or from local government or private donors pertaining to child development, including funds for administration, demonstration projects, construction, or acquisition of facilities, training, technical assistance, research, planning and evaluation;
- (9) Serve, when applicable, as the sponsoring state agency for child and family programs which are, or may be, instituted by the federal government;
- (10) Establish criteria and recommend standards for approval of local public and private programs and facilities for comprehensive early childhood development and family services;
- (11) Develop a program to inform the public concerning comprehensive child development and related family services;
- (12) Assist children and their parents or guardians in obtaining the assistance and services which the child needs and which are provided by state and local agencies."

SECTION 3. Section 581-2, Hawaii Revised Statutes, is amended to

read as follows:

“Sec. 581-2 Duties of the commission; reports. (a) The commission of children and youth shall form two subcommittees to serve:

- (1) Children from birth through age twelve to be known as the coordinated child care committee; and
 - (2) Youths from ages thirteen through twenty-four, to be known as the action committee for young adults.
- (b) The commission shall:
- (1) Study the facts concerning the needs of children and youth in the State through action research studies, such research to be carried on whenever possible through the departments or agencies of the state and county governments responsible for providing services to children and youth. When such research cannot be done within such established agencies, it shall be carried out by public or private organizations capable of conducting action research, or the commission may recommend action research studies to its subcommittees.
 - (2) Review legislation pertaining to children and youth and appropriations made for services in their behalf in such fields as health, child development, social service, education, recreation, child labor, family courts, probation and parole service, and detention and correctional facilities, and consider and present revisions and additions needed and report to the governor and to the legislature regarding such legislation.
 - (3) Appraise the availability, adequacy, and accessibility of all services for children and youth within the State.
 - (4) Ascertain the facts concerning the operations and the operating policies, affecting children and youth, of all state and county departments and agencies responsible for providing services for children and youth, including, without limitation to the generality of the foregoing, the department of health, the department of social services and housing, the department of education, the department of labor and industrial relations, the police departments, the family and other courts and the probation departments and detention facilities thereof, and, report such facts and the commission's recommendations to the governor and to the legislature. The executive heads of all such departments and agencies shall make available to the commission such information as the commission deems necessary for the effective discharge of its duties under this chapter.
 - (5) Maintain contacts with local, state, and federal officials and agencies concerned with planning for children and youth.
 - (6) Encourage and foster local community action in behalf of children and youth through the local county committees.
 - (7) Promote plans and programs for prevention and control of juvenile delinquency and conducive to child development.
 - (8) Cooperate with the national commission on children and youth and arrange for the participation by representatives of the State in the decennial White House Conference on children and youth.

ACT 210

(c) The subcommittees shall:

- (1) Sponsor, stimulate, organize, and, if necessary, conduct action research and demonstration projects in support of child and youth development and prevention and control of juvenile delinquency.
- (2) Develop plans and integrate planning for services and programs, relative to children and young adults.
- (3) Coordinate and mobilize resources, both public and private, which address problems and enhance opportunities for children and young adults."

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

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

(Approved May 31, 1973.)

ACT 210

S. B. NO. 1228

A Bill for an Act Relating to State Grants-In-Aid for County Capital Improvement Projects.

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

SECTION 1. **Purpose and policy.** The legislature finds that in consideration of the state of the economy, it is necessary to remove the requirement that the several counties match all state grants-in-aid with their own funds.

SECTION 2. Section 214-2, Hawaii Revised Statutes, is amended to read:

"Sec. 214-2 Funds, allotment, and expenditure. Money allotted under this chapter by the State shall be available to the several counties; provided that no part of state or county moneys shall be expended for capital improvement projects which are not a part of the general plan of the State, or which will not reasonably contribute to the economic development of the county. The determination of (1) the extent of participation by the State, and (2) what capital improvement projects shall reasonably contribute to the economic development of a county shall be made by the governor taking into consideration the State's goal for specific segments of its general plan and the financial position of the county."

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

SECTION 4. This Act shall take effect on July 1, 1973.

(Approved May 31, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Family Court Proceedings, Amending Chapters 571, 577, 578, 579 and 580, Hawaii Revised Statutes.

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

SECTION 1. Chapter 571, Hawaii Revised Statutes, is amended as follows:

(a) Section 571-3 is amended to read as follows:

“Sec. 571-3 Family courts, divisions of circuit courts. The family courts shall be divisions of the circuit courts of the State and shall not be deemed to be inferior courts as that term is used in the State Constitution. A family court shall be held at the courthouse in each circuit, or other duly designated place, by the judge or judges of the respective family courts as herein defined. The chief justice of the supreme court may temporarily assign a family court judge to preside in another circuit when the urgency of one or more cases requires him to do so. In any case in which it has jurisdiction the court shall exercise general equity powers as authorized by law.”

(b) Section 571-5 is amended to read as follows:

“Sec. 571-5 Board of family court judges. A board of family court judges, which shall consist of all the State’s family court judges, is hereby created. The board shall annually elect from among its members a chairman who shall preside at meetings of the board. The chairman shall have no other authority not specifically authorized under this chapter, or any applicable rule of the supreme court, or specifically delegated by a majority of the board. The board shall meet at stated times to be fixed by it but not less often than once every six months, and on call of the chairman.

The board shall discuss and shall attempt to achieve agreement upon general policies for the conduct of the family courts and forms for use in such courts. The board shall recommend, for adoption by the supreme court, rules of court governing procedure and practices in such courts. The board may, within the limitations of the facilities available to the family courts of the State, seek the consolidation of the statistical and other data on the work and services of such courts and research studies that may be made of the problems of families and children dealt with by such courts to the end that the treatment of children and families subject to the jurisdiction of such courts shall achieve the highest possible degree of uniformity throughout the State and to the further end that knowledge of treatment, methods and therapeutic practices be shared among such courts. The board may also formulate recommendations for remedial legislation. All actions by the board shall be subject to the regulatory supervision of the chief justice of the supreme court.”

(c) Section 571-7 is amended to read as follows:

“Sec. 571-7 Appointment of referees, duties. The judge or senior judge, if there is more than one, may appoint attorneys licensed to practice before the supreme court of Hawaii to act as referees, who shall hold office during the pleasure of the senior judge or judge. Referees shall not engage in the practice

of law while they hold office. The compensation of the referees shall be the same as a full time district judge's salary. The senior judge or judge may direct that any case coming within the jurisdictional provisions of this chapter, or all cases of a class or within a district to be designated by him, shall be heard in the first instance by a referee in the manner provided for the hearing of cases by the court, but any party may, upon request, have a hearing before a judge in the first instance. At the conclusion of a hearing the referee shall transmit promptly to the senior judge or judge all papers relating to the case, together with his findings and recommendations in writing.

The referees may administer oaths; take testimony under the rules of court and the orders of the family court; make orders with respect to the taking of depositions in controversies pending before them; grant continuances of proceedings before them; subpoena and compel the attendance of witnesses within their respective circuits; and punish contempts according to law.

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 the minor, in all cases heard by a referee coming within section 571-11, except uncontested cases coming within section 571-11(3) to (8), and to all parties in contested adoption cases and in contested cases coming within section 571-14.

A hearing by a judge shall be allowed if any of such persons files with the court a request for review, provided that the request is filed within five days after the referee's written notice which shall apprise the persons of their right to request such review. If a hearing de novo is not requested by any party or ordered by the court, the hearing shall be upon the same evidence heard by the referee and reported in his findings, provided that new evidence may be admitted in the discretion of the judge. If a hearing before a judge is not requested or the right to the review is waived, the findings and recommendations of the referee, when confirmed by an order of a judge, become the decree of the court."

(d) Subsection 571-21(e) is amended to read as follows:

"(e) The family courts may, by suitable orders, provide regulations concerning the titles, filing, investigation, and the form and content of petitions and other pleadings in cases under this chapter, or these matters may be governed by the rules of court."

(e) Section 571-41 is amended to read as follows:

"Sec. 571-41 Procedure in children's and minors' cases. Cases of children and minors in proceedings under section 571-11(1) and (2) shall be heard by the court separate from hearings of adult cases and without a jury. Stenographic notes or mechanical recordings shall be required as in other civil cases in the circuit courts, unless the parties waive the right of such record or the court so orders. The hearings may be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded and only such persons admitted whose presence is requested by the parent or guardian or as the judge or referee finds to have a direct interest in the case or in the work of the court from the standpoint of the best interests of the child or minor involved. Prior to the start of a hearing, the parents, guardian, legal

custodian, and, when appropriate, the minor shall be notified of the right to be represented by counsel.

Findings of fact by the judge or referee of the validity of the allegations in the petition shall be based upon a preponderance of evidence admissible under the rules applicable to the trial of civil causes, provided, that no minor who is before the court under section 571-11(1) shall be required to testify against himself over the objection of his parents, guardian, or counsel. In the discretion of the judge or referee the child may be excluded from the hearing at any time. When more than one minor is alleged to have been involved in the same act, the hearing may be held jointly for the purpose of making a finding as to the allegations in the petition and then shall be heard separately for the purpose of disposition except in cases where the minors involved have one common parent.

In the disposition part of the hearing any relevant and material information, including that contained in a written report, study, or examination, shall be admissible, and may be relied upon to the extent of its probative value; provided, that the maker of the written report, study, or examination shall be subject to both direct and cross-examination upon demand and when he is reasonably available. The disposition shall be based only upon the admitted evidence, and findings adverse to the minor as to disputed issues of fact shall be based upon a preponderance of such evidence.

Upon a final adverse disposition, if the parent or guardian is without counsel the court shall inform the parent or guardian of his right to appeal as provided for in section 571-54.

By rule of court there may be established appropriate special procedures for the hearing and disposition of cases involving violation of traffic laws or ordinances by children or minors."

(f) Section 571-45 is amended to read as follows:

"Sec. 571-45 Investigation prior to disposition. Except where the requirement is waived by the judge a social study and a report in writing shall be made in the case of a minor concerning whom a petition has been filed under subsection 571-11(1) and (2). The study shall be initiated upon the filing of a petition except in petitions filed under 571-11(1) when it is ascertained that the minor denies the allegations set forth in the petition. In such case the study shall proceed only after the court after hearing has made a finding as to the allegations of the petition.

Except where the requirement is waived by the judge, social studies shall also be made in proceedings to decide disputed or undetermined legal custody and in custody disputes arising out of a divorce action. In all other awards of custody arising out of a divorce action, including those where an agreement with respect to custody has been made by the parties, and in any other case or class of cases, the judge may order a social study when he has reason to believe such action is necessary to assure adequate protection of the minor or of any other person involved in the case. By special order of the judge or by rule of court a social study may be required in support cases covering financial ability and other matters pertinent to making an order of support. The use of such studies in custody and support hearings shall be subject to

the applicable provisions of section 571-41.

Social studies required by this section shall be presented to and considered by the judge prior to making disposition.

The judge may order and use a presentence investigation with respect to any criminal action under the jurisdiction of the court in accordance with the existing provisions of the law with respect to the making and use of such studies.”

(g) Section 571-54 is amended to read as follows:

“Sec. 571-54 Appeal. An interested party aggrieved by any order or decree of the court may appeal to the supreme court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court except as hereinafter provided. Where the decree or order affects the custody of a child or minor the appeal shall be heard at the earliest practicable time. In cases under section 571-11 the record on appeal shall be given a fictitious title, to safeguard against publication of the names of the children or minors involved.

The stay of enforcement of an order or decree, or the pendency of an appeal, shall not suspend the order or decree of the court regarding a child or minor or discharge the child or minor from the custody of the court or of the person, institution, or agency to whose care he has been committed, unless otherwise ordered by the family court, or by the supreme court after an appeal is taken. Pending final disposition of the case the family court, or the supreme court after an appeal is taken, may make such order for temporary custody as is appropriate in the circumstances. If the supreme court does not dismiss the proceedings and discharge the child or minor, it shall affirm or modify the order of the family court and remand the child or minor to the jurisdiction of the court for disposition not inconsistent with the supreme court’s finding on the appeal.

An order or decree entered in a proceeding based upon section 571-11(1), (2), or (6) shall be subject to appeal to the supreme court only as follows:

Within ten days from the date of the entry of any such order or decree, any party directly affected thereby, including a parent or legal custodian of any child or minor involved, may petition the judge for a rehearing and reconsideration of the facts involved. The petition shall set forth the grounds on which a rehearing is requested and shall be sworn to by the petitioner. A copy thereof shall be served upon the attorney general, who shall represent the interests of the State at the rehearing and in connection with any subsequent appeal. As soon thereafter as may be practicable, the judge shall proceed with the rehearing of the case, affording to all parties concerned the full right of representation by counsel and presentation of relevant evidence. The findings of the judge upon the rehearing and his determination and disposition of the case thereafter, and any decision, judgment, order, or decree affecting the child and entered as a result of the rehearing shall be set forth in writing and signed by the judge. Any party deeming himself aggrieved by any such judgment, order, or decree, entered following a rehearing as in this section provided, shall have the right to appeal therefrom to the supreme court upon the same terms and conditions as in other cases in the circuit court; provided,

that no such petition for rehearing shall operate as a stay of any such judgment, order, or decree unless the judge of the family court so orders; provided, further, that no informality or technical irregularity in the proceedings prior to the rehearing hereinabove provided for shall constitute grounds for the reversal of any such judgment, order, or decree by the supreme court.”

(h) Section 571-61 is amended to read as follows:

“Sec. 571-61 Termination of parental rights; petition.

(a) The legal parents or the surviving parent or the mother of a minor born out of wedlock who desire to relinquish parental rights to any natural or adopted minor and thus make the minor available for adoption or readoption, may petition the family court of the circuit in which they or he or she resides, or of the circuit in which the minor resides, for the entry of a judgment of termination of parental rights. The petition shall be verified and shall be substantially in such form as may be prescribed by the judge or senior judge of the family court. The petition may be filed by the legal parents or the surviving parent or the unmarried mother of a living minor, or by the legal parents or the surviving mother or the unmarried mother of an unborn child at any time following the sixth month of pregnancy; provided, that no judgment may be entered upon a petition concerning an unborn child until after the birth of the child and until the petitioner or petitioners have filed in the termination proceeding a written affirmation of their desires as expressed in the petition or until the petitioner or petitioners have been given not less than ten days’ notice of a proposal for the entry of judgment and an opportunity to be heard in connection with such proposal.

(b) The family courts may terminate the parental rights in respect to any minor as to any legal parent:

- (1) Who has deserted the minor without affording means of identification for a period of at least 90 days or who has voluntarily surrendered the care and custody of the minor to another for a period of at least two years;
- (2) Who, when the minor is in the custody of another, has failed to communicate with the minor when able to do so for a period of at least two years, or has failed to provide for care and support of the minor when able to do so as required by law or judicial decree for a period of at least one year;
- (3) Who has neglected, ill-treated or abused the minor to such an extent that legally authorized judicial action has been taken pursuant to section 571-11(2)(A), which has resulted in the removal of the minor from the physical custody of the parent;
- (4) Who is found to be mentally ill or mentally retarded to an extent requiring institutional care and therefore incapacitated from giving consent to the adoption of the minor; or
- (5) When it is shown to the satisfaction of the court that the legal father of a child is not his natural father.

Such authority may be exercised only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the minor in the family court of the circuit in which the

parent or the minor resides and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. In the event that personal service cannot be effected within the State, service of the notice may be made as provided in section 634-59 or 634-60.”

(i) Section 571-63 is amended to read as follows:

“**Sec. 571-63 Findings and judgment.** No judgment of termination of parental rights entered under sections 571-61 to 571-63 shall be valid or binding unless it contains a finding that the facts upon which the petition is based bring the minor within such sections and have been proved by the evidence and that the adjudication of termination of parental rights is necessary for the protection and preservation of the best interests of the minor concerned and will facilitate the legal adoption of the minor.

In any judgment entered pursuant to sections 571-61 to 571-63 the court may terminate the parental rights of one or both of the parents of the minor concerned, may transfer the care, custody, and control of the minor to any proper person not forbidden by law to place a child for adoption or to the department of social services and housing or to any child-placing organization approved by the department, may appoint a guardian of the person of the minor, and may authorize the person or the department or the agency or the guardian to consent to the legal adoption of the minor.

No judgment of termination of parental rights entered under sections 571-61 to 571-63 shall operate to terminate the mutual rights of inheritance of the minor and the parent or parents involved, or to terminate the legal duties and liabilities of the parent or parents, unless and until the minor has been legally adopted.

Every such judgment of termination of parental rights when the procedural provisions of sections 571-61 to 571-63 have been followed shall become final and binding upon all of the parties concerned as of the date of its entry and filing, subject to the right of appeal. No such judgment shall be set aside for reasons other than the best interests and welfare of the minor concerned, after the entry of a decree of adoption of the minor concerned or during any period when the minor is in an adoptive home in which the minor has been placed by the department of social services and housing or by a child-placing organization approved by the department or by any person not forbidden by law to place a minor for adoption. When any such minor is placed for adoption, a sworn certificate evidencing the placement shall be filed in the termination proceeding by the agency or person making the placement. Upon the entry of a final decree of adoption of any such minor, a certified copy of the decree shall be filed in the termination proceeding and notification of the entry of the decree, without disclosing the identity of the adopting parents, shall be given to each person whose parental rights have been terminated by registered mail addressed to the last known address of each such person; provided, that at any time following the expiration of one year from the date of the entry of any such judgment of termination of parental rights, upon the motion of the parent or parents of the minor or the department of social services and housing or

any child-placing organization approved by the department or any other proper person, based upon the fact that the minor has not been adopted or placed in a prospective adoptive home, the court in which the judgment was entered shall review the same and shall consider the currently reported circumstances of the minor and of the parent or parents and shall enter its finding as to whether the circumstances, and the present best interests of the child, justify the continuance of the judgment. Upon such reconsideration, the court may either set aside the judgment or continue it in effect, as the circumstances may warrant. Upon the entry in the termination proceeding of a certified copy of the final decree of adoption of any such minor and notification thereof to the person whose parental rights have been terminated, or upon the dismissal or discontinuance or other final disposition of the petition in the termination proceeding the clerk of the court shall seal all records in the termination proceeding and the seal shall not be broken and the records shall not be inspected by any person, including the parties to the termination proceeding, except upon order of the court.”

(j) Section 571-82 is amended to read as follows:

“**Sec. 571-82 Court sessions; quarters.** Sessions of the court shall be held at such places as the court shall determine, subject to section 603-14.”

(k) Section 571-84 is amended to read as follows:

“**Sec. 571-84 Records.** The court shall maintain records of all cases brought before it. In proceedings under section 571-11, and in paternity proceedings under chapter 579, the following records shall be withheld from public inspection: the court docket, petitions, complaints, motions, and other papers filed in any case; transcripts of testimony taken by the court; and findings, judgments, orders, decrees, and other papers other than social records filed in proceedings before the court. The records other than social records shall be open to inspection by the parties and their attorneys, by an institution or agency to which custody of a minor has been transferred, by an individual who has been appointed guardian; with consent of the judge, by persons having a legitimate interest in the proceedings from the standpoint of the welfare of the minor; and, pursuant to order of the court or the rules of court, by persons conducting pertinent research studies, and by persons, institutions, and agencies having a legitimate interest in the protection, welfare, or treatment of the minor.

Reports of social and clinical studies or examinations made pursuant to this chapter shall be withheld from public inspection, except that information from such reports may be furnished, in a manner determined by the judge, to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare, and treatment of the minor.

No information obtained or social records prepared in the discharge of official duty by an employee of the court shall be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive such information, unless and until otherwise ordered by the judge.

Without the consent of the judge, neither the fingerprints nor a photograph shall be taken of any child in police custody, unless the case is trans-

ACT 211

ferred for criminal proceedings. Except for the immediate use in such criminal case, any photograph or fingerprint taken upon such transfer shall not be used or circulated for any other purpose and shall be subject to all rules and standards provided for in section 571-74.

The records of any police department, and of any juvenile crime prevention bureau thereof, relating to any proceedings authorized under section 571-11 shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the provisions of this chapter, except as otherwise ordered by the court. Any such police records concerning traffic accidents in which a child or minor coming within section 571-11(1) is involved shall, after the termination of any proceeding under section 571-11(1) arising out of any such accident, or in any event after six months from the date of the accident, be available for inspection by the parties directly concerned in the accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue because of death resulting from any such accident shall be deemed a party concerned.

Evidence given in proceedings under section 571-11(1) or (2) shall not in any civil, criminal, or other cause be lawful or proper evidence against the child or minor therein involved for any purpose whatever, except in subsequent proceedings involving the same child under section 571-11(1) or (2)."

(1) Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 571-14 Jurisdiction; adults. The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a minor by his parent or guardian or by any other person having his legal or physical custody, and any violation of section 709-902, 709-903, 709-904, or 709-905, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
 - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
 - (B) An offense, other than a felony, against the person of the defendant's husband or wife.

In any case within paragraph (1) or (2) of this section the court may, in its discretion, waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 579.
- (4) In proceedings under chapter 575, the Uniform Desertion and Non-support Act, and under chapter 576, the Uniform Reciprocal Enforcement of Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife, and in all proceedings to appoint a guardian of the person of an adult."

SECTION 2. Chapter 577, Hawaii Revised Statutes, is amended as follows:

(a) Section 577-9, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 577-9 Jury trial, when. In trials against any person over the age of majority arising under sections 709-902, 709-903, 709-904, and 709-905, the person proceeded against shall have the right to a trial by jury which shall be granted as in other cases, unless waived. If the finding of the jury is against the person tried their verdict shall so state, in which event the court, in its discretion, may enter such judgment as it seems needful in the premises.”

(b) Section 577-10, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 577-10 Court having jurisdiction. The family courts shall have exclusive jurisdiction of all cases coming within sections 709-902, 709-903, 709-904, and 709-905; provided, that upon complaint made to any prosecuting officer of the commission of any offense coming within sections 709-902, 709-903, 709-904, and 709-905, the district judge within whose circuit the offense is alleged to have been committed may issue his warrant for the arrest of the person accused of such offense, and commit the accused to the family court for the required proceedings.”

(c) Section 577-11, Hawaii Revised Statutes, is repealed.

(d) Section 577-13, Hawaii Revised Statutes, is repealed.

SECTION 3. Chapter 578, Hawaii Revised Statutes, is amended as follows:

(a) Section 578-1 is amended to read as follows:

“Sec. 578-1 Who may adopt; jurisdiction; venue. Any proper adult person, not married, or any person married to the legal father or mother of a minor child, or a husband and wife jointly, may petition the family court of the circuit in which he or they reside or are in military service or the family court of the circuit in which the child resides or was born or in which a child placing organization approved by the department under the provisions of section 346-17 having legal custody (as defined in section 572-2(11)) of the child is located, for leave to adopt a minor child toward whom he or they do not sustain the legal relationship of parent and child and for a change of the name of the child. The petition shall be in such form and shall include such information and exhibits as may be prescribed by the family court.”

(b) Section 578-2 is amended to read as follows:

“Sec. 578-2 Consent to adoption. (a) Persons required to consent to adoption. Unless consent is not required under paragraph (b) hereof, a petition to adopt a child may be granted only if written consent to the proposed adoption has been executed by:

- (1) Each living parent of a legitimate child;
- (2) The mother of an illegitimate child;
- (3) Any person or agency having legal custody of the child or legally empowered to consent;

ACT 211

- (4) The court having jurisdiction of the custody of the child, if the legal guardian or legal custodian of the person of the child is not empowered to consent to adoption;
 - (5) The child to be adopted if more than ten years of age, unless the court in the best interest of the child dispenses with the child's consent.
- (b) Persons as to whom consent not required. Consent to adoption is not required of:
- (1) A parent who has deserted a child without affording means of identification for a period of ninety days or who has voluntarily surrendered the care and custody of the child to another for a period of two years;
 - (2) A parent of a child in the custody of another, if the parent for a period of at least two years has failed to communicate with the child when able to do so, or for a period of at least one year has failed to provide for care and support of the child when able to do so, as required by law or judicial decree;
 - (3) The natural father of an illegitimate child who has not legally been legitimated either prior to the placement of the child with adoptive parents or prior to the execution of a valid consent by the mother of the child;
 - (4) A parent whose parental rights have been judicially terminated under the provisions of chapter 572, or under the provisions of any other state or other law by a court or other agency having jurisdiction to take such action;
 - (5) A parent judicially declared mentally incompetent or mentally retarded if the court dispenses with such parent's consent;
 - (6) Any legal guardian or legal custodian of the child sought to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his consent unreasonably.
- (c) Notice of hearing; minor parent; consent authorizing selection of adoptive parents. No hearing of a petition for adoption shall be had unless each of the living parents of the child who has not consented to the proposed adoption, but who is alleged to come within the provisions of paragraph (b)(1) or (b)(2) of this section, shall have had due notice, actual or constructive, of the allegations of the petition and of the time and place of the hearing thereof. Such notice need not be given to any parent whose parental rights have been legally terminated as hereinabove provided or whose consent has been filed with the petition.

The minority of a child's parent shall not be a bar to the right of such parent to execute a valid and binding consent to the adoption of such child.

Any parental consent required hereunder shall be valid and binding even though it does not designate any specific adoptive parent or parents, if it clearly authorizes the department of social services and housing, or a child placing organization approved by the department under the provisions of section 346-17 or some proper person not forbidden by law to place a child for adoption, to

select and approve an adoptive parent or parents for the child.

(d) Withdrawal of consent. A consent to adoption which has been filed or received in evidence in an adoption proceeding or which has been given to the department of social services and housing or to a child placing organization approved by the department under the provisions of section 346-17, or to any other proper person not forbidden by law to place or receive a child for adoption, may not be withdrawn or repudiated after the child has been placed for adoption, without the express approval of the court based upon a written finding that such action will be for the best interests of the child.

(e) Maintenance of action based on medical or surgical treatment of child barred when. A person who consents to adoption, or on whose behalf a consent to adoption is signed, and a nonconsenting parent whose consent is not required hereunder shall be barred from maintaining any action based upon medical or surgical care or treatment given to the child with the permission of the petitioner or petitioners or the person or agency authorized by the parental consent to select and approve an adoptive parent or parents; provided, that nothing herein contained shall be construed to alienate or impair any cause of action accruing to the child for personal injury which may be sustained as a result of such medical or surgical care or treatment.”

(c) Section 578-3 is amended to read as follows:

“**Sec. 578-3 Custody of child pendente lite.** At any stage of the proceeding subsequent to the filing of the petition and prior to the entry of a decree, the court, upon a showing that the best interests of the child will be served thereby, may order that the petition or petitioners shall be entitled to retain the custody and control of the child and shall be responsible for the care, maintenance and support of the child including any necessary medical or surgical treatment, pending the further order of the court. Such order may also authorize and legally obligate the petitioner or petitioners to arrange for the burial of the child if the child shall die prior to the entry of the decree.”

(d) Section 578-6 is amended to read as follows:

“**Sec. 578-6 Notice to nonresident or unlocated nonconsenting legal parent whose rights have not been terminated.** If a legal parent to whom notice must be given as aforesaid was never an inhabitant of the State, or has removed therefrom, or if, after due diligence, the parent cannot be found within the State, and the fact appears by affidavit to the satisfaction of the court, it may be ordered by the court that the service be made under section 578-7.”

(e) Section 578-7 is amended to read as follows:

“**Sec. 578-7 Substituted or constructive service.** Upon the filing of the affidavit referred to in section 578-6, the court may order service of the notice prescribed in sections 578-2 and 578-4 to be made as follows:

(1) Personal service or service by registered mail without the State. If the residence of a nonresident legal parent is known or is ascertained at any stage of the proceeding prior to the filing of a return of service pursuant to section 578-5, the court may order that service of notice of the time and place of hearing of the petition and of a copy thereof and of a copy of the court’s order be made upon such parent

(A) by personal service thereof, without the State, by such person and in such manner as the court may direct, or (B) by sending certified copies of the petition and of the notice of the time and place of the hearing thereof and of the court's order, by registered mail, addressed to such parent, with request for return receipt, which service, evidenced by such receipt signed by the parent and returned to the clerk of the court, shall be regarded as equivalent to service by publication or in lieu thereof. When service is made pursuant to this paragraph, the time appointed for the hearing of the petition shall be not less than twenty-one days subsequent to the date of service as herein provided.

(2) Service by publication. If the residence of such parent is not known and cannot be ascertained, or if an attempt to effect service by either of the methods authorized in paragraph (1) hereof is unsuccessful, the court may order that service shall be made by publication. The order shall direct that publication of notice of the pendency of the petition and of the time and place of the hearing thereof be made in a newspaper or newspapers suitable for the advertisement of notices of judicial proceedings once in each week for not less than four successive weeks as the court may prescribe, the last publication to be not less than twenty-one days prior to the time appointed for the hearing of the petition. The court may, in addition to ordering publication, direct that a copy of the petition and notice be forthwith deposited in the post office, addressed to such parent at his last known place of residence. The service of the notice required by section 578-2 shall be deemed complete at the expiration of the time prescribed by the order of publication."

(f) Section 578-8 is amended to read as follows:

"Sec. 578-8 Hearing; investigation; decree. No decree of adoption shall be entered unless a hearing has been held at which the petitioner or petitioners, and any legal parent married to a petitioner, and any child whose consent is required, have personally appeared before the court, unless expressly excused by the court. After considering the petition and such evidence as the petitioners and any other properly interested person may wish to present, the court may enter a decree of adoption if it is satisfied (1) that the child is adoptable under sections 578-1 and 578-2, (2) that the child is physically, mentally, and otherwise suitable for adoption by the petitioners, (3) that the petitioners are fit and proper persons and financially able to give the child a proper home and education, and (4) that the adoption will be for the best interests of the child, which decree shall take effect upon such date as may be fixed therein by the court, such date to be not earlier than the date of the filing of the petition and not later than six months after the date of the entry of the decree.

Before entering the decree, the court shall notify the director of social services and housing or the nearest county administrator of the department of social services and housing of the pendency of such petition for adoption and allow a reasonable time for the director or such county administrator to make such investigation as he may deem proper as to the fitness of the petitioners

to adopt the child, and as to whether the best interests of the child will be subserved by the adoption; provided, that the court may, if it finds that the best interests of the child so require, by written order waive the requirement for notification and investigation above set forth, and enter its decree solely on the basis of the evidence adduced at the hearing. The director shall have the right to intervene in any adoption proceeding for the purpose of protecting the interests of the child or of any legal parent of the child, and shall have the same rights of appeal as any party to the proceeding. The attorney general, upon the request of the director, shall represent the director in any such proceeding. The director, when notified as above set forth, or when he has intervened without notification, shall make a report to the court within the time required, reporting the facts disclosed and his recommendation; provided, that the director, if he determines that the best interests of the child will be served thereby, may refer any such notification to a child placing organization approved by the department under section 346-17, and the report and recommendation of such organization, when forwarded by the director, shall be considered by the court in lieu of a report and recommendation by the director. If the court determines that any such report discloses facts adverse to the petitioners or indicates that the best interests of the child will not be subserved by the proposed adoption, it shall thereupon give notice of the determination to the petitioners and afford them a reasonable opportunity to rebut the report.

(g) Section 578-9 is amended to read as follows:

“Sec. 578-9 Custody of child after decree and before adoption. The decree may provide that, during the period, if any, between the entry thereof and the effective date of adoption, the care, custody, and control of the child be given to the petitioner or petitioners, who, in such event, shall be liable during such period for the care, maintenance, and support of the child and for its torts in the same manner as legal parents, and may further provide for the supervision and visitation of the child by the director of social services and housing or his agent during such period and for such reports in connection therewith as the court may require.”

(h) Section 578-10 is amended to read as follows:

“Sec. 578-10 Disposition of child on discontinuance, withdrawal or denial of petition. Upon the discontinuance or withdrawal or denial of any petition for adoption, the court may make appropriate temporary orders concerning the care, custody and control of the child involved and may refer the child to the department of social services and housing or to another appropriate agency or officer for action as in the case of a minor subject to section 571-11(1).”

(i) Section 578-11 is amended to read as follows:

“Sec. 578-11 Disposition in case of death of petitioners. Notwithstanding the death of a petitioner or the petitioners during the pendency of the petition, the court, if it finds that the best interests of the child will be served thereby, and, in the case of a surviving petitioner, that such petitioner so desires, may enter a decree of adoption as prayed for in the petition, effective as of the date of the filing of the petition.”

(j) Section 578-12 is amended to read as follows:

“Sec. 578-12 Setting aside or modifying decree. At any time within one year from the date of entry of any decree of adoption, the court may, for good cause, set aside or modify the decree and, in connection therewith, may make appropriate orders, concerning the custody of the minor child and the disposition and handling of the record of adoption by the department of health. The setting aside or modification of any decree of adoption shall not affect any property rights which have become vested between the date of the entry of the decree or the effective date of the decree and the effective date of any order setting aside or modifying the decree of adoption.

No decree of adoption shall be subject to attack in any collateral proceeding, and, after the expiration of one year from the date of its entry, no decree of adoption shall be subject to direct attack upon any ground other than fraud rendering the decree void as of the time of its entry.”

(k) Section 578-13 is amended to read as follows:

“Sec. 578-13 Change of name. The family name of the adoptive child shall be changed to that of the adoptive parent or parents and the given name of the child may be fixed or changed at the same time.”

(l) Section 578-14 is amended to read as follows:

“Sec. 578-14 Record of adoption. A certified copy of the decree of adoption, or a certified abstract thereof on a form approved by the department of health shall, after such decree has become effective, be sent to the department. The department shall cause to be made a new record of the birth in the name of the child, as fixed or changed by the decree, with the names of the adoptive parents, and shall then cause to be sealed and filed the original birth certificate of the child with the decree or the abstract thereof, and such sealed package shall be opened only by order of a court of record. If the birth of the child occurred outside of the State, and a record of such birth exists, the certified copy of the decree or the abstract thereof, shall be transmitted by the department of health to the birth registration authorities of the place of the child’s birth with a request that such authorities take appropriate action with respect to the record of the child’s birth. If the birth of the child occurred outside of the State, or if the birth of a child born in the State has not been registered with the department of health, or if other good cause exists, the clerk of the court shall, upon request, and with the approval of the family court, upon the finding of the court that such action is for the best interests of the child involved, furnish to the adoptive parents, or to the child, or to any proper person acting in their behalf, a certified copy or abstract of the decree of adoption, or a certificate of adoption in such form as is approved by the court. If the parental rights of a parent or the parents of the child have been judicially terminated under chapter 571 prior to the entry of the decree, a certified copy of the decree shall be filed in the termination proceeding.”

(m) Section 578-15 is amended to read as follows:

“Sec. 578-15 Secrecy of proceedings and records. The records in adoption proceedings, after the petition is filed and prior to the entry of the decree, shall be open to inspection only by the parties or their attorneys, the director of social services and housing or his agent, or by any proper person on a show-

ing of good cause therefor, upon order of the court. Except in the case of a child being adopted by a person married to the legal father or mother of such child or unless authorized by the court, no petition for adoption shall set forth the name of the child sought to be adopted or the name of either of the parents of the child; provided, that the legal name of the child and the name of each of the child's legal parents may be added to the petition by amendment during the course of the hearing thereof and shall be included in the decree. The hearing of the petition shall be in chambers and shall not be open to the public. Upon the entry of the decree, or upon the later effective date of the decree, or upon the dismissal or discontinuance or other final disposition of the petition, the clerk of the court shall seal all records in the proceedings; provided, that, upon the written request of the petitioner or petitioners, the court may waive the requirement that such records be sealed. The seal shall not be broken and the records shall not be inspected by any person, including the parties to the proceedings, except upon order of the family court.

The clerk of the court shall keep a docket of all adoption proceedings, which may be inspected only by order of the family court."

SECTION 4. Chapter 579, Hawaii Revised Statutes, is amended as follows:

(a) Section 579-1 is amended to read as follows:

"Sec. 579-1 Petition against alleged father; time limit; preliminary examination. Any unmarried woman or any married woman who was separated from and was not living with her husband prior to and at the time her child was conceived, when her pregnancy can be determined by competent medical evidence, or within two years after the delivery of her child, may petition the family court of the circuit in which she or the alleged father of the child resides, or in which she was delivered of the child, for an adjudication of paternity and for other relief under this chapter against the person whom she alleges is the father of the child.

The petition may also be filed by either of the parents or a guardian of the mother, or by any person as the next friend of the child, or by any public officer or employee concerned with the welfare of the child, within two years after the date of the child's birth. If, after the petition has been filed either by the mother or by any one as above specified, the mother dies or refuses or neglects to prosecute the same, any of such persons may prosecute the case to final judgment for the benefit of the parent, guardian, or the child, or any public or private agency supporting or contributing to the support of the child.

The fact that a child is born dead or dies at a later date prior to the filing of a petition as above provided, or during the pendency of the proceedings, shall not operate as a bar to the issuance of process and the entry of a judgment under this chapter."

(b) Section 579-2 is amended to read as follows:

"Sec. 579-2 Issuance of process; warrant, when; preliminary hearing; bond; jury trial, when. Upon the filing of a petition pursuant to section 579-1, process shall issue in the form of a summons and an order directed to the de-

fendant requiring him to appear and to show cause why the prayer of the petition should not be granted.

If, at any stage of the proceedings, there appears probable cause to believe that the defendant will evade the service of process, or will fail to appear in response thereto, or will flee the jurisdiction of the court, the court may issue a warrant directed to the sheriff, his deputy, or any police officer within the circuit, requiring the accused to be arrested and brought for preliminary hearing before the family court. Upon such preliminary hearing, or at any time subsequent to the preliminary examination of the petitioner, the court may require the defendant to enter into bond with good sureties to the State in a sum to be fixed by the court for his appearance and the trial of the proceeding in the family court. If the defendant fails to give the bond required of him, the court may forthwith commit him to the custody of the chief of police of the county, there to remain until he enters into the required bond or otherwise is discharged by due process of law.

In all proceedings under this chapter, the defendant shall, upon his written demand therefor, filed at the time of his appearance or within such time thereafter as the court may allow, and if he appears at the time set for the trial, be entitled to a trial by jury; otherwise the trial shall be by the court. No such trial shall take place prior to the birth of the child involved.”

(c) Section 579-3 is amended to read as follows:

“Sec. 579-3 Guardian ad litem for minor defendant; notice to parents.

If, at any stage of the proceeding, it appears to the satisfaction of the family court that the defendant is a minor, the court shall cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parents or guardian of the minor and may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parents or guardian of any such minor accused cannot be found, the notice above provided for may be served in such manner as the court may direct, pursuant to sections 634-56 to 634-60.”

(d) Section 579-4 is amended to read as follows:

“Sec. 579-4 Trial; judgment. If the defendant fails to appear, any bond for his appearance shall be forfeited; but the trial of, or other proceedings in, the cause shall, nevertheless, proceed as though he were present; and upon the findings of the court it shall make such orders as it deems proper as though the defendant were in court.

If the defendant acknowledges in writing or orally before the court the paternity of the child, or if at the trial the finding of the court or jury be against the defendant, the court, in rendering judgment thereon, may make an order for the payment of or reimbursement for all expenses resulting from or incident to the mother’s pregnancy and the birth of the child in such amount or amounts as may be deemed reasonable by the court. It shall also make an order that the defendant pay for the support, maintenance, and education of the child, until the child reaches eighteen years of age, unless the child, prior thereto, is adopted, emancipated, or becomes self-supporting, such sums of money, in such installments, and in such manner, as the court deems just, taking into consideration the financial standing of the defendant, his income,

earning capacity, and those of his family who are dependent upon him for their support, maintenance, and education.

If the child dies before reaching eighteen years of age, the judgment may include, or may be amended to include, reasonable funeral expenses. The judgment may also include a reasonable fee for any guardian ad litem appointed under section 579-3.

In case of forfeiture of any appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the defendant."

(e) Section 579-5 is amended to read as follows:

"Sec. 579-5 Security for and enforcement of judgment. A judgment, or any order, entered pursuant to this chapter may be enforced by summary punishment for contempt. The court may also require the defendant to give reasonable security, by way of bond or otherwise, for performance of the terms of the judgment. Upon neglect or refusal to give such security, or upon default of the defendant or his surety in compliance with the terms of the judgment, the court may order the forfeiture of any such security and the application of the proceeds thereof toward the payment of any sums due under the terms of the judgment and may also sequester the defendant's personal estate, and the rents and profits of his real estate, and may appoint a receiver thereof, and may cause the defendant's personal estate, including any salaries, wages, commissions, or other moneys owed to him, and the rents and profits of his real estate, to be applied toward the meeting of the terms of the judgment, to the extent that the court, from time to time, deems just and reasonable."

(f) Section 579-8 is amended to read as follows:

"Sec. 579-8 Nature and title of proceedings; secrecy of proceedings and records. The records in proceedings under this chapter, which shall be deemed to be civil proceedings and shall be entitled "Paternity Proceedings," shall be open to inspection only by the parties or their attorneys, or by any proper person on a showing of good cause therefor, upon order of the court. All preliminary examinations and preliminary hearings shall be conducted in chambers and the court may exclude from any trial any person whose presence it may deem to be prejudicial to the best interests of the child concerned."

SECTION 5. Chapter 580, Hawaii Revised Statutes, is amended as follows:

(a) Section 580-1 is amended to read as follows:

"Sec. 580-1 Jurisdiction; hearing. Exclusive original jurisdiction in matters of annulment, divorce, and separation, subject to section 603-37 as to change of venue, and subject also to appeal according to law, is conferred upon the family court 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

ACT 211

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.”

(b) Section 580-5 is amended to read as follows:

“**Sec. 580-5 Proof.** Upon the hearing of every complaint for annulment, divorce, or separation, the court shall require exact legal proof upon every point, notwithstanding the consent of the parties.”

(c) Section 580-7 is amended to read as follows:

“**Sec. 580-7 Examination of parties to prevent collusion.** Upon the hearing of any complaint for a divorce or separation, the court may examine either or both of the parties, upon oath, in order to prevent collusion.”

(d) Section 580-8 is amended to read as follows:

“**Sec. 580-8 Procedure when collusion suspected.** If there is any reason to suspect collusion, or that important testimony can be procured which has not been produced, the court shall continue the cause from time to time while such reason for suspicion continues. The attorney general or other prosecuting officer and parties not of record shall be heard, to establish the fact of collusion or of the existence of testimony not produced.”

(e) Section 580-9 is amended to read as follows:

“**Sec. 580-9 Temporary support, etc.** After the filing of a complaint for divorce or separation the court may make such orders relative to the personal liberty and support of the wife pending the complaint as he may deem fair and reasonable and may enforce the orders by summary process. The court may also compel the husband to advance reasonable amounts for the compensation of witnesses and other expenses of the trial, including attorney’s fees, to be incurred by the wife and may from time to time amend and revise the orders.”

(f) Section 580-10 is amended to read as follows:

“**Sec. 580-10 Restraining order.** Whenever it is made to appear to the court after the filing of any complaint, that a party thereto may dispose or encumber property, or any part thereof, the court may issue a restraining order to prevent such disposal or encumbrance, and shall enjoy in respect thereof the powers pertaining to a court of equity.”

(g) Section 580-11 is amended to read as follows:

“**Sec. 580-11 Care, custody, education, and maintenance of children pendente lite.** During the pendency of any action for divorce or separation the court may make such orders concerning the care, custody, education, and maintenance of the minor children of the parties to the action as law and justice may require and may enforce the orders by summary process. The court may revise and amend the orders from time to time.”

(h) Section 580-13 is amended to read as follows:

“**Sec. 580-13 Security and enforcement of maintenance and alimony.** Whenever the court makes an order or decree requiring a husband to provide for the care, maintenance, and education of his children, or for an allowance to his wife, the court may require him to give reasonable security for such maintenance and allowance. Upon neglect or refusal to give the security, or upon default of him and his surety to provide the maintenance and allowance,

the court may sequester his personal estate, and the rents and profits of his real estate, and may appoint a receiver thereof and cause his personal estate and the rents and profits of his real estate to be applied towards such maintenance and allowance, as to the court shall from time to time seem just and reasonable.”

(i) Section 580-15 is amended to read as follows:

“**Sec. 580-15 County attorneys to represent court.** The county attorneys of Maui and Kauai and the corporation counsels of the city and county of Honolulu and the county of Hawaii, within their respective counties, shall when and to the extent authorized by their respective county governing bodies and upon request of the family court represent the court in any contempt proceeding for the enforcement of any order or decree for wife support or child support or both.”

(j) Section 580-22 is amended to read as follows:

“**Sec. 580-22 Nonage.** An action to annul a marriage on the ground that one of the parties was under legal age, may be brought by the parent or guardian entitled to the custody of the minor, or by any person admitted by the court to prosecute as the friend of the minor. In no case shall the marriage be annulled on the application of a party who was of legal age at the time it was contracted; nor when it appears that the parties, after they attained the legal age, had for any time freely cohabited as man and wife.”

(k) Section 580-24 is amended to read as follows:

“**Sec. 580-24 Allowance for woman and family.** Every woman who is deceived into contracting an illegal marriage with a man having another wife living, under the belief that he was an unmarried man, shall be entitled to a just allowance for the support of herself and family out of his property, which she may obtain at any time after action commenced upon application to the family court having jurisdiction; provided, that the allowance shall not exceed one-third of his real and personal estate. In addition to the allowance, the court may also compel the defendant to advance reasonable amounts for the compensation of witnesses and other reasonable expenses of trial to be incurred by the plaintiff.”

(l) Section 580-26 is amended to read as follows:

“**Sec. 580-26 Insanity.** The marriage of an idiot or insane person may be annulled on the application of the sane party, or any relative of the idiot or lunatic, or on application of any person admitted by the court to prosecute as the next friend of the idiot or lunatic, or upon the application of the lunatic himself after restoration to reason; but in such case, no sentence of nullity shall be pronounced if it appears that the parties freely cohabited as husband and wife after the lunatic was restored to a sound mind.”

(m) Section 580-28 is amended to read as follows:

“**Sec. 580-28 Physical incapacity.** An action to annul the marriage on the ground of physical incapacity of one of the parties at the time of marriage, shall only be maintained by the injured party, against the party whose incapacity is alleged, and shall in all cases be brought within two years from the solemnization of the marriage.”

(n) Section 580-29 is amended to read as follows:

“Sec. 580-29 No annulment solely on confessions. No sentence of nullity of marriage shall be pronounced solely on the declarations or confessions of the parties. The court shall, in all cases, require other satisfactory evidence of the facts on which the allegation of nullity is founded.”

(o) Section 580-42 is amended to read as follows:

“Sec. 580-42 Irretrievable breakdown. (a) If both of the parties by complaint or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after hearing shall make a finding whether the marriage is irretrievably broken.

(b) If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors including the circumstances that gave rise to the filing of the complaint and the prospect of reconciliation, and shall

- (1) Make a finding whether the marriage is irretrievably broken, or
- (2) Continue the matter for further hearing not less than thirty or more than sixty days later, or as soon thereafter as the matter may be reached on the court’s calendar and may suggest to the parties that they seek counseling. At the adjourned hearing, the court shall make a finding whether the marriage is irretrievably broken.”

(p) Section 580-45 is amended to read as follows:

“Sec. 580-45 Decree. If after a full hearing, the court is of opinion that a divorce ought to be granted from the bonds of matrimony a decree shall be signed, filed and entered, which shall take effect from and after such time as may be fixed by the court in the decree. In case of a decree dissolving the bonds of matrimony, such time so fixed shall not be more than one month from and after the date of the decree.”

(q) Section 580-49 is amended to read as follows:

“Sec. 580-49 Support of insane spouse after divorce. In every action for divorce where a decree is granted to the plaintiff and the defendant is insane at the time of the decree, the court may, at any time after entering the decree, revise and alter the same so far as the support and maintenance of the insane person is concerned, and may provide for such maintenance by the plaintiff out of any property or earnings acquired by the plaintiff subsequently, as well as previously, to the decree of divorce. The court making the order for maintenance, may, in its discretion, require the plaintiff to give security to the satisfaction of the court for the faithful execution of the same.”

(r) Section 580-51 is amended to read as follows:

“Sec. 580-51 Modification of alimony on remarriage. Upon remarriage of a wife in whose favor a final decree or order for support and maintenance has been made, the family court in the circuit in which the final decree or order was made, shall, upon application of any party in interest, or of any one on his behalf, and proof of the remarriage of the wife, after such notice to the wife as the court may direct, rescind, and annul such decree or order as to support and maintenance of the wife.”

(s) Section 580-71 is amended to read as follows:

“Sec. 580-71 Grounds for separation. A separation from bed and board for a period not to exceed two years may be decreed by the family court, for any of the causes for which an absolute divorce from the bonds of matrimony may be granted.”

(t) Section 580-72 is amended to read as follows:

“Sec. 580-72 Wife may bring action in own name. Whenever any married woman has the right to sue for separate maintenance, she may bring the action therefor in her own name.”

(u) Section 580-74 is amended to read as follows:

“Sec. 580-74 Support of wife and children. Upon decreeing a separation, the court may make such further decree for the support and maintenance of the wife and her children, by the husband, or out of his property, as may appear just and proper.”

(v) Section 580-76 is amended to read as follows:

“Sec. 580-76 Revocation or modification of separation decrees. Where a decree of separation from bed and board has been entered, it may be revoked at any time thereafter, under such regulations and restrictions as the court may impose, upon the joint application of the parties, and upon their producing satisfactory evidence of their reconciliation. The court may also, for good cause shown from time to time, increase or decrease the period of separation decreed, provided that the maximum period of separation does not exceed two years from the effective date of the original decree of separation.”

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

SECTION 7. This Act shall take effect on July 1, 1973.

(Approved May 31, 1973.)

ACT 212

S. B. NO. 227

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

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

SECTION 1. The following sums of money are appropriated out of the general revenues of the State of Hawaii for the purpose of satisfying claims for legislative relief as to the following named persons, firms, and corporations for overpayment of taxes or on account of other claims for refunds, reimbursements, or other payments, against the State in the amount set opposite their names:

*Edited accordingly.

ACT 212

Section 37-77, Hawaii Revised Statutes

REFUND OF TAXES

	Division	Amount
Hirokawa, George & Ruth S. (Real property)	First	\$ 219.92
Hurst, Ruth (Real property; compromised)	First	297.29
Hurst, Ruth (Real property)	First	215.28
Mendonca, Clarence A. (Real property)	First	781.83
Murakami, Ernest Y. (Real property)	First	299.36
Poka, William (Real property)	Second	52.71
Silva, Paul R. (Real property)	First	18.43
Tamura, Toshiichi (Real property)	Second	41.84
Vincent, Margaret E. (Real property)	First	485.52
Yee, James K.L. & Katherine K. (Real property)	First	1,007.75

Chapter 662, Hawaii Revised Statutes

**JUDGMENTS AGAINST THE STATE AND
SETTLEMENT OF CLAIMS:**

	Amount
First Insurance Company of Hawaii, Ltd.; Maui Island Tours, Ltd.; Charles Kahalehau Civil Nos. 26542 and 26325, 1st Circuit Date of Settlement: June 28, 1972 Amount of Settlement: \$12,500.00 4% Interest: \$544.44	\$13,044.44
Nakoa, Ledwith and Alfred Civil No. 565, 2nd Circuit Date of Judgment: July 5, 1972 Amount of Judgment: \$6,000.00 4% Interest: \$256.44	6,256.44
Oliveira, Robert and Caroline Civil No. 31724, 1st Circuit Date of Judgment: February 28, 1972 Amount of Judgment: \$7,817.50 4% Interest: \$441.93	8,259.43
Sylva, Frank W. K. and Sharen G. L. Civil No. 1796, 2nd Circuit Date of Judgment: March 13, 1973 Amount of Judgment: \$5,000.00 4% Interest: \$77.22	5,077.22
Yokota, Shigeru (Estate of); Unemori, Mitsugi (Estate of) Civil No. 28292, 1st Circuit Date of Judgment: October 24, 1972 Amount of Judgment: \$15,000.00 (\$7,500 to each plaintiff) 4% Interest: \$460.27	15,460.27

Section 37-77, Hawaii Revised Statutes

MISCELLANEOUS CLAIMS**Refund for Escheated Accounts**

Acantilado, Maximo C.	12.90
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MISCELLANEOUS CLAIMS (Continued)

Claim for Remuneration	Amount
Yamayoshi, Harold For work performed as Acting Associate Forester for the Island of Hawaii for a period of five years, beginning October 16, 1940 to and including October 30, 1945.	7,248.38
 Others	
Brown, Jo Ann K. Damages to car by patient at Waimano Training School and Hospital, September 1, 1972.	\$ 5.00
Bunda, Teresa Damages to car by patient at Waimano Training School and Hospital, May 31, 1972.	52.00
Cadavona, Esperanza Damages to car by patient at Waimano Training School and Hospital, April 22, 1972.	29.48
Fukiwaki, Kiyoko Damages to car by patient at Waimano Training School and Hospital, November 2, 1972.	77.48
Higashi, Larry H. Damages to car by patient at Waimano Training forming state business, October 13, 1972.	830.56
Kamanu, Eunice M. Damages to car by patient at Waimano Training School and Hospital, September 15, 1972.	43.47
Lee, Annie K. Damages to car by patient at Waimano Training School and Hospital, November 27, 1972.	116.48
Manner, Tamaye Damages to car by patient at Waimano Training School and Hospital, September 29, 1972.	6.33
Perry, Herbert Damages to car by patient at Waimano Training School and Hospital, August 29, 1972.	22.88
Smith, Rodney Damages to car by patient at Waimano Training School and Hospital, March 16, 1970.	85.28
Sagisi, Wilson Damages to car by patient at Waimano Training School and Hospital, January 19, 1972.	50.70
Yilmaz, A. Hamdi Damages to car by patient at Hawaii State Hospital, April 4, 1972.	118.00

ACT 213

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 department of taxation in the several amounts and to the respective persons hereinabove set out as to claims for overpayment of taxes, and shall be paid upon warrants issued by said comptroller upon vouchers approved by the director of the department of budget and finance as to all other claims.

SECTION 3. Notwithstanding the sums hereinabove appropriated as interest upon judgments against the State and settlements of claims, payment of interest, at the rate of four per cent a year, shall be limited to the period from the date of judgment or court approval of the settlement to the effective date of this Act, as provided in section 662-8, and all unexpended balances thereof after payment shall lapse into the general fund of the State.

SECTION 4. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

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

(Approved June 1, 1973.)

ACT 213

S. B. NO. 698

A Bill for an Act Relating to Survival of Actions for Wrongful Death.

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

SECTION 1. The purpose of this Act is to expressly restate, reiterate and declare the intent of the legislature in enacting Section 663-7, Hawaii Revised Statutes, concerning the survival of death actions, was originally and is now to cover and include as an element of damages recoverable by the legal representative of the deceased in behalf of the estate of the deceased, any likely earnings during the life expectancy of the deceased, diminished by the probable cost of his own maintenance and provision for his family, reduced to present worth.

SECTION 2. Section 663-3, Hawaii Revised Statutes, is amended to read:

"Sec. 663-3 Death by wrongful act. When the death of a person is caused by the wrongful act, neglect, or default of any person or corporation, the deceased's legal representative, or any of the persons hereinafter enumerated, may maintain an action against the person or corporation causing the death or against the person or corporation responsible for the death, on behalf of the persons hereinafter enumerated.

In any action under this section, such damages may be given as under the circumstances shall be deemed fair and just compensation, with reference to the pecuniary injury and loss of love and affection, including (1) loss of society, companionship, comfort, consortium, or protection, (2) loss of marital care, attention, advice, or counsel, (3) loss of filial care or attention, or (4) loss

of parental care, training, guidance, or education, suffered as a result of the death of the person by the surviving spouse, children, father, mother, and by any person wholly or partly dependent upon the deceased person. The jury or court sitting without jury shall allocate the damages to the persons entitled thereto in its verdict or judgment, and any damage recovered under this section, except for reasonable expenses of last illness and burial, shall not constitute a part of the estate of the deceased. If an action is brought pursuant to this section and a separate action brought pursuant to section 663-7, such actions may be consolidated for trial on the motion of any interested party, and a separate verdict, report, or decision may be rendered as to each right of action. Any action brought under this section shall be commenced within two years from the date of death of the injured person."

SECTION 3. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be numbered and to read as follows:

"**Sec. 663-8 Damages, future earnings.** Together with other damages which may be recovered by law, the legal representative of the deceased person may recover where applicable under section 663-7 the future earnings of the decedent in excess of the probable cost of the decedent's own maintenance and the provision decedent would have made for his or her actual or probable family and dependents during the period of time decedent would have likely lived but for the accident."

SECTION 4. **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 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 1, 1973.)

ACT 214

H. B. NO. 172

A Bill for an Act Relating to the Licensing of Drivers of Certain Categories of Motor Vehicles.

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

SECTION 1. Section 286-102, Hawaii Revised Statutes, is amended to read as follows:

"**Sec. 286-102 Licensing.** (a) No person, except one exempted under section 286-105 or one who holds an instruction permit under section 286-110,

*Edited accordingly.

ACT 214

shall operate any category of motor vehicles listed in this section without first being appropriately examined and duly licensed as a qualified operator of that category of motor vehicles.

(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (1) Motor scooters;
- (2) Motorcycles; and
- (3) Passenger cars of any gross weight and trucks having a gross vehicle weight of ten thousand pounds or less.

(c) A person operating the following category or combination of categories of motor vehicles shall be licensed to operate the category of motor vehicles in subsection 286-102(b)(3) and in addition shall be examined as provided in section 286- by a certificated fleet safety examiner for the examiner of drivers:

- (1) Trucks having a gross vehicle weight of ten thousand pounds or more;
- (2) Buses;
- (3) School buses;
- (4) Tractor—semitrailer combinations; and
- (5) Truck—trailer combinations.

(d) No person, even if he is licensed to operate a motor vehicle in any of the categories provided in subsection (b) or (c), shall operate the motor vehicle for compensation, unless he:

- (1) Is eighteen years of age or older and is examined as provided in section 286-108;
- (2) Satisfies additional requirements as established by the examiner of drivers under section 286-103; and,
- (3) Is duly licensed by the examiner of drivers as a qualified chauffeur of that category of motor vehicles.

(e) 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.

(f) No person shall receive a driver's license unless and until he surrenders to the examiner of drivers all valid driver's licenses in his possession issued to him by this or any other jurisdiction that is a party to the Driver License Compact. All such surrendered licenses issued by another jurisdiction shall be returned thereto, together with information that the person is licensed in this State. No such person shall be permitted to hold more than one valid driver's license at any time."

SECTION 2. Chapter 286, Hawaii Revised Statutes, is amended by adding to Part VI a new section to be appropriately designated and to read:

"Sec. 286- Examination of applicants for driving certain categories of motor vehicles; annual evaluation, etc. (a) For the purposes of this section, "certificated fleet safety examiner" means a person who is by training and experience capable of assessing a driver's competence to operate the various categories of motor vehicles listed in section 286-102(c) and who is certificated

by the state highway safety coordinator in the manner provided in rules and regulations adopted by the state highway safety coordinator pursuant to chapter 91.

(b) No person shall act or hold himself out as a certificated fleet safety examiner, whether for compensation or not, unless he has been certificated in accordance with this section. Whoever violates this subsection shall be fined not more than \$500, or imprisoned not more than six months, or both.

(c) The state highway safety coordinator shall furnish to each examiner of drivers a list of certificated fleet safety examiners.

(d) The examination of drivers listed in section 286-102(c) shall include performance tests the contents of which the state highway safety coordinator shall prescribe by rules and regulations adopted pursuant to chapter 91. No person shall be issued a license to drive a category of motor vehicles listed in section 286-102(c) unless the person has passed the performance tests provided in this section. This requirement shall not apply to those who were licensed on or before June 30, 1973.

(e) The counties shall employ such certificated fleet safety examiners for testing of all applicants described in subsection (a) of this section, and shall assess and require the certificated fleet safety examiner's compliance with the rules and regulations prescribed by the state highway safety coordinator. The examiner of drivers of each county may employ such certificated fleet safety examiner(s) either on a full-time or part-time basis.

(f) The state highway safety coordinator shall promulgate rules and regulations with regard to the fees a certificated fleet safety examiner may charge. Independent operators desiring certification or companies desiring a driver to be certified, shall pay the prescribed fees.

(g) Every employer who employs any person as a regularly employed driver of motor vehicles listed in section 286-102(c), shall provide for every such driver employed by him a driver improvement program which shall include a system for continuous driver evaluation, annual driver safety courses approved by the state highway safety coordinator, and such other activities as may be required by rules and regulations adopted by the state highway coordinator pursuant to chapter 91. Whoever violates this subsection shall be fined not more than \$500."

SECTION 3. The State shall furnish real property, facilities on such property and other equipment to any county on terms that it deems proper and reasonable in furtherance of this Act. A county shall in turn allow the use of such property or other county property to a certificated fleet safety examiner on terms that it deems proper and reasonable.

SECTION 4. If any amendment to section 286-102(a) is passed by the Seventh Legislature of the State of Hawaii whether before or after the effective date of this Act, creating an additional category of driver's license, this Act shall also be deemed amended so as to apply to the additional category so created.

SECTION 5. In section 2 of this Act new material is underscored. In

ACT 215

printing this Act, the revisor need not include the underscoring.*

SECTION 6. This Act shall take effect on July 1, 1973.

(Approved June 1, 1973.)

ACT 215

S. B. NO. 1380

A Bill for an Act Relating to County Ordinances Establishing Historical, Cultural, and Scenic Districts.

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

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designed and to read:

“Sec. 46- Ordinances establishing historical, cultural, and scenic districts. No ordinance to establish a historical, cultural, and scenic district around the environs of the Hawaii State Capitol shall be valid unless the requirements and objectives in creating such a district and the criteria and procedure to determine whether a proposed improvement would in fact accomplish such objectives and requirements are first approved by the governor of the State; provided, further, that the State need not conform to any decision relating to any state property within such district if it determines that such decision is not in conformance to the criteria and procedures previously approved or that such decision cannot be accomplished because of funding limitations.”

SECTION 2. No requirement under any existing ordinance relating to the construction, alteration, repair, relocation or demolition of any structure within any historical, cultural, and scenic district of which the Hawaii State Capitol is a part shall be effective as to any State property until the objectives and requirements and the criteria and procedures required by this Act have been approved by the governor of the State of Hawaii.

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

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

(Approved June 1, 1973.)

ACT 216

H. B. NO. 12

A Bill for an Act Relating to Movable Signs Alongside Public Highways.

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

SECTION 1. In the past the reasonable use in the State of Hawaii of our public highways for campaign activities was an acceptable mode of electioneering by candidates. In recent elections, however, more and more candidates have begun to mass their supporters along our highways to attract the at-

*Edited accordingly.

tion of occupants of passing motor vehicles with signs and attention getting devices.

These supporters compete for the more desirable locations situated near busy intersections and the activity is more prevalent during peak traffic hours. They distract and prevent motorists from observing traffic signals and signs at these critical areas. In their unrestrained enthusiasm for their candidates the supporters imperil themselves and are a hazard to motorists. The practice has resulted in several near accidents and unless it is curbed, could result in serious consequences.

In order to prevent unreasonable distraction of operators of motor vehicles, to prevent confusion with regard to traffic lights, signs, or signals or otherwise interfere with the effectiveness of traffic regulations, to promote the safety, convenience and enjoyment of travel on, and protection of the public investment in highways and to protect the health and safety of non-motoring public who use the areas adjacent to the highways, the legislature finds that the holding of campaign signs alongside or in close proximity to the public highways is a dangerous practice. The practice is dangerous both to the health and safety of the sign holders and to the passing motorists whose attention to driving the sign holder attempts to divert.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new subsection to section 291C-77 to read as follows:

“Sec. 291C-77 Pedestrians soliciting rides, business or attention of motorist. (a) Except as otherwise provided by county ordinance, no person shall stand in, walk along, or otherwise occupy a portion of a highway for the purpose of soliciting a ride, employment, business, or contributions from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(c) Except as otherwise provided by county ordinances, no person shall hold or display a movable sign within the right-of-way boundaries of a public highway or on the sidewalk abutting a public highway or in an area adjacent to the highway for the purpose of carrying on political campaign activities as defined in section 19-6(7) and which seek to draw the attention of occupants of motor vehicles using the highway. A movable sign is any portable device, display, emblem, billboard, notice, picture, painting or writing, other than official signs placed or required by the State or county.”

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

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

(Approved June 1, 1973.)

*Edited accordingly.

A Bill for an Act Relating to Elections.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended as follows:

(a) Section 11-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-1 Definitions. Whenever used in this title, the words and phrases in this title shall, unless the same is inconsistent with the context, be construed as follows:

“Ballot,” a ballot including an absentee ballot is a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. A ballot may consist of one or more cards or pieces of paper depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use. It shall also include the face of the mechanical voting machine when arranged with cardboard or other material within the ballot frames, containing the names of the candidates and questions to be voted on.

“Chief election officer,” the lieutenant governor as set forth in section 11-2.

“Clerk,” the county clerks of the respective counties.

“County,” the counties of Hawaii, Maui, Kauai, and the city and county of Honolulu, as the context may require. For the purposes of this title, the county of Kalawao shall be deemed to be included in the county of Maui.

“Election,” all elections, primary, special primary, general, special general, special, or county, unless otherwise specifically stated.

“Election officials,” precinct officials and other persons designated as officials by the chief election officer.

“Office,” an elective public office.

“Political party” or “party,” a political party qualified under part V of this Chapter.

“Precinct,” the smallest political subdivision established by law.

“Primary,” a preliminary election in which the voters nominate candidates for office as provided for in chapter 12.

“Special election,” any single election required by law to be held to fill a vacancy when not preceded by an election to nominate those candidates whose names appear on the special election ballot.

“Special primary election” and “special general election,” elections held only (a) whenever any vacancy occurs in the offices of United States senator, United States representative, state senator, or state representative because of failure to elect a person at an uncontested general election or (b) as specified in county charters.

“Voter,” any person duly registered to vote.

“Voting system,” the use of paper ballots, electronic ballot cards, vot-

ing machines, or any system by which votes are cast and counted.”

(b) Section 11-3, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-3 Application of chapter. This chapter shall apply to all elections, primary, special primary, general, special general, special, or county, held in the State, under all voting systems used within the State, so far as applicable and not inconsistent herewith.”

(c) Section 11-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-5 Employees. The chief election officer or county clerk may employ precinct officials and such other temporary election employees as he may find necessary, none of whom shall be subject to the civil service or classification laws of the State or be required to become members of the employees retirement system.”

(d) Section 11-12, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-12 Age; place of registering. Every person who has reached the age of eighteen years; or who will have reached such age prior to the date of the next election, and is otherwise qualified to register may do so in the precinct in which he resides. No person shall register or vote in any other precinct than that in which he resides except as provided in section 11-21.”

(e) Section 11-14, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-14 General county register. The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the information required by section 11-15. The voter’s name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall, at all times during business hours, be open to public inspection, and shall be a public record.

In all primary and special primary elections held in 1970 and subsequently the clerk shall include in the general county register information to show the primary or special primary ballot selected by each of the voters at the next preceding primary or special primary election, or the registered change of primary or special primary ballot selection by any voter. Newly registered voters, those who have failed to select a partisan or nonpartisan primary or special primary ballot since the 1968 primary which shall include those who voted in a separate ballot for the board of education only, those who voted for a disqualified party, and those who reregistered after having their names removed from the register shall have no such information recorded.”

(f) Section 11-15, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-15 Application to register. Any person qualified to and desiring to register as a voter in any county, may present himself at any time during

business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as a voter. Each applicant shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

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

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

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

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section."

(g) Section 11-17, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-17 Removal from register upon failure to vote; reregistration. The clerk shall, not later than 4:30 p.m. on the sixtieth day after every general election, remove the name of any registered voter failing to vote at the election if such voter also failed to vote at the preceding primary election. For this purpose "to vote" shall mean the depositing of the ballot in the ballot box whether such ballot be blank or later rejected for any reason. In the case of voting machines "to vote" shall mean the voter has activated the proper mechanism and fed his vote into the machine. In the case of absentees and of voting by mail by voters in remote areas "to vote" shall mean seasonably mailing the absentee ballot to the county clerk whether or not such ballot was counted.

Any voter whose name has been removed from the register may at any time prior to the closing of the register, as provided in section 11-24, have his

name restored in the register by presenting himself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall compare the signature with the signature of the voter as previously registered, and if found by him not to be similar, he may require further proof. The names of all such voters shall be reentered in the register.”

(h) Section 11-18, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-18 Transfer of registration on removal from one precinct to another in same county. A registered voter who changes his residence from one precinct to another shall notify the clerk and change his registration to the proper precinct; provided, that no such change of registration shall be allowed or required after the close of registration for an election.”

(i) Section 11-19, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-19 Registration from one county to another. Whenever any person who has registered as a voter in any county removes to and desires to register in some other county, he shall apply to the clerk of the county in which he desires to be registered. Thereupon such clerk, if the person applying is legally qualified to register, shall accept such registration and shall immediately thereafter forward to the clerk of the county in which the person was formerly registered, a notice that the name of the registered voter is to be removed from the general county register of that county.”

(j) Section 11-20, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-20 Transfers; name changes; initiated by clerk. The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;
- (2) Courts for changes of name, divorces, separations, or other changes affecting voter status;
- (3) The department of health for marriages, deaths, or other changes affecting voter status;
- (4) Utility companies concerning commencement or changes of service;
- (5) Residential apartments, cooperative apartments, and condominiums as to changes of occupancy.

In requesting such information the clerk shall give reasonable notice and time for furnishing the information.

If the clerk has evidence indicating that a voter’s registration should be transferred, then not later than 4:30 p.m. on the ninetieth day prior to the primary the clerk shall notify the person by first-class mail and not later than 4:30 p.m. on the third day thereafter publish in a newspaper of general circulation notice of intent to transfer registration. Notice by mail shall be sent to the address shown on the current voter list and any alleged new address. The notifications shall include:

- (1) Any evidence that the clerk may have indicating why a transfer or

change should be made;

- (2) The residence, precinct, and district of the voter according to current registration lists;
- (3) The alleged new address, precinct, and district;
- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer and the reasons for the objection;
- (5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing the voter shall be subject to challenge at the polls under the terms of section 11-25 on the basis of not being registered in the precinct where he resides.

If no response is received by the clerk by 4:30 p.m. on the fifteenth day after mailing, a second notification shall be made not later than 4:30 p.m. on the sixtieth day prior to the primary, by telephone or personal contact. A record shall be maintained of all the phone calls or attempted personal contacts noting the date, time, person calling, person called, and reply received.

If, on the basis of the evidence available the clerk has good reason to believe that the voter does actually reside at some address other than the one carried on the registration list, the clerk shall transfer the voter to such new address. A list of those transferred, and the precinct to which they were moved, will be available at the old precinct on election day. A voter may contest such transfer on or before election day by presenting evidence that he actually resides at the old address which, if found valid by the clerk or the board of registration, shall entitle the voter to be returned to the old voting list by executive order.

A list of all voters with questionable addresses who fail to respond to notification attempts of the clerk, but who have not been transferred, shall be posted at the precinct wherein he is registered on election day and shall be made available to the public not later than 4:30 p.m. on the forty-fifth day prior to the primary election."

(k) Section 11-22, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-22 Changing register; correction of errors. The clerk shall correct the register if at any time it shall be manifest to him that the name of a person registered has been accidentally misspelled, or that he has been misnamed therein, or that he has been accidentally registered under the wrong precinct.

In any case where the clerk refuses to correct the register the person may appeal to the board of registration and the register shall be changed upon a written order of the board of registration, setting forth the reasons for the change. The order shall be directed to the clerk or to the precinct officials of the election precinct where the voter is entitled to vote if the register has been closed. The precinct officials shall thereupon correct the list of voters furnished them according to the terms of the order, noting on the list the reasons for the correction, and shall send the original order to the clerk as soon as may be possible after the close of the polls. The clerk, upon receipt of any order from the board of registration or from the precinct officials, as the case may be, shall correct the register according to the terms of the order, making on the register a reference to the order."

(l) Section 11-24, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-24 Closing register; list of voters.

At 4:30 p.m. on the thirtieth day prior to each primary, special primary or special election (but if such day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), the general county register shall be closed to registration for persons seeking to vote at such a primary, special primary or special election and remain closed to such registration until after the election, subject to change only as provided in sections 11-21, 11-22, 11-25, 11-26, and this section.

Notwithstanding the closing of the register for registration to vote at the primary or special primary election, the register shall remain open for the registration of persons seeking to vote at the general or special general election, until 4:30 p.m. on the twenty-sixth day prior to the general or special general election (but if such day is a Saturday, Sunday, or holiday then at 4:30 p.m. on the first working day immediately preceding), at the end of which period the general county register shall be closed to registration and remain closed until after the general or special general election next following, subject to change only as provided in sections 11-21, 11-22, 11-25, and 11-26.

Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. In primary and special primary elections the list shall include the party affiliation or nonpartisanship of the voter, if so contained in the general county register. The list shall be available for inspection at the office of the county clerk prior to election day. On election day the election precinct officials shall post the list at the precinct polling place.”

(m) Section 11-25, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-25 Challenge by voters; grounds; procedure.

(a) Challenging prior to election day. Any registered voter may, for any cause not previously decided by the board of registration or the supreme court in respect to the same person, challenge the right of that person to be or to remain registered as a voter in any precinct. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall forthwith serve notice thereof on the person challenged. The clerk shall as soon as possible, investigate and rule on the challenge.

(b) Challenging on election day. Any voter rightfully in the polling place may challenge the right of any person, presenting himself to the precinct officials to vote. The challenge shall be on the grounds that the voter is not the person he alleges himself to be, that the voter is not entitled to vote because he refuses to state his party preference or nonpartisanship except where he desires to vote only for the board of education. No other or further challenge shall be allowed. The challenge shall be considered and decided immediately by the precinct officials and the ruling announced.

(c) If neither the challenger nor the challenged voter shall appeal the ruling of the clerk or the precinct officials, then the voter shall either be allowed to vote or be prevented from voting in accordance with the ruling. If an appeal is taken to the board of registration, the challenged voter shall be allowed to vote; provided that his ballot is placed in a sealed envelope to be later counted or rejected in accordance with the ruling on appeal. The chief election officer shall promulgate rules and regulations in accordance with chapter 91 to safeguard the secrecy of the challenged voter's ballot."

(n) Section 11-26, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-26 Appeal from ruling on challenge; or failure of clerk to act. In cases where the clerk or the precinct officials ruled on a challenge or the clerk refuses to register an applicant, or refuses to change the register under section 11-22, the person ruled against may appeal from the ruling to the board of registration of his county.

The several boards of registration shall sit in the county seats of their respective counties on election day. The boards shall also sit at such other times as the clerk determines within the various representative districts in their respective counties to hear appeals, provided there are any, from the voters registered within such districts. The boards shall continue their sittings until all appeals have been heard.

Reasonable notices of the sitting of the boards shall be given by publication in newspapers of general circulation in their respective districts or counties. If the appeal is sustained, the board shall immediately certify that finding to the clerk, who shall thereupon alter the register to correspond to the findings of the board, and when necessary, the clerk shall notify the precinct officials of the change in the register."

(o) Section 11-51, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-51 Appeal from board to supreme court. Any affected person, political party, or any of the county clerks, may, not later than 4:30 p.m. on the tenth day after the decision of the board of registration, appeal to the supreme court in the manner provided by law for civil appeals to the supreme court from the circuit court, or in such manner as may be provided by law."

(p) Section 11-62, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-62 Formation of new parties; petition. Any group of persons hereafter desiring to form a new political party in the State shall file with the chief election officer a petition as hereinafter provided. The petition for the formation of a new political party shall:

- (1) Be filed not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary;
- (2) Declare as concisely as may be the intention of signers thereof to form such new political party in the State;
- (3) Contain the signatures of not less than one per cent of the total registered voters of the State at the time of filing;
- (4) Contain the names and addresses of the officers of the central com-

mittee and of the respective county committees where they exist, of the new political party;

- (5) Be upon the form prescribed and provided by the chief election officer.

The petition shall be subject to hearing under chapter 91, if any objections are raised by the chief election officer or any political party. All objections shall be made not later than 4:30 p.m. on the tenth day after the petition has been filed. If no objections are raised by 4:30 p.m. on the tenth day, the petition shall be deemed approved. If an objection is raised, a decision shall be rendered not later than 4:30 p.m. on the thirtieth day after filing of the petition or not later than 4:30 p.m. on the one hundredth day prior to the primary, whichever shall first occur.

The chief election officer may check the names of any persons on the petition to see that they are registered voters and he may check the validity of their signatures. The petition shall be public information upon filing."

(q) Section 11-63, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-63 Party rules, amendments to be filed. All existing and new parties must file their rules with the chief election officer not later than 4:30 p.m. on the one hundred fiftieth day prior to the next primary. All amendments shall be filed with the chief election officer not later than 4:30 p.m. on the thirtieth day after their adoption. The rules and amendments shall be duly certified to by an authorized officer of the party and upon filing, the rules and amendments thereto shall be a public record."

(r) Section 11-64, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-64 Names of party officers to be filed. All parties shall submit to the chief election officer and the respective county clerks not later than 4:30 p.m. on the one hundred twentieth day prior to the next primary, a list of names and addresses of officers of the central committee and of the respective county committees."

(s) Section 11-65, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-65 Determination of party disqualification; notice of disqualification. Not later than 4:30 p.m. on the one hundred twentieth day after a general election, the chief election officer shall determine which parties were qualified to participate in the last general election, but which have become disqualified to participate in the forthcoming elections. Notice of intention to disqualify shall be served by certified or registered mail on the chairman of the state central committee or in the absence of the chairman, any officer of the central committee of the party, as shown by the records of the chief election officer. In addition, notice of intention to disqualify shall also be given by publication in a newspaper of general circulation.

If an officer of the party whose name is on file with the chief election officer desires a hearing on the notice of intention to disqualify, he shall, not later than 4:30 p.m. on the tenth day after service by mail or not later than

4:30 p.m. on the tenth day after the last day upon which the notice is published in any county, whichever is later, file an affidavit with the chief election officer setting forth facts showing that the political party is not disqualified to participate in any primary election under section 11-61. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. A party thus disqualified shall have the right to requalify as a new party by following the procedures of section 11-62.”

(t) Section 11-71, Hawaii Revised Statutes, is amended to read as follows:

“PART VI. PRECINCT OFFICIALS AND WATCHERS

Sec. 11-71 Precinct officials; precinct requirements. There shall be not less than three precinct officials for each precinct one of whom shall be the chairman; provided that in precincts where more than one voting unit has been established, there shall be three precinct officials for each unit. The chairman of precinct officials shall have authority in all units of the precinct. The precinct officials of each unit shall have authority on matters affecting their unit and matters affecting the entire precinct.

In all precincts, the chief election officer may assign one or more additional precinct officials.

So far as reasonably practicable, excepting the chairman, not more than fifty per cent of the precinct officials in any precinct shall be of the same political party.”

(u) Section 11-72, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-72 Precinct officials; submission of names and assignment; vacancies. All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the close of filing for any primary, special primary or special election. All precinct officials shall be able to read and write the English language. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons. The chief election officer shall make a list of the precinct officials by representative district not later than 4:30 p.m. on the tenth day prior to such election.

In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct are not readily available to serve, they may be chosen from without the precinct so long as they reside in the representative district in which the precinct is located.
- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct in their respective representative districts. If more qualified persons than are needed for a precinct desire to serve in that precinct, service shall be determined by drawing lots.

- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed of nomination in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairman of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
 - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice president, United States senator, United States representative, governor and lieutenant governor, state senator, state representative, and board of education.
 - (B) In the event that a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subdivision (A).
 - (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
 - (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as a precinct official the chief election officer shall, so far as reasonably practicable, appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party of a precinct official the chief election officer shall use first, the party membership list; then, the primary registration; then, the person's word for his party affiliation."

(v) Section 11-73, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-73 Instruction of precinct officials. Not later than 4:30 p.m. on the fifth day prior to any election the chief election officer or clerk in county elections shall conduct a school of instruction, if deemed necessary, for persons designated as prospective precinct officials of precincts. They shall notify the precinct officials of the time and place of the school of instruction.

All prospective precinct officials shall attend a school of instruction. The chairman of the precinct officials shall be required to also attend a refresher course before each election. It shall be at the discretion of the chief election officer or the county clerk in county elections to require those precinct officials with previous training to attend a school of instruction prior to each election.

ACT 217

No precinct official shall serve unless he has received instruction and has been certified by the authorized instructor to that effect. This section shall not prevent the assignment of a person who has not received such instruction or such certificate but who is otherwise qualified, to fill a vacancy among precinct officials when a qualified certified person is not available. Periodic recertification shall be required.”

(w) Section 11-74, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-74 Meetings of precinct officials; procedure; oaths.** The chairman of the precinct officials shall preside at all meetings of the precinct officials. Any decision of the precinct officials shall require a majority vote of the precinct officials in the unit or precinct.

In all cases under this title, where duties are to be performed by the chairman of the precinct officials, the duties may be performed by one of the other precinct officials, whenever the chairman is temporarily absent or is otherwise for the time being unable to perform the duties.

Each precinct official may administer any oath in this title provided to be administered by the precinct officials.”

(x) Section 11-75, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-75 Duties of precinct officials.** The duties of the precinct officials shall vary with the voting system in use in the precinct. The duties for the particular system shall be assigned by the chief election officer by regulations adopted for such purpose.”

(y) Section 11-76, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-76 Compensation.** (a) Electronic ballot and voting machine elections. Precinct officials, other than the chairman, shall be paid \$32 for each election. The chairman of the precinct officials for each precinct shall be paid \$45 for each election for a single-unit precinct and \$10 more per unit for larger precincts.

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

(z) Section 11-77, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-77 Appointment of watchers; service.** (a) Each qualified political party shall be entitled to appoint no more than one watcher in each precinct including absentee precincts in which the candidates of such party are on the ballot. Each party shall submit its list of watchers not later than 4:30 p.m. on the tenth day prior to any election. All watchers shall serve without expense to the State or county. All watchers so appointed shall be registered voters. No person shall serve as a watcher who could not qualify to serve as a precinct official under section 11-72(3).

(b) Each watcher shall be provided with identification from the chief

election officer, or by the clerk in the case of county elections, stating his name and the name of the party he represents. On election day the watcher shall present his identification to the chairman of precinct officials of the precinct or precincts where he is to serve.

(c) All watchers for precincts shall be permitted to observe the conduct of the election in the precinct. The watchers may remain in the precinct as long as the precinct is in operation subject to section 19-6.

(d) The watcher shall call the attention of the chairman to any violations of the election laws that he observes. After his attention is called to the violation the chairman shall make an attempt to correct such violation. If the chairman fails to correct the violation, the watcher may appeal to the clerk of the county.”

(aa) Section 11-91, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-91 Proclamation.** Not later than 4:30 p.m. on the tenth day prior to the close of filing in elections involving state offices the chief election officer shall issue an election proclamation. In elections involving only county offices the clerk shall issue the proclamation. In elections involving both state and county offices the proclamation may be issued jointly.

The proclamation shall contain a statement of the time and places where, and the purposes for which, the election is to be held, and a designation of the offices and the terms thereof for which candidates are to be nominated or elected. It may also contain any other relevant matter including an offer of rewards for the detection and conviction of offenders against the election laws. The chief election officer or clerk shall cause the election proclamation to be published at least once in a newspaper of general circulation and not later than on the tenth day prior to the close of filing.”

(bb) Section 11-92, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-92 Precincts; polling places; central polling areas; special, special primary and special general election precincts.** The chief election officer shall set apart one or more precincts in each representative district and shall provide a suitable and separate polling place in or for each precinct. Schools, police stations, fire stations, and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelters for this purpose whenever public buildings are not available and shall cause such polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. It shall be lawful for the chief election officer to establish a central polling area for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precinct involved.

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

ACT 217

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

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

(cc) Section 11-96, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-96 Records prima facie evidence. Every record made pursuant to law by a board of registration of voters, or the precinct officials, shall be a prima facie evidence of the facts therein set forth, and shall be received as such in any court or tribunal in which the same is offered in evidence.”

(dd) Section 11-97, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-97 Records open to inspection. The register of voters and all records appertaining to the registry of voters, or to any election, in the possession of the board of registration, the precinct officials, the chief election officer or the clerk shall, at all reasonable times, be open to the inspection of any voter.”

(ee) Section 11-111, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-111 Official and specimen ballots. Ballots issued by the chief election officer as to state elections and by the county clerk as to county elections are official ballots. The chief election officer or county clerk in the case of county elections where paper ballots or electronic ballot cards are used, shall have printed sufficient copies of each of the official ballots to be used at the various precincts so that at least one copy can be posted for each voting unit. These copies will have printed across their face in large bold letters, and with ink of a color plainly contrasting to the color of the paper used, the word “Specimen”. In preparing specimens of electronic ballot cards, the chief election officer or clerk shall use material other than the actual data processing card. The copies of the specimen ballots shall be forwarded to the precinct

officials with the official ballots. The precinct officials shall post the specimen ballots near the entrance to the voting place where they may be easily seen by the voters prior to voting.”

(ff) Section 11-113, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-113 Presidential ballots. (a) In presidential elections, the names of the candidates for president and vice president shall be used on the ballot in lieu of the names of the presidential electors, and the votes cast for president and vice president of each political party shall be counted for the presidential electors and alternates nominated by each political party.

The chairman of the state central committee of each qualified political party shall submit the names of the presidential and vice presidential candidates to the chief election officer not later than 4:30 p.m. on August 31 of the election year in an affidavit stating that both the state and the national party are in agreement as to the candidates for president and vice president. A “national party” as used in this section shall mean a party established and admitted to the ballot in at least one state other than Hawaii or one which is determined by the chief election officer to be making a bona fide effort to become a national party. If there is no national party or the national and state parties or factions in either the national or state party do not agree on the presidential and vice presidential candidates, the chief election officer may determine which candidates’ names shall be placed on the ballot or may leave the candidates’ names off the ballot completely.

(b) All candidates for president and vice president of the United States shall be qualified for inclusion on the general election ballot under either of the following procedures:

- (1) In the case of candidates of political parties which have been qualified to place candidates on the primary and general election ballots, the appropriate official of such party shall file a sworn application with the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the general election, which shall include:
 - (A) The name and address of each of the two candidates;
 - (B) A statement that each candidate is legally qualified to serve under the provisions of the United States Constitution;
 - (C) A statement that the candidates are the duly chosen candidates of the party, giving the time, place and manner of such selection.
- (2) In the case of candidates of parties or groups not qualified to place candidates on the primary or general election ballots, the person desiring to place such names on the general election ballot shall file with the chief election officer a sworn application not later than 4:30 p.m. on the sixtieth day prior to the general election which shall be upon the form prescribed and provided by the chief election officer and shall include:
 - (A) The information included under (1), (A) and (B) above, and (C) where applicable;
 - (B) A petition signed by one per cent of the registered voters of the

State, which petition shall contain the names of the candidates, a statement that the persons signing intend to support such candidates, the address of each signatory and the date of his signature.

Each applicant, and the candidates named, shall be notified in writing of his eligibility or disqualification for placement on the ballot not later than 4:30 p.m. on the tenth day after filing or not later than 4:30 p.m. on the fiftieth day prior to the presidential election whichever is less.

If the applicant, or any other party, individual or group with a candidate on the presidential ballot, objects to the finding of eligibility or disqualification he or they may, not later than 4:30 p.m. on the fifth day after the finding, file a request in writing with the chief election officer for a hearing on the question. Such hearing will be called not later than 4:30 p.m. on the tenth day after the receipt of the request and will be conducted in accord with chapter 91. A decision will be issued not later than 4:30 p.m. on the fifth day after the conclusion of the hearing.”

(gg) Section 11-114, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-114 Order of offices on ballot.** The order of offices on a ballot shall be arranged substantially as follows: first, president and vice president of the United States; next, United States senators; next, United States house of representatives; next, governor and lieutenant governor; next, state senators; next, state representatives; next, board of education, except in primary elections; and next, county offices. The color, size, weight, shape, and thickness of the ballot shall be determined by the chief election officer.”

(hh) Section 11-115, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-115 Arrangement of names on the ballot.** The names of the candidates shall be placed upon the ballot for their respective offices in alphabetical order subject to section 11-118 and the limitations of the voting system in use, and except for the case of the candidates for vice president and lieutenant governor in the general election whose names shall be placed immediately below the name of the candidate for president or governor of the same political party.

In the case of paper ballots or electronic ballot cards where the names of the candidates are printed and the voter records his vote on the face of the ballot, the following format shall be used: A horizontal line shall be ruled between each candidate’s name and the next name, except between the names of presidential and vice presidential candidates and candidates for governor and lieutenant governor of the same political party in the general election. In such case the horizontal line will follow the name of the candidates for vice president and lieutenant governor of the same political party, thereby grouping the candidates for president and vice president and governor and lieutenant governor of the same political party within the same pair of horizontal lines. Immediately after all the names, on the right-hand side of the ballot, two vertical lines shall be ruled, so that in conjunction with the horizontal lines, a box shall be formed opposite each name and its equivalent, if any. In

case of the candidates for president and vice president and governor and lieutenant governor of the same political party, only one box shall be formed opposite their set of names and this box which will be the same size as the others on the ballot shall be centered adjacent to the right-hand side of the rectangle containing the names of the two candidates. The boxes shall be of sufficient size to give ample room in which to designate the choice of the voter in the manner prescribed for the voting system in use. All of the names upon a ballot shall be placed at a uniform distance from the left-hand edge and close thereto, and shall be of uniform size and print subject to section 11-112.”

(ii) Section 11-117, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-117 Withdrawal of candidates; disqualification; death; notice.

Any candidate may withdraw not later than 4:30 p.m. on the day immediately following the close of filing for any reason and may withdraw after the close of filing up to 4:30 p.m. on the tenth day prior to an election for reasons of ill health when the notice is accompanied by a statement from a licensed physician indicating that such ill health may endanger the candidate’s life, if he is a candidate for member of Congress or for state office, by giving notice in writing to the chief election officer, or if he is a candidate for a county office, by giving notice in writing to the county clerk of the county in which the candidate was seeking nomination or election.

On receipt of the notice of withdrawal the chief election officer or the clerk shall inform the chairman of the political party of which the person withdrawing was a candidate. When a candidate dies, withdraws or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk shall either order the candidate’s name stricken from the ballot or that a notice of the disqualification, withdrawal or death be prominently posted at the polling place on election day.

In no case shall the filing fee be refunded after filing.”

(jj) Section 11-118, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-118 Vacancies; new candidates; insertion of names on ballots and notice at polling places. In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the appropriate committee of the party. The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification. If the party fills the vacancy, and so notifies the chief election officer or clerk not later than 4:30 p.m. on the third day after the vacancy occurs, but not later than 4:30 p.m. on the thirtieth day prior to a primary, special primary or special election or not later than the twentieth day prior to a general or special general election the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. If the substitute candidate is submitted later than the time limits set forth above it will be in the discretion of the chief election officer or the clerk whether the name of any substitute candidate is placed upon the ballot by reprinting, over printing, the use of rubber stamps, or such other means as the chief election officer or county clerk may deem satis-

ACT 217

factory. The precinct officials shall post a notice at the polling place of the name of the substitute candidate and the office sought. Substitution shall be made not later than 4:30 p.m. on the tenth day prior to any election unless the chief election officer or the clerk determines that the name can be placed on the ballot in some practical and effective manner. If no substitution is made the candidacy involved shall be declared vacant.”

(kk) Section 11-119, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-119 Printing; quantity.** The ballots shall be printed by order of the chief election officer or the county clerk in the case of county elections. In any state or county election the chief election officer on agreement with the county clerk may consolidate the printing contracts for similar types of ballots where such consolidation will result in lower costs.

Each precinct shall receive a sufficient number of ballots based on the number of registered voters and the expected spoilage in the election concerned. A sufficient number of absentee and mailing ballots shall be delivered to each county clerk not later than 4:30 p.m. on the tenth day prior to the date of any election. Each county clerk shall, as soon as may be practical after the election, certify to the chief election officer the actual number of ballots delivered to absentee voters.”

(ll) Section 11-120, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-120 Distribution of ballots; record.** The chief election officer or the county clerk in county elections shall forward the official ballots, specimen ballots, and other materials to the precinct officials of the various precincts. They shall be delivered and kept in a secure fashion in accordance with rules and regulations promulgated by the chief election officer. In no case shall they arrive later than the opening of the polls on election day.

A record of the number of ballots sent to each precinct shall be kept by the chief election officer or the clerk.”

(mm) Section 11-131, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-131 Hours of voting.** The polls shall be opened by the precinct officials at 7:00 a.m. of the election day and shall be kept open continuously until 6:00 p.m. of that day. If, at the closing hour of voting, any voter desiring to vote is standing in line outside the entrance of the polls with the desire of entering and voting, but due to the polling place being overcrowded has been unable to do so, he shall be allowed to vote irrespective of the closing hour of voting. No voter shall be permitted to enter or join the line after the prescribed hour for closing the polls. If all of the registered voters of the precinct have cast their votes prior to the closing time, the polls may be closed earlier but the votes shall not be counted until after closing time unless allowed by the chief election officer.”

(nn) Section 11-132, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-132 Admission within polling place.** The precinct officials

shall, prior to opening the polls, set apart an area of one thousand feet in radius around the polling place to prevent interference with the conduct of the election. No person, other than the precinct officials, watchers, if any, the candidates, and such voters as are for the time being actually engaged in voting or going to and returning therefrom, shall be permitted within the area so set apart during the time appointed for voting, except that public sidewalks, alleys, roads, streets, and highways falling within the one thousand foot radius shall be open to persons and vehicles passing through. Any other person who remains or loiters within the area so set apart during the time appointed for voting shall be guilty of a misdemeanor. If a voter is manifestly physically disabled, the voter may be assisted by anyone through the area so set apart.

The chief election officer may allow nonvoter groups to observe the election for educational purposes. The chief election officer shall use his discretion in granting such permission and insure that such persons whose applications are granted may observe the election at designated precincts in such a manner that they will not interfere with the election process."

(oo) Section 11-133, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-133 Voting booths; placement of ballot boxes. The precinct officials shall provide sufficient booths within the polling place at or in which the voters may conveniently cast their ballots. The booths shall be so arranged that in casting the ballots the voters are screened from the observation of others.

The precinct officials shall place ballot boxes, where used, at a point convenient for voters to cast their ballots after voting and where the boxes may be observed by the precinct officials."

(pp) Section 11-135, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-135 Procedure upon opening polls. At the opening of the polls for election, the chairman of the precinct officials shall, in the presence of bystanders, publicly open the ballot boxes and expose them to all persons present, that it may be seen that they are empty. They shall then be closed and locked and on no account opened till the polls are closed, except in those precincts using electronic ballots where the ballot boxes may be opened at the direction of the chief election officer for the early delivery of ballots to the counting center.

The seals of the ballot containers or packages shall be broken and opened on election day only in the presence of at least two precinct officials not of the same party.

A card of instruction detailing the method of marking ballots and of voting shall be immediately posted at or in each voting booth provided for by section 11-133; and not less than three cards shall be immediately posted in conspicuous places outside the polling place."

(qq) Section 11-136, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-136 Poll book, identification, voting. Every person upon applying to vote shall sign his name in the poll book prepared for that purpose. This

requirement may be waived by the chairman of the precinct officials if for reasons of illiteracy or blindness or other physical disability the voter is unable to write. Every person shall provide identification if so requested by a precinct official.

After signing the poll book and receiving his ballot, the voter shall proceed to the voting booth to vote according to the voting system in use in his precinct. The precinct officials may, and upon request shall, explain to the voter the mode of voting.”

(rr) Section 11-137, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-137 Secrecy; removal or exhibition of ballot.** No person shall look at or ask to see the contents of the ballot of any voter, except as provided in section 11-139, nor shall any person within the polling place attempt to influence a voter in regard to whom he shall vote for. When a voter is in the voting booth for the purpose of marking or casting his ballot, no other person shall, except as provided in section 11-139, be allowed to enter the booth or to be in a position from which he can observe how the voter marks or casts his ballot.

In those precincts using paper ballots or electronic ballot cards no person shall take a ballot out of the polling place except for the early pick up of electronic ballot cards for delivery to the counting center and as provided in section 11-139. After voting the voter shall leave the voting booth and deliver his ballot to the precinct official in charge of the ballot boxes. The precinct official shall make certain that he has received the correct ballot and no other and then shall drop the ballot into the ballot box. If any person having received a ballot leaves the polling place without first delivering the ballot to the precinct official as provided above, or wilfully exhibits his ballot, except as provided in section 11-139, after the ballot has been marked, such person shall forfeit his right to vote, and the chairman of the precinct officials shall cause a record to be made of the proceeding.”

(ss) Section 11-138, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-138 Time allowed voters.** A voter shall be allowed to remain in the voting booth for five minutes, and having voted the voter shall at once emerge and leave the voting booth. If he refuses to leave when so requested by a majority of precinct officials after the lapse of five minutes, he shall be removed by the precinct officials. Once a voter has completed his voting and emerged from the booth, he shall not be permitted to re-enter.”

(tt) Section 11-139, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-139 Assistance of illiterate or disabled voter.** Any voter who, by reason of illiteracy or blindness or other physical disability, is unable to mark his ballot, shall, if he so requests, receive the assistance of two precinct officials who are not of the same political party, or of any qualified voter whom he may designate, in the marking thereof. Before rendering assistance or permitting assistance to be rendered, the precinct officials shall be satisfied that the physical disability exists. If a voter with a physical disability finds it

unduly burdensome for him to enter the polling place, he may be handed a ballot outside the polling place but within one hundred feet thereof by the precinct officials, and in their presence but in a secret manner, mark and return the same to the precinct officials.

The precinct officials shall enter in writing in the record book the following:

- (1) The voter's name;
- (2) The fact that the voter cannot read the names on the ballot, if that is the reason for requiring assistance, and otherwise, the specific physical disability which requires him to receive assistance; and
- (3) The name or names of the person or persons furnishing the assistance."

(uu) Section 11-140, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-140 Spoiled ballots. In precincts using paper ballots and electronic ballot cards, if a voter spoils a ballot or ballot card, he may obtain another upon returning the spoiled one. The ballot returned shall be canceled immediately, and the reasons for the cancellation endorsed thereon and signed by the chairman of precinct officials."

(vv) Section 11-152, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-152 Method of counting. Immediately after the close of the polls, except in precincts using voting machines, the chairman of precinct officials shall open the ballot box. In those precincts using electronic ballot cards the cards shall be taken to the counting center. The precinct officials at the precinct and the officials at the counting center shall proceed to count the votes as follows:

- (1) The whole number of ballots shall first be counted to see if their number corresponds with the number of ballots cast as recorded by the precinct officials.
- (2) If the number of ballots corresponds with the number of persons recorded by the precinct officials as having voted, the precinct officials or election officials shall then proceed to count the vote cast for each candidate.
- (3) If there are more ballots or less ballots than the record calls for the precinct officials or election officials shall proceed as directed in section 11-153.

The officials at an electronic ballot card counting center may start to count the ballot cards upon receipt prior to the closing of the polls; provided there shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a question prior to the closing of the polls."

(ww) Section 11-154, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-154 Records, etc.; disposition. The final duty of the precinct officials in the operation of the precinct shall be to gather all records and supplies delivered to them and return them to the sending official, either the chief election officer or the county clerk.

The voted ballots shall be kept secure and handled only in the presence of representatives not of the same political party in accordance with regulations promulgated for the various voting systems. After all the ballots have been tabulated they shall be sealed in containers. Thereafter these containers shall be unsealed and resealed only as prescribed by rules and regulations governing the elections.

The ballots and other election records may be destroyed by the chief election officer or county clerk when all elected candidates have been certified by the chief election officer, or in the case of candidates for county offices, by the county clerk.”

(xx) Section 11-172, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-172 Contests for cause; generally.** With respect to any election, any candidate, or qualified political party directly interested, or any thirty voters of any election district, may file a complaint in the supreme court. The complaint shall set forth any cause or causes, such as but not limited to, provable fraud, overages, or underages, that could cause a difference in the election results. The complaint shall also set forth any reasons for reversing, correcting, or changing the decisions of the election precinct officials or the officials at a counting center for electronic ballots.”

(yy) Section 11-173, Hawaii Revised Statutes, is repealed.

(zz) Section 11-174, Hawaii Revised Statutes, is repealed.

(aaa) Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 11- Contests for cause in primary and special primary elections.**

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

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

(bbb) Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 11- Contests for cause in general, special general and special elections.** (a) In general, special general or special elections, the complaint

shall be filed in the office of the clerk of the supreme court not later than 4:30 p.m. on the twentieth day following the general, special general, or special election and shall be accompanied by a deposit of \$25 for costs of court. The clerk shall issue to the defendants named in the complaint a summons to appear before the supreme court not later than 4:30 p.m. on the tenth day after service thereof.

(b) In cases involving general, special general, and special elections the complaint shall be heard by the supreme court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general, special general, or special election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the precinct officials; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general, special general, or special election was invalid, a certified copy thereof shall be filed with the governor, and he shall duly call a new election to be held not later than on the sixtieth day after the judgment is filed. If the court shall decide which candidate or candidates have been elected a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices."

(ccc) Section 11-175, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-175 Powers of courts; costs. The supreme court may compel the attendance of witnesses, punish contempts, and do whatsoever else may be necessary fully to determine the proceedings, and enforce its decrees therein. The court may make such special rules as it may find necessary or proper. The costs shall be as provided by the supreme court by rule."

(ddd) Section 11-176, Hawaii Revised Statutes, is repealed.

(eee) Section 11-184, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-184 Election expenses and supervision in combined state and county elections. Election expenses in elections involving both state and county offices shall be borne as set forth below.

(1) The State shall pay for and supervise:

- (A) Precinct officials;
- (B) Instruction of precinct officials;
- (C) Boards of registration;
- (D) Polling place costs other than supplies: installation rentals, ballot boxes, voting booths, custodians, telephones, and maintenance;
- (E) Other equipment such as ballot transport containers;
- (F) Temporary election clerks hired to do strictly state work; and

- (G) Extraordinary voter registration costs.
- (2) The county shall pay for and supervise:
 - (A) Normal voter registration, voters list maintenance, and all printing connected with voter registration, including printing of the voters list;
 - (B) Temporary election clerks hired to do strictly county work; and
 - (C) Maintenance of existing voting machines, including parts, freight, storage, programming, and personnel.
- (3) The remaining election expenses shall be divided in half between the State and the county involved. These expenses shall include but not be limited to:
 - (A) Polling place supplies;
 - (B) All printing, including ballots;
 - (C) Temporary election clerks not including voting machine programmers doing work for both the State and county; and
 - (D) All other costs for which the State or county are not specifically responsible relating to the operation of voting machines, electronic voting systems, and other voting systems except paper ballots to include but not be limited to real property rentals, equipment rentals, personnel, mileage, telephones, supplies, publicity, computer programming, and freight.

The responsibility for supervising the above functions shall be determined by the chief election officer where the supervision of such functions has not been assigned by the legislature.

Any future expenses not presently incurred under any voting system now in use or to be used shall be assigned to paragraphs (1), (2), or (3) above by the chief election officer upon agreement with the county clerks or by the legislature.”

SECTION 2. Chapter 12, Hawaii Revised Statutes, is amended as follows:

(a) Section 12-2, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 12-2 Primary held when; candidates only those nominated. The primary shall be held at the regular polling place for each precinct on the first Saturday of October in every even numbered year.

No person shall be a candidate for any general or special general election unless he has been nominated in the primary or special primary next prior thereto.”

(b) Section 12-3, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 12-3 Nomination papers: format; limitations. The name of no candidate shall be printed upon any official ballot to be used at any primary, special primary or special election unless a nomination paper shall have been filed in his behalf and in the name by which he is commonly known. The nomination papers shall be in a form prescribed by the chief election officer containing substantially the following information:

- (1) A statement by the registered voters of the district from which the candidate is running signing the form that their primary election ballot preference designation will allow them to vote for the candidate at the next election;
- (2) A statement by the registered voters that they nominate the candidate for the office on the nomination papers;
- (3) The residence address and county in which the candidate resides;
- (4) The name of the candidate and the office for which he is running, which name and office is to be placed on the nomination papers by the chief election officer or the county clerk in the case of county elections prior to releasing the form to the candidate;
- (5) Space for the names of the registered voters signing the form and their district or districts and precinct or precincts;
- (6) A certification by the candidate that he will qualify under the law for the office he is seeking by the date of the next election, and that he is a registered voter and a resident in the district from which he is running;
- (7) A certification by a party candidate that he is a member of the party, that he believes in the principles and policies of that party, that if elected he will carry out the provisions and pledges of the political platform of the party and will abide by the party's rules and regulations;
- (8) The name the candidate wishes inserted on the ballot and the post office address of the candidate.

No signatures shall be counted, unless they are upon papers having the format set forth above, written or printed thereon, and if there are separate sheets to be attached to the papers, the sheets shall have the name of the person and the office for which he is running placed thereon by the chief election officer or the clerk. These nomination papers and separate sheets shall be provided by the chief election officer or the clerk in the case of county offices.

Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.

The office for which the candidate is running may not be changed from that indicated on the nomination papers and separate sheets. If the candidate wishes to run for an office different from that for which the nomination papers state, he may request appropriate nomination papers from the chief election officer or clerk and have them signed by the required number of voters."

(c) Section 12-6, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) For members of Congress, state, and county offices, with the chief election officer or county clerk in case of county offices not later than 4:30 p.m. on the forty-fifth day prior to the primary, special primary or special election (but if such day is a Saturday, Sunday, or holiday

then not later than 4:30 p.m. on the first working day immediately preceding); provided that any state candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective county clerk. The clerk shall transmit to the office of the chief election officer the state candidate's declaration of candidacy without delay.

- (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary, special primary or special election which shall be paid into the treasury of the State, or the county, as the case may be, as a realization:
 - (A) For governor, lieutenant governor, United States senators, and United States representatives—\$75;
 - (B) For mayor—\$50; and
 - (C) For all other offices—\$25.
- (3) Upon the receipt by the chief election officer or the county clerk of the nomination papers of a candidate, the day, hour, and minute when it was received shall be endorsed thereon."
- (d) Section 12-8, Hawaii Revised Statutes, is amended to read as follows:

follows:

"Sec. 12-8 Nomination papers: challenge. All nomination papers filed in conformity with section 12-3 shall be deemed valid unless objection is made thereto by the chief election officer or the county clerk in the case of county offices or by a registered voter in writing. Such objection is to be made not later than 4:30 p.m. on the second day after the close of filing or the next succeeding working day. In case objection is made, notice thereof shall be given including notification by registered or certified mail to the candidate objected thereto. All objections shall be decided by the chief election officer or county clerk not later than 4:30 p.m. on the second day after they are made. All objections which are upheld shall be placed in writing by the deciding official if so requested by the candidate affected."

(e) Section 12-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-9 List of candidates. As soon as possible but not later than 4:30 p.m. on the fifth day after the close of filing the chief election officer shall transmit to each county clerk and the county clerk shall transmit to the chief election officer certified lists containing the names of all persons, the office for which each is a candidate, and 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 at the primary, special primary or special election."

(f) Section 12-21, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-21 Official party ballots. There shall be only one primary or special primary ballot for each party; provided that ballots of no two parties shall be of the same color or tint. Before being finally printed sample ballots or proofs thereof shall be approved by the chief election officer or county clerk in county elections as to uniformity of size, weight, shape, and thickness and dif-

ferentiation of color or tint for the respective party ballots.

At the top of the primary or special primary ballot shall be printed in large capital letters, words designating the ballot; if a Democratic ballot, the designating words shall be "DEMOCRATIC PRIMARY BALLOT" or "DEMOCRATIC SPECIAL PRIMARY BALLOT"; if a Republican ballot, the designating words shall be "REPUBLICAN PRIMARY BALLOT" or "REPUBLICAN SPECIAL PRIMARY BALLOT", and in the like manner for each other party."

(g) Section 12-22, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-22 Official nonpartisan ballots. There shall be only one primary or special 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 the ballot shall be printed in large capital letters the words "NONPARTISAN PRIMARY BALLOT" or "NONPARTISAN SPECIAL PRIMARY BALLOT". The ballot shall, in all other respects, conform to the requirements relative to official party ballots."

(h) Section 12-23, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-23 Board of education ballots. There shall be a primary election ballot containing only the names of all board of education candidates to be voted for. At the top of the ballot shall be printed in large capital letters the words "SCHOOL BOARD BALLOT". The ballot shall, in all other respects, conform to the requirements relative to official party ballots.

(i) Section 12-31, Hawaii Revised Statutes, is amended to read as follows:

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

In any primary or special primary election in the year 1970 and thereafter, no person shall be entitled to select a primary or special primary ballot of a type other than that which he had selected at the next preceding primary or special primary election in which he voted, unless, not later than 4:30 p.m. on the ninetieth day preceding the primary or special primary election in which such ballot is to be selected, he has registered with the county clerk to change his party to another party or to a nonpartisan designation. A voter shall be entitled to select any one primary or special primary ballot if:

- (1) He did not vote in any preceding primary or special primary election;
- or
- (2) His party is disqualified under section 11-61; or
- (3) He voted in a board of education race only; or

- (4) He is a newly registered voter; or
- (5) He reregisters after having his name removed from the general county register.

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

(j) Section 12-41, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 12-41 Result of election. The person or persons receiving the greatest number of votes at the primary or special primary as a candidate of a party for an office shall be the candidate of the party at the following general or special general election but not more candidates for a party than there are offices to be elected; provided that any candidate for the board of education or for any county office who is the sole candidate for that office at the primary or special 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 the primary or special primary shall, after the primary or special primary be deemed and declared to be duly and legally elected to the office for which he is a candidate at the primary or special primary regardless of the number of votes received by him. Any nonpartisan candidate receiving at least ten per cent of the total votes cast for the office for which he is a candidate at the primary or special primary, or a vote equal to the lowest vote received by the partisan candidate who was nominated in the primary or special primary, shall also be a candidate at the following election; provided, that when more nonpartisan candidates qualify for nomination than there are offices to be voted for at the general or special 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 3. Chapter 13, Hawaii Revised Statutes, is amended as follows:

Section 13-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 13-3 Election of members; primary election. Except as otherwise provided by this chapter, the candidates for the board of education shall be nominated and elected in the manner prescribed by this title.

The school board ballot shall contain the names of all board candidates arranged alphabetically and grouped by party and nonpartisanship. Each voter in the primary shall be entitled to receive the school board ballot and to vote for the number of seats available for such school board districts, and, as the case may be, for such at-large district. Those voters who do not wish to state either their party preference or nonpartisanship at the primary election may select the school board ballot only. Each voter shall only vote for the candidates of one party or nonpartisan. If a ballot is marked contrary to this paragraph, the race shall not be counted."

SECTION 4. Chapter 14, Hawaii Revised Statutes, is amended as follows:

(a) Part I of Chapter 14, Hawaii Revised Statutes, is repealed.

(b) Section 14-21, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 14-21 Nomination of presidential electors and alternates; certification; notification of nominees. In each year when electors of president and vice president of the United States are to be chosen, each of the political parties shall hold a state party convention pursuant to the constitution, bylaws, and rules of the party; and nominate as candidates for its party as many electors, and a first and second alternate for each elector, of president and vice president of the United States as the State is then entitled. The electors and alternates shall be registered voters of the State. The names and addresses of the nominees shall be certified by the chairman and secretary of the convention of the respective parties and submitted to the chief election officer not later than 4:30 p.m. on August 31 of the same year. The chief election officer upon receipt thereof, shall immediately notify each of the nominees for elector and alternate elector of his nomination.”

(c) Section 14-22, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 14-22 Contested nominations of presidential electors and alternates. If more than one certificate of choice and selection of presidential electors and alternate electors of the same political party is filed with the chief election officer, he, as chairman of the contested presidential electors’ committee hereby constituted, shall notify the state comptroller and attorney general, who are the remaining members of the committee, of the date, time, and place of the hearing to be held for the purpose of making a determination of which set of electors and alternate electors were lawfully chosen and selected by the political party. Notice of the hearing shall be given to the chairman of the state central committee of each political party, contestants for the positions of electors and alternate electors by written notice, and to all other interested parties by publication at least once in a newspaper of general circulation. A determination shall be made by the committee by majority vote not later than 4:30 p.m. on October 30 of the same year and the determination shall be final. Notice of the results shall be given to the nominees duly determined to have been chosen. The committee shall have all the powers enumerated in section 11-43.”

(d) Section 14-24, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 14-24 Certificate of election, notice of meeting. Not later than 4:30 p.m. on the last Monday in the month of the election, or as soon as the returns have been received from all counties in the State, if received before that time, the chief election officer shall certify to the governor the names of the presidential electors and alternates of the same political party as the candidates for president and vice president receiving the highest number of votes as elected as presidential electors and alternates. Thereupon the governor shall in accordance with the laws of the United States, communicate by registered mail under the seal of the State of Hawaii to the administrator of general services of the United States, the certificates of persons elected as presidential electors,

setting forth the names of the electors and the total number of votes cast for each elector. The chief election officer shall thereupon, together with a notice of the time and place of the meeting of the electors, cause to issue and transmit to each elector and alternate a certificate of election signed by the governor in substantially the following form:

CERTIFICATE OF ELECTION OF
PRESIDENTIAL ELECTORS

I, Governor of the State of Hawaii, do hereby certify that..... , a member of the party, was on the..... day of, 19....., duly elected a Presidential Elector for the State of Hawaii for the presidential election of 19.....

CERTIFICATE OF ELECTION OF
ALTERNATE PRESIDENTIAL ELECTOR

I, Governor of the State of Hawaii, do hereby certify that..... , a member of the party, was on the..... day of, 19....., duly elected Alternate Presidential Elector for Presidential Elector for the State of Hawaii for the presidential election of 19.....”

SECTION 5. Chapter 15, Hawaii Revised Statutes, is amended as follows:

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

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

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

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

- (A) Confined in any hospital;
- (B) Confined in any public institution for the care of indigents or aged persons; or
- (C) Confined in any leprosy institution or settlement located on the same island in which the person is registered to vote, or if the person is registered to vote in the county of Kalawao, and due to physical ailments or infirmities is unable to attend the polls.

- (2) Any voter who is confined to his home by reason of illness or physical disability which will prevent him from attending the polls or who by reason of any religious belief, ruling, doctrine or standard will be prevented from attending the polls.”

(b) Section 15-2, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-2 Request for absentee ballot.** Any person entitled to vote under this chapter may request an absentee ballot in person or in writing from the county clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election.

The request shall include any information which will facilitate the location of his voting precinct, the establishment of his right to a ballot, and the address to which he wishes his ballot forwarded. The request, when made for any primary or special primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary or special primary, provided the person so indicates in his request and gives reason therefor to the satisfaction of the county clerk.

Any voter requesting an absentee ballot for a primary or special primary election who has not voted in a primary or special primary election since 1968 shall state his selection of party ballot, nonpartisan ballot or of only the official board of education ballot in his request.”

(c) Section 15-3, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-3 Delivery of ballots.** Immediately upon receipt of a request within the time limit specified in section 15-2, the county clerk shall examine the records to ascertain whether or not the voter is lawfully entitled to vote as requested. As soon as official ballots are printed and available, the clerk shall mail in a forwarding envelope, via airmail if necessary, or deliver in person, if the voter appears at the office of the clerk, an official ballot and other materials prescribed in section 15-4. All requests received upon the last day of receipt shall be mailed to the voter requesting the same as soon as reasonably practicable, but in no event later than twenty-four hours after receipt thereof.

(d) Section 15-4, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 15-4 Reply envelope; instructions.** The county clerk shall enclose the ballot in an unsealed reply envelope to be furnished by him and which shall be in the form prescribed by the chief election officer. In addition, the county clerk shall prepare printed instructions regarding the manner of marking and returning the absentee ballot. The clerk shall furnish a copy of the printed instructions and information setting forth the precinct and district in which the voter is entitled to vote. The reply envelope shall bear upon the face thereof the name, official title, and post office address of the county clerk and, in the lower left corner, the words “Absentee Ballot Enclosed.” The back of the reply envelope shall contain a statement to be subscribed to by the voter which affirms the fact that he is the person voting.

ACT 217

The absentee voter shall be instructed that his ballot shall not be valid if the affirmation statement is not signed.”

(e) Section 15-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-5 Return of ballot; voting by absentee voter at polls prohibited.

The reply envelope shall be:

- (1) Mailed and must be received by the county clerk issuing the absentee ballot not later than the closing of the polls on any election day; or
- (2) Delivered other than by mail to the county clerk issuing the absentee ballot not later than the closing of the polls on any election day.

No person having voted an absentee ballot pursuant to this section shall be entitled to cast a ballot at the polls on election day.”

(f) Section 15-6, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-6 Absentee ballot container. Each absentee ballot shall be placed in an absentee ballot container or containers. The container shall be securely sealed except for an opening sufficient to permit deposit of the reply envelopes and shall be sufficiently 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 opening of the container shall be securely sealed at the close of each business day by the clerk or the precinct officials of the absentee precinct. The container itself shall be secured in the office of the clerk.

No person shall open the absentee ballot container before the day provided for in section 15-8 or 15-9. Any person opening the absentee ballot container or tampering with the container before the prescribed time shall be guilty of an election offense under section 19-6.”

(g) Section 15-7, Hawaii Revised Statutes, is amended to read as follows:

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

The absentee precinct shall be reopened on election day for the purpose of counting all absentee ballots received in the mail or delivered to the county clerk. In counties using electronic ballot cards an absentee precinct shall be established at the counting center on election day to count the absentee ballots. In no case shall the reply envelope be opened prior to election day.

The chief election officer or the county clerk in county elections may

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

(h) Section 15-8, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Sufficiency of statement;
- (2) If the signature corresponds with the absentee request or register;
- (3) If the voter is a registered voter and has complied with the requirements of section 11-15 or 11-16;
- (4) If the envelope appears to be tampered with.

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

If any of the above requirements is not met, the precinct official shall mark across the face of the envelope "Questionable" giving the reasons therefor and the envelope shall be placed unopened in a separate container and disposed of as prescribed for ballots in section 11-154. If the above requirements are met, the envelope may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee precincts using paper ballots, counting of absentee votes may begin after noon of election day. In those absentee precincts using electronic ballot cards the absentee ballot container shall be taken unopened to the counting center, opened, the envelopes rechecked, and the ballots counted on election day. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed. In absentee precincts using voting machines the machine shall not be read until the polls have officially closed.

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

(i) Section 15-9, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 15-9 Receipt and disposition of late absentee ballots. For any election all reply envelopes containing absentee ballots received by the county clerk after the deadline for receipt stated in section 15-5 shall be kept unopened and disposed of pursuant to section 11-154."

(j) Section 15-10, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 15-10 Death of voter prior to opening of polls. Whenever, prior to the casting of absentee ballots, it is made to appear by due proof to the county clerk or precinct officials that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of election, the ballot of the voter shall be disposed of in the manner provided in section 15-8 for questionable ballots. The casting of any such ballot shall not invalidate the election.”

(k) Section 15-12, Hawaii Revised Statutes, reading as follows, is repealed.

(l) The Hawaii Revised Statutes is amended by adding a new chapter to be designated as Chapter 15A and to read:

“CHAPTER 15A VOTING BY MAILING BALLOT

Sec. 15A-1 Definitions. As used in this chapter, unless otherwise indicated by the context:

“Voter in remote area” means any registered voter who resides ten miles or more from the voter’s designated polling place by the most direct route for public travel.

“Mailing ballot” means an official ballot to be used by a person entitled to vote as provided by this chapter.

“Official working day” means any day from Monday through Friday excluding legal holidays.

Sec. 15A-2 Who may vote by mailing ballots. Any voter who is a “voter in a remote area” as defined by section 15A-1, may vote by “mailing ballot” in any election in the manner provided in this chapter.

Sec. 15A-3 Request for mailing ballot. (a) Any registered voter entitled to vote under this chapter may request a mailing ballot in person or in writing from the county clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The request for a mailing ballot shall include any information which will facilitate the location of his voting precinct, the establishment of his right to a mailing ballot, and the address to which he wishes his ballot forwarded. In any event, not later than 4:30 p.m. on the seventh working day subsequent to the closing of registration for each election, the clerk may mail a request form for a mailing ballot to each registered voter in remote areas who has not already made such a request. The request form shall be accompanied by:

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

(b) A request made prior to any primary or special primary election by an eligible voter shall be deemed to be made with respect to both the primary and general elections or to both the special primary and special general elections.

Sec. 15A-4 Delivery of ballots. Upon receipt of a request within the time limit specified in section 15A-3, the county clerk shall examine the records to

ascertain whether or not the voter is lawfully entitled to vote as requested. As soon as official ballots are printed and available, the clerks shall mail, or deliver in person if the voter appears at the office of the clerk, an official ballot and other materials prescribed in section 15A-5.

Sec. 15A-5 Reply envelope; instructions. The county clerk shall enclose the ballot in an unsealed reply envelope to be furnished by him which shall be in the form prescribed by the chief election officer. In addition, the county clerk shall prepare printed instructions regarding the manner of marking and returning the mailing ballot. The clerk shall furnish a copy of the printed instructions and information setting forth the precinct and district in which the voter is entitled to vote. The reply envelope shall bear upon the face thereof the name, official title, and post office address of the county clerk and the words, "mailing ballot enclosed." The back of the reply envelope shall contain a statement to be subscribed to by the voter which affirms the fact that he is the person voting. The voter shall be instructed that his ballot shall not be valid if the affirmation statement is not signed."

Sec. 15A-6 Return of ballot; voting at polls prohibited. The reply envelope shall be:

- (1) Mailed and must be received by the county clerk issuing the mailing ballot not later than the closing of the polls on the day of the election; or
- (2) Delivered other than by mail to the county clerk issuing the mailing ballot and must be received not later than the closing of the polls on the day of the election. However, no mailing ballots may be delivered to the polling places on the day of the election.

No person having voted a mailing ballot pursuant to this chapter shall be entitled to cast a ballot at the polls on election day.

Sec. 15A-7 Receipt and disposition of mailing ballots. Upon receipt of the envelope marked "mailing ballot enclosed" from any person voting under this chapter, the county clerk shall time stamp the reply envelope and deposit it in the correct "absentee ballot container" as defined and provided for in section 15-6.

The county clerk shall thereafter follow the procedure prescribed by chapter 15 with respect to the disposition of absentee ballots.

Sec. 15A-8 Receipt and disposition of mailing ballots that are unseasonably mailed. If the mailed reply envelope is received after the time specified by section 15A-6, the envelope shall be kept unopened and disposed of pursuant to section 11-154.

Sec. 15A-9 Death of voter prior to opening of polls. Whenever, prior to the casting of mailing ballots, it is made to appear by due proof to the county clerk or precinct officials that any voter who has marked and forwarded a mailing ballot has died prior to the opening of the polls on the date of election, the ballot of the voter shall be disposed of in the manner provided in section 15-8 for questionable ballots. The casting of any such ballot shall not invalidate the election."

SECTION 6. Chapter 16, Hawaii Revised Statutes, is amended as follows:

(a) Section 16-12, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-12 Voting machines; requirements. No voting machines shall be installed for use in any election in the State unless it shall satisfy the following requirements:

- (1) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (2) It shall prevent the voter from voting for the same persons more than once for the same office;
- (3) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (4) It shall be so equipped that the precinct officials can lock out all rows except those of the voter’s party or nonpartisans, or the board of education as provided in section 13-3, by a single adjustment on the outside of the machine;
- (5) It shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be detected;
- (6) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (7) It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.”

(b) Section 16-23, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-23 Folding ballot; voting. Before delivering a ballot to a voter, the precinct official shall fold it in the manner prescribed by the clerk of the several counties, so as to conceal the contents thereof. Upon receiving the folded ballot the voter shall proceed into one of the voting booths provided for the purpose, and shall mark his ballot in the manner prescribed by section 16-22.

He shall then refold the ballot in the same folds as it was in when handed to him by the chairman of precinct officials; and shall, without delay and without showing or in any way displaying the contents of the ballot to anyone except as provided in section 11-139, leave the booth and deliver the folded ballot to the precinct official in charge of the ballot boxes. The precinct official shall not open or unfold the ballot, but shall examine the ends of the ballot sufficiently to be satisfied that there is but one ballot enfolded, whereupon the ballot shall be immediately dropped into the proper box by the precinct official.

No ballot enclosed in an envelope or wrapper of any kind shall be received or counted.”

(c) Section 16-25, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 16-25 Order and method of counting. Each ballot shall be counted and finished as to all the candidates thereon before counting a second and sub-

sequent ballots. Except as provided in section 11-71, the ballots shall be counted by teams in the following manner only: by one precinct official announcing the vote in a loud clear voice, one precinct official tallying the vote, one precinct official watching the precinct official announcing the vote and one precinct official watching the precinct official tallying the vote. The precinct official doing the announcing or tallying and the precinct official watching him shall not be of the same political party.”

(d) Section 16-26, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-26 Questionable ballots.** A ballot shall be questionable if:

- (1) A ballot contains any mark or symbol whereby it can be identified, or any mark or symbol contrary to the provisions of law; or
- (2) Two or more ballots are found in the ballot box so folded together as to make it clearly evident that more than one ballot was put in by one person, the ballots shall be set aside as provided below.

Each ballot which is held to be questionable shall be endorsed on the back by the chairman of precinct officials with his name or initials, and the word “questionable.” All questionable ballots shall be set aside uncounted and disposed of as provided for ballots in section 11-154.”

(e) Section 16-27, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-27 Number of blank and questionable ballots; record of.** In addition to the count of the valid ballots, the precinct officials shall, as to each separate official ballot, also determine and record the number of totally blank ballots and the number of questionable ballots.”

(f) Section 16-28, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-28 Declaration of results.** When the precinct officials have ascertained the number of votes given for each candidate they shall make public declaration of the whole number of votes cast, the names of the persons voted for, and the number of votes for each person.”

(g) Section 16-42, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 16-42 Electronic voting requirements.** When used at primary or special primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, or non-partisans, or the board of education as provided in section 13-3. In all elections the equipment shall reject all votes for an office when the number of votes therefor exceeds the number which the voter is entitled to cast.”

SECTION 7. Chapter 17, Hawaii Revised Statutes, is amended as follows:

(a) Section 17-1, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 17-1 United States senator.** When a vacancy occurs in the office of United States senator the vacancy shall be filled for the unexpired term at the

following state general election, provided that the vacancy occurs not later than 4:30 p.m. on the sixtieth day prior to the primary for nominating candidates to be voted for at the election; otherwise at the state general election next following. The chief election officer shall issue a proclamation designating the election for filling vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the senator causing the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title.”

(b) Section 17-2, Hawaii Revised Statutes, is amended to read as follows:

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

(c) Section 17-3, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 17-3 State senator.** Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds.

In the case of a vacancy, the term of which does not end at the next succeeding general election:

- (1) If it occurs not later than on the tenth day prior to the close of filing for the next succeeding primary election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party as the person he succeeds.
- (2) If it occurs after the tenth day prior to the close of filing for the next succeeding primary but not later than on the tenth day prior to the next succeeding general election, the vacancy shall be filled for the

unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired senate term shall be nominated by the county committees of the parties and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy. The appointee shall be of the same political party as the person he succeeds.

- (3) If it occurs after the tenth day prior to the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds.”

(d) Section 17-5, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 17-5 Failure to elect.** Whenever any vacancy occurs in the offices provided in this chapter because of failure to elect a person at an uncontested general election, the chief election officer shall issue a proclamation for a special primary and general election. The special primary election shall be held not sooner than on the seventy-fifth day and not later than on the one hundred twentieth day after the issuance of the proclamation and the special general election shall be held not sooner than on the twentieth day and not later than on the thirtieth day after the special primary election. Nomination papers shall be filed in accordance with section 12-6.”

SECTION 8. Section 19-6, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.
- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or card of instructions or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at

any election; and every person assisting or aiding or abetting any disturbance.

- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.
- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include but not be restricted to the following:
 - (A) The distribution, circulation, posting, or staking of campaign cards, pamphlets, and other literature;
 - (B) The use of public address systems and other public communication media;
 - (C) The use of motor caravans or parades;
 - (D) The use of entertainment troupes or the free distribution of goods and services.

The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.
- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 or a mailing ballot voted under chapter 15A other than those authorized to do so under chapters 15 and 15A.
- (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15 or for voting by mailing ballots under chapter 15A.
- (10) Every person who, being a candidate for election, or an agent of any candidate, or a member of any committee acting for or on behalf of any candidate, or in charge of any committee or political party to which money is contributed during an election or which spends money in any election, fails to file the statement of expenses or of lack of expenses, as required by law.
- (11) Any person making any anonymous contribution to any candidate, party, or committee as defined in section 11-191 or any candidate, party, or committee receiving any such contribution or entering any contribution falsely in his accounts.
- (12) Any unauthorized person found in possession of any voting machine or keys thereof.
- (13) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for."

SECTION 9. Chapter 25, Hawaii Revised Statutes, is amended as follows:

(a) Section 25-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 25-5 Compensation. Each of the members of the reapportionment commission selected and certified shall, for the period he holds his office, receive compensation of \$50 per meeting but not to exceed \$1,000 per month and shall be allowed actual and necessary expenses incurred in the performance of his duties. Payments for compensation and expenses shall be paid by warrants signed by the comptroller upon vouchers properly endorsed by the chairman of the commission. The members of the commission shall be exempt from the provisions of chapters 76 and 77.”

(b) Section 25-7, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 25-7 Apportionment advisory councils. The apportionment advisory councils for the respective basic island units shall be constituted at the same time as the reapportionment commission and the members selected to hold their offices for such terms in the manner prescribed in section 4, Article III, of the Constitution. Each advisory council shall serve in an advisory capacity to the reapportionment commission as to matters affecting its basic island unit. Each member shall be a registered voter of his basic island unit. A member of a council shall, for the period he holds his office, receive compensation of \$50 per meeting but not to exceed \$500 per month and shall be allowed actual and necessary expenses incurred in the performance of his duties. Payments for compensation and expenses shall be made by warrants signed by the comptroller on vouchers properly endorsed by the chairman of the appropriate advisory council. The members of the council shall be exempt from the provisions of chapters 76 and 77. Each council shall elect its own chairman and may elect other officers that may be necessary to carry out its functions. Meetings shall be called and held at the call of the chairman or by a quorum which shall be a majority of the members.”

SECTION 10. Section 235-1, Hawaii Revised Statutes, is amended to read as follows:

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

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

“Deaf” means a person whose average loss in the speech frequencies (500-2000 Hertz) in the better ear is 82 decibels, A.S.A., or worse. The impair-

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

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

“Fiduciary” means the same as in the Internal Revenue Code.

“Fiscal year” means the same as in the Internal Revenue Code.

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

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

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

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

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

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

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

“Person totally disabled” means a person who has:

- (1) Lost or is born without both feet at or before the ankle;
- (2) Lost or is born without both hands at or above the wrist;
- (3) Lost or is born without one hand and one foot;
- (4) An injury or defect resulting in permanent and complete paralysis of both legs or both arms or one leg and one arm;
- (5) An injury or defect resulting in incurable imbecility or insanity.

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

“Nonresident” means every individual other than a resident.

“Nonresident estate” or “nonresident trust” means one other than resident.

“Partnership” has the meaning explained in section 235-60.

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

“Regulated investment company” means a corporation which qualifies

as such under sections 851 and 852 of the Internal Revenue Code.

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

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

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

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

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

“Uniformed services of the United States” means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term “uniformed services of the United States” applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training.”

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

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

(Approved June 8, 1973.)

*Edited accordingly.

A Bill for an Act Relating to the State Budget.

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

PART I. GENERAL PROVISIONS

SECTION 1. SHORT TITLE. This act shall be known and may be cited as the General Appropriation Act of 1973.

SECTION 2. DEFINITIONS. Unless otherwise clear from the context, as used in this act:

(a) "Program ID" means the unique identifier for the specific program, and consists of the abbreviation for the organization responsible for carrying out the program, followed by the organization number for the program.

(b) "Expending agency" means the executive department, independent commission, bureau, office, board, or other establishment of the State government (other than the legislature), the political subdivision of the State, or any quasi-public institution supported in whole or in part by State funds, which is authorized to expend specified appropriations made by this act. Abbreviations, where used to denote the expending agency, shall mean the following:

AGR	Department of Agriculture
AGS	Department of Accounting & General Services
ATG	Department of Attorney General
BUF	Department of Budget and Finance
DEF	Department of Defense
EDN	Department of Education
GOV	Office of the Governor
HHL	Department of Hawaiian Home Lands
HTH	Department of Health
JUD	Judiciary
LBR	Department of Labor & Industrial Relations
LNR	Department of Land & Natural Resources
LTG	Office of the Lieutenant Governor
PED	Department of Planning & Economic Development
PER	Department of Personnel Services
REG	Department of Regulatory Agencies
SOC	Department of Social Services & Housing
SUB	Subsidies
TRN	Department of Transportation
TAX	Department of Taxation
UOH	University of Hawaii
COH	County of Hawaii
CCH	City & County of Honolulu
COM	County of Maui
COK	County of Kauai

(c) "Source of funding" means the source from which funds are appropriated, or authorized, as the case may be, to be expended for the programs

and projects specified in this act. All appropriations are preceded by letter symbols enclosed in parentheses. Such letter symbols, where used, shall have the following meaning:

- (A) general fund
- (B) special fund
- (C) general obligation bond fund
- (D) general obligation bond fund with debt service cost to be paid from special funds
- (E) revenue bond funds
- (J) federal aid interstate funds
- (K) federal aid primary funds
- (L) federal aid secondary funds
- (M) federal aid urban funds
- (N) other federal funds
- (R) private contributions
- (S) county funds
- (T) trust funds
- (X) other funds

(d) "Position ceiling" means the maximum number of permanent positions that an expending agency is authorized for a particular program during a specified period or periods, as denoted by an asterisk.

(e) "Capital project number" means the official number of the capital project, as assigned by the responsible organization.

PART II. PROGRAM APPROPRIATIONS

SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the sources of funding specified to the expending agencies designated for the fiscal biennium beginning July 1, 1973 and ending June 30, 1975. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each year, except as provided elsewhere in this act.

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Item No.	Program	Org. No.	Exp. Agy.	APPROPRIATIONS					Total Biennium 1973-1975
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E	
A. ECONOMIC DEVELOPMENT									
COMMERCE AND INDUSTRY									
Manufacturing and Mining									
Economic Assistance for M & M									
1	Operating	PED 102		1.00*	1.00*		15,711A	15,711A	31,422A
			PED	88,000B	92,000B				180,000B
2	Productivity Improvement & Mgt Asst—M&M	PED 103		2.00*	2.00*		24,769A	25,921A	50,690A
	Operating		PED						
3	Products Developmt & Mkt for M & M	PED 104		1.50*	1.50*		123,484A	123,484A	246,968A
	Operating		PED						
Transportation, Communications & Utility									
Services Development & Mkt—T,C,&U									
4	Operating Investment: Capital	LNR 140		3.00*	3.00*		55,605A	55,704A	111,309A
	Trade and Finance		LNR	4,753,000C					4,753,000C
5	Economic Assistance for Trade & Finance	PED 105					144,180A	147,734A	291,914A
	Operating		PED						
6	Services Development & Mkt—Trade	PED 107		1.00*	1.00*		187,322A	187,322A	374,644A
	Operating		PED	14,00*	16,00*		342,476B	380,529B	723,005B
	Investment: Capital		PED	726,000C					726,000C

7	Tourism and Services Services Development & Mkt—Tourism	113	PED	.50*	1,702,125A	1,702,124A	.50*	3,404,249A
	Operating		PED					
8	General Support for Commerce & Industry	119	PED	11.50*	248,329A	275,599A	11.50*	523,928A
	Operating		PED					
	AGRICULTURE							
	Economic Assistance for Agriculture							
	Loans for Agriculture							
	Farms and Ranches—Loans							
9	Department of Agriculture—Loans	101	AGR	10.00*	2,155,365B	2,385,179B	10.00*	4,540,544B
	Operating		AGR					
10	Dept of Hawaiian Home Lands—Loans	101	HHL	2.62*	44,696B	46,541B	2.62*	91,237B
	Operating		HHL					
11	Commercial Fisheries—Loans	151	LNR	.30*	3,615A	3,615A	.30*	7,230A
	Operating		LNR					
12	Price and Production Controls for Agr	103	AGR	8.00*	112,688A	111,616A	8.00*	224,304A
	Operating		AGR					
	Productivity Improvement & Mgt Asst—Ag							
	Production & Mgt Methods Improvement—Ag							
	Farms and Ranches—Methods Improvement							
13	HHL—Production & Mgt Methods Improvem	111	HHL	17.18*	214,201B	221,851B	17.18*	436,052B
	Operating		HHL					
14	Forestry—Production & Mgt Methods Improv	152	LNR	.85*	8,740A	8,606A	.85*	17,346A
	Operating		LNR		25,000N	25,000N		50,000N

Item No.	Program	Program No.	Exp. Agency	APPROPRIATIONS						Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E	C D E		
15	Commercial Fishery—Production & Mgt Met Operating	LNR 153	LNR	7.02* 82,972A .58*	7.02* 87,614A .58*					170,586A	
16	Plant Pest and Disease Control Plant Quarantine	AGR 121	AGR	35.50* 426,419A	35.50* 434,821A					861,240A	
17	Plant Pest Control Operating	AGR 122	AGR	23.50* 381,089A 6,000N	23.50* 388,113A 6,000N					769,202A 12,000N	
18	Animal Pest and Disease Control Animal Quarantine	AGR 131	AGR	35.00* 561,138A	35.00* 572,632A					1,133,770A	
19	Animal Disease Control Operating	AGR 132	AGR	21.00* 400,297A 16,000T	21.00* 391,354A 16,000T					791,651A 32,000T	
20	Irrigation Services for Agriculture Operating	LNR 161	LNR	15.00* 87,477A 111,901B	15.00* 80,618A 109,634B					168,095A 221,535B	

21	Product Development and Marketing for Agriculture Product Development & Mkt for Agriculture Forestry—Products Development	LNR 172	5.09* 137,920A	5.09* 136,932A	274,852A
22	Commercial Fishery—Product Development	LNR 171	1.94* 15,188A .50* 8,436B 1.76* 29,528N 53,000C	1.94* 17,531A .50* 8,018B 1.76* 28,064N C	32,719A 16,454B 57,592N 53,000C
23	Investment: Capital AGR—Distribution Systems Improvement	AGR 151	32.00* 485,063A 80,000B 24,112N 4,500X	32.00* 492,977A 88,000B 24,429N 4,500X	978,040A 168,000B 48,541N 9,000X
24	General Support for Agriculture Data Collection for Agriculture Production Data Collection for Agriculture	AGR 190	8.00* 112,097A	8.00* 109,733A	221,830A
25	Operating Marketing Data Collection for Agriculture	AGR 191	4.00* 53,547A	4.00* 55,757A	109,304A
26	General Administration for Agriculture	AGR 192	27.00* 339,736A	27.00* 365,528A	705,264A
27	Operating ECONOMIC PLANNING AND COORDINATION Econ Planning & Policy Anlys for Eco Dev PED-Econ Pning & Policy Anlys for Econ De Operating	PED 131	2.00* 31,423A	2.00* 31,423A	62,846A

Item No.	Program	Org.	No.	Exp. Agy.	APPROPRIATIONS				Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
					FY 1973-1974	FY 1974-1975	C O E	C O E		
28	UH—Lnd Stdy Bu—Ec Plg & Ply Aly fr Ec D Operating	UOH	198	UOH	6.00* 57,809A	.00* A		57,809A		
29	Basic Econ Resrch for Econ Develop PED—Basic Econ Resrch for Econ Dev Operating	PED	132	PED	1.00* 14,242A	1.00* 14,958A		29,200A		
30	UH—Erc—Basic Econ Resrch for Econ Dev Operating	UOH	199	UOH	7.22* 137,486A	7.22* 139,506A		276,992A		
31	Data and Statistics for Econ Development Data Collection for Econ Development Operating	PED	141	PED	1.50* 22,255A	1.50* 22,531A		44,786A		
32	Publication and Distr—Econ Development Operating	PED	142	PED	1.50* 22,256A	1.50* 22,532A		44,788A		
33	General Support for Econ Development PED—Gen Support for Econ Development Operating	PED	191	PED	4.00* 41,492A	4.00* 42,983A		84,475A		
34	GOV—Gen Support for Econ Development Operating	GOV	109	GOV	1.00* 59,366A	1.00* 60,051A		119,417A		

B. EMPLOYMENT

**FULL AND EQUAL OPPORTUNITY
TO WORK**

1	Fair Employment Practices Employer Practices	LBR	101	LBR	2.30* 29,721A	2.30* 30,502A	60,223A
2	Regulation of Pvt Employment Agencies	LBR	102	LBR	.40* 4,328A	.40* 4,492A	.8,820A
3	Placement Services Job Redefinition and Development	LBR	111	LBR	19.50* 267,117N	19.50* 274,052N	541,169N
4	Individual Employability Basic Education for Employability	LBR	121	LBR	2.50* 35,079N	2.50* 36,771N	71,850N
5	Skills Development LBR—Skills Development	LBR	122	LBR	1.50* 282,502A 26.50* 362,142N	1.50* 282,861A 26.50* 373,141N	565,363A 735,283N
6	UoH—Manpower Development & Training Operating	UOH	852	UOH	96,880A 95,081B 112.00* 3,502,932N	100,880A 97,000B 112.00* 3,494,995N	197,760A 192,081B 6,997,927N
7	Apprenticeship & Other Trng Programs Operating	LBR	123	LBR	7.24* 92,882A 3.00* 149,536N	7.24* 93,049A 3.00* 149,528N	185,931A 299,064N

Item No.	Program	Program No.	Exp. Agency	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	FY 1974-1975	C D E		
8	Employment Counseling	LBR 124	LBR	81,50*	81,50*		81,50*			
	Operating									
	Job Placement			1,111,375N	1,144,895N					2,256,270N
9	Individual Assessment for Employability	LBR 131	LBR	25,90*	25,90*		25,90*			715,136N
	Operating									
10	Job & Applicant Matching	LBR 132	LBR	13,918A	14,603A		14,603A			28,521A
	Operating			65,00*	65,00*		65,00*			
				887,768N	911,789N		911,789N			1,799,557N
11	DECENT WORKING CONDITIONS Occupational Health	HTH 671	HTH	2,50*	2,50*		2,50*			72,197A
	Operating			35,899A	36,298A		36,298A			
12	Employment of Minors	LBR 141	LBR	3,16*	3,16*		3,16*			67,056A
	Operating			33,266A	33,790A		33,790A			
13	FAIR TREATMENT & EQUITABLE COMPENSATION	HTH 595	HTH	19,58*	19,58*		19,58*			465,873A
	Wages, Hours, and Compensation			230,741A	235,132A		235,132A			
14	Wages, Hours, and Compensation	LBR 151	LBR							
	Operating									
15	Labor-Management Relations Public Employment	LBR 161	LBR	354,194A	357,174A		357,174A			711,368A
	Operating									

16	Private Employment	LBR	162									
	Operating	LBR								1.50*	32,576A	65,152A
ASSISTANCE IN WORK RELATED DIFFICULTIES												
17	Unemployment Compensation	LBR	171									
	Operating	LBR									23,000,000B	44,000,000B
		LBR								120.00*	2,139,832N	4,243,761N
		LBR								40.12*	480,788A	951,677A
18	Disability Compensation	LBR	181								744,000B	1,364,000B
	Work Connected Disabilities	LBR									23.48*	615,601A
	Operating	LBR								470,889A	310,880A	38,750B
		LBR								620,000B	21,500B	
19	Non-Work Connected Disabilities	LBR	182									
	Operating	LBR									9.70*	
		LBR									208,571A	416,639A
		LBR									76,572B	153,145B
		LBR									33.02*	
		LBR									867,220N	1,755,580N
		LBR									731,000C	731,000C
20	Vocational Rehabilitation	SOC	802									
	Physical Disabilities—Employment	SOC										
	Operating	SOC									9.70*	
		SOC									208,068A	416,639A
		SOC									76,572B	153,145B
		SOC									33.02*	
		SOC									867,220N	1,755,580N
		SOC									731,000C	731,000C
21	Investment: Capital	SOC	803									
	Mental Disabilities—Employment	SOC										
	Operating	SOC									11.53*	
		SOC									388,895A	803,726A
		SOC									47.23*	
		SOC									1,644,524N	3,330,493N
22	Behavioral Disabilities—Employment	SOC	804									
	Operating	SOC									1.12*	
		SOC									37,213A	73,089A
		SOC									4.59*	
		SOC									157,702N	309,963N

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total Biennium 1973-1975 E.
				FY 1973-1974 E.	FY 1974-1975 E.	C D E	C D E	C D E	
OVERALL PROGRAM SUPPORT—									
EMPLOYMENT									
Data Gathering, Research, Analysis—Employ									
23	Lbr—Data Gathering, Research & Analysis	LBR 901		2.90*	2.90*	63,144A	24.10*	124,701A	
	Operating		LBR	24.10*	400,965N			790,941N	
24	Commission on Manpower & Full Employment	GOV 801		7.00*	7.00*	148,544A	6.00*	294,213A	
	Operating		GOV	151,823N	155,767N			307,590N	
25	General Administration for Employment	LBR 902		16.76*	16.76*	215,173A	28.00*	481,900A	
	Operating		LBR	476,414N	490,937N			967,351N	
C. TRANSPORTATION FACILITIES									
AIR TRANSPORTATION FACILITIES & SERVICES									
Airports Facilities & Services									
Honolulu International Airport Fac & Svc									
Overseas Facilities & Services for HIA									
I	Operating Investment: Capital	TRN 102		223,21*	225,81*	4,030,198B	4,640,326B	8,670,524B	
			TRN	4,453,000B				4,453,000B	

2	Inter-Island Facilities & Svcs for HIA	TRN	TRN	103	TRN	9,303,000D 2,547,000E 9,303,000N	D E N	9,303,000D 2,547,000E 9,303,000N
	Operating	TRN				114.67*	116.03*	4,504,905B
3	Gen Aviation Facilities & Svcs for HIA	TRN	TRN	104	TRN	2,090,037B	2,414,868B	
	Operating	TRN				3.37*	3.41*	131,906B
4	Gen Lyman Field Facilities & Services Overseas Fac & Svcs for Gen Lyman Field	TRN	TRN	111	TRN	10.88*	12.80*	356,389B
	Operating	TRN				163,313B	193,076B	
5	Inter-Island Fac & Svcs for Gen Lyman Fd	TRN	TRN	112	TRN	22.78*	26.80*	750,200B
	Operating	TRN				343,945B	406,255B	
6	Gen Aviation Fac & Svcs for Gen Lyman Fd	TRN	TRN	113	TRN	.34*	.40*	11,148B
	Operating	TRN				5,103B	6,045B	
7	Ke-ahole Airport Facilities & Services Inter-Island Fac & Svcs fr Ke-ahole Arprt	TRN	TRN	114	TRN	15.47*	15.47*	563,267B
	Operating	TRN				285,381B	277,886B	
8	Gen Aviation Fac & Svcs fr Ke-ahole Arprt	TRN	TRN	115	TRN	1.53*	1.53*	55,313B
	Operating	TRN				28,017B	27,296B	
9	Waimea-Kohala Airport Fac & Svcs Inter-Island F&S fr Waimea-Kohala Airprt	TRN	TRN	116	TRN	1.86*	1.86*	74,465B
	Operating	TRN				36,729B	37,736B	200,000D
	Investment: Capital	TRN				200,000D		
10	Gen Aviation F&S fr Waimea-Kohala Airprt	TRN	TRN	117	TRN	.14*	.14*	5,607B
	Operating	TRN				2,768B	2,839B	

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E		
11	Upolu Airport Facilities & Service Inter-Island Fac & Svcs for Upolu Airprt Operating Investment: Capital	TRN 118	TRN	1,448B 20,000D	1,477B D			2,925B 20,000D		
12	Gen Aviation Fac & Svcs for Upolu Airprt Operating	TRN 119	TRN	1,448B	1,477B			2,925B		
13	Kahului Airport Facilities & Service Inter-Island Fac & Svcs fr Kahului Arprt	TRN 131	TRN	32.67* 448,522B 660,000D	32.67* 437,171B D			885,693B 660,000D		
14	Kahului Airport Gen Aviation Fac & Svcs Operating	TRN 132	TRN	.33* 4,503B	.33* 4,402B			8,905B		
15	Hana Airport Facilities & Service Inter-Island Fac & Svcs for Hana Airprt	TRN 133	TRN	.64* 14,724B	.64* 10,497B			25,221B		
16	Gen Aviation Fac & Svcs for Hana Airprt Operating	TRN 134	TRN	.36* 8,283B	.36* 5,903B			14,186B		
17	Molokai Airport Facilities & Service Inter-Island Fac & Svcs fr Molokai Arprt	TRN 141	TRN	2.22* 40,314B	2.22* 37,110B			77,424B		
18	Gen Aviation Fac & Svcs fr Molokai Arprt Operating	TRN 142	TRN	.78* 14,169B	.78* 13,045B			27,214B		

19	Lanai Airport Facilities & Service Inter-Island Fac & Svcs for Lanai Airport	TRN	151	TRN	1.54*	1.54*	22,630B	59,606B
	Operating				36,976B			
20	Gen Aviation Fac & Svcs for Lanai Airport	TRN	152	TRN	.46*	.46*	6,758B	17,802B
	Operating				11,044B			
21	Lihue Airport Facilities & Service Inter-Island Fac & Svcs for Lihue Airport	TRN	161	TRN	23.31*	23.31*	276,983B	571,180B
	Operating				294,197B			920,000D
	Investment: Capital				920,000D			630,000N
					630,000N			
22	Gen Aviation Fac & Svcs for Lihue Airport	TRN	162	TRN	.69*	.69*	8,215B	16,973B
	Operating				8,758B			
23	Bellows Field Facilities & Service	TRN	171	TRN	1.00*	1.00*	28,548B	74,242B
	Operating				45,694B			
24	Central Oahu Airport Facilities & Service Investment: Capital	TRN	175	TRN	1,710,000E	1,710,000E		1,710,000E
					865,000N	865,000N		865,000N
25	Dillingham Field Facilities & Service	TRN	172	TRN	1.00*	1.00*	30,176B	65,137B
	Operating				34,961B			
26	Ala Wai Heliport Facilities & Services Operating	TRN	173	TRN	500B	500B		1,000B
27	Kalaupapa Airport Facilities & Services	TRN	181	TRN	1.00*	1.00*	14,863B	35,550B
	Operating				20,687B			
28	Port Allen Airport Facilities & Services Operating	TRN	191	TRN	710B	710B		1,420B

Item No.	Program	Program No.	Exp. AGY.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E		
29	Air Transportation Fac & Serv Support Gen Adm for Air Transpion Fac & Svc Operating Investment: Capital	TRN 293	TRN	68,00*	68,00*			68,00*	43,089,943B 640,000B	
30	WATER TRANS FACILITIES & SERVICES Harbors Facilities & Services Honolulu Harbor Facilities & Services Overseas Fac—& Svcs fr Honolulu Harbor	TRN 301	TRN	60,24*	60,24*			60,24*	4,476,717B 300,000B 7,160,000D	
31	Operating Investment: Capital Inter-Island Fac & Svc fr Honolulu Harbo	TRN 302	TRN	33,78*	33,78*			33,78*	1,617,558B	
32	Operating Hilo Harbor Facilities & Services Overseas Fac & Svcs for Hilo Harbor	TRN 311	TRN	791,042B	826,516B			826,516B	201,729B	
33	Operating Inter-Island Fac & Svcs for Hilo Harbor	TRN 312	TRN	3,50*	3,50*			3,50*	183,626B 1,560,000D	
34	Operating Investment: Capital Kawaihae Harbor Facilities & Services Overseas Fac & Svcs fr Kawaihae Harbor	TRN 313	TRN	3,55*	3,55*			3,55*	53,911B	

35	Kawaihae Harbor Inter-Island Fac & Svcs	TRN	314						
	Operating	TRN		1.79*	39,810B	1.79*	42,218B	82,028B	
36	Kahului Harbor Facilities & Services								
	Overseas Fac & Svcs for Kahului Harbor	TRN	331						
	Operating	TRN		4.03*	117,152B	4.03*	94,494B	211,646B	
37	Inter-Island Fac & Svcs for Kahului Harb	TRN	332						
	Operating	TRN		3.57*	106,123B	3.57*	83,730B	189,853B	
	Investment: Capital	TRN		150,000D				150,000D	
38	Kaunakakai Harbor Facilities & Services	TRN	341						
	Operating	TRN		1.14*	24,363B	1.14*	33,659B	58,022B	
39	Nawiliwili Harbor Facilities & Services								
	Overseas Fac & Svcs fr Nawiliwili Harbor	TRN	361						
	Operating	TRN		3.32*	95,897B	3.32*	90,697B	186,594B	
40	Inter-Island Fac & Svcs fr Nawiliwili Hb	TRN	362						
	Operating	TRN		4.00*	125,961B	4.00*	110,936B	236,897B	
41	Port Allen Harbor Facilities & Services								
	Overseas F&S fr Port Allen Harbor	TRN	363						
	Operating	TRN		.68*	37,212B	.68*	21,228B	58,440B	
42	Inter-Island F&S fr Port Allen Harbor	TRN	364						
	Operating	TRN		.55*	32,320B	.55*	17,830B	50,150B	
43	Kewalo Basin Facilities & Services	TRN	371						
	Operating	TRN		7.67*	144,786B	7.67*	144,441B	289,227B	
44	Other Water Trans Facilities & Services	TRN	401						
	Investment: Capital	TRN		125,000B				125,000B	
		TRN		3,700,000D				3,700,000D	

Item No.	Program	Program No.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
			Exp. Agy.	FY 1973-1974	FY 1974-1975	C D E	C D E		
45	Water Trans Facilities & Svcs Support Plnng & Anlys fr Water Transp'n Fac & Sv	TRN 491		9.75*	9.75*			375,528B 80,000B	
	Operating Investment: Capital	TRN	TRN	183,622B 80,000B	191,906B	B			
46	Gen Adm for Water Transp'n Fac & Svcs Operating	TRN 493	TRN	38.75*	4,818,274B			9,506,518B	
	Operating Investment: Capital	TRN	TRN	4,688,244B	4,818,274B				
LAND TRANSPORTATION FACILITIES & SERVICE									
Corridors & Highways & Services									
Oahu Highways & Services									
47	Interstate H-1 Hwy & Services for Oahu	TRN 501		38.51*	37.70*			2,065,158B 6,679,000D 35,660,000J	
	Operating Investment: Capital	TRN	TRN	1,033,628B 6,679,000D 35,660,000J	1,031,530B	D J			
48	Interstate H-2 Hwy & Services for Oahu	TRN 502		.00*	8.89*			248,615B 1,074,000D 7,316,000J	
	Operating Investment: Capital	TRN	TRN	1,074,000D 7,316,000J	248,615B	D J			
49	Interstate H-3 Hwy & Services for Oahu	TRN 503		6.99*	6.42*			444,711B 16,473,000D 93,602,000J	
	Operating Investment: Capital	TRN	TRN	229,491B 16,473,000D 93,602,000J	215,220B	D J			

50	Primary Highways & Services for Oahu	TRN	504						
	Operating	TRN		117.06*	111.46*	6,852,823B			
	Investment: Capital	TRN		3,589,007B	3,263,816B	4,769,000D	D	4,769,000D	
		TRN		1,138,000K		1,138,000K	K	1,138,000K	
		TRN		46,000M		46,000M	M	46,000M	
51	Secondary Hwys & Services for Oahu	TRN	505						
	Operating	TRN		25.44*	23.53*	1,142,060B		1,142,060B	
	Investment: Capital	TRN		610,600B	531,460B	7,030,000D	D	7,030,000D	
52	Hawaii Highways & Services								
	Primary Hwys & Services for Hawaii	TRN	511						
	Operating	TRN		63.04*	64.17*	2,729,426B		2,729,426B	
	Investment: Capital	TRN		1,430,646B	1,298,780B	8,489,000D	D	8,489,000D	
		TRN		1,673,000K		1,673,000K	K	1,673,000K	
53	Secondary Hwys & Services for Hawaii	TRN	512						
	Operating	TRN		40.96*	46.23*	1,813,226B		1,813,226B	
	Investment: Capital	TRN		871,901B	941,325B	50,000D	D	50,000D	
54	Other Highways & Services for Hawaii	TRN	513						
	Operating	TRN		.00*	3.60*	71,579B		71,579B	
55	Maui Highways & Services								
	Primary Hwys & Services for Maui	TRN	531						
	Operating	TRN		22.08*	26.88*	2,180,831B		2,180,831B	
	Investment: Capital	TRN		1,045,587B	1,135,244B	869,000D	D	869,000D	
		TRN		381,000K		381,000K	K	381,000K	
56	Secondary Hwys & Services for Maui	TRN	532						
	Operating	TRN		12.88*	15.68*	775,883B		775,883B	
	Investment: Capital	TRN		457,949B	317,934B	1,746,000D	D	1,746,000D	
		TRN		1,743,000L		1,743,000L	L	1,743,000L	

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS						Total Biennium 1973-1975	Subject to Program Appropriations Section Numbers
				FY 1973-1974	FY 1974-1975	C O D E	C O D E	C O D E			
57	Other Hwys & Services for Maui	TRN 533		11.04*	13.44*						
	Operating Investment: Capital		TRN	146,323B	182,334B					328,657B	
			TRN	300,000D		D				300,000D	
58	Molokai Highways & Services										
	Primary Hwys & Services for Molokai	TRN 541		1.76*	1.76*					43,827B	
	Operating		TRN	21,756B	22,071B						
59	Secondary Hwys & Services for Molokai	TRN 542									
	Operating		TRN	5.50*	5.50*					526,940B	
	Other Hwys & Services for Molokai	TRN 543									
	Operating		TRN	3.74*	3.74*					93,153B	
				46,226B	46,927B						
61	Lanai Highways & Services										
	Secondary Hwys & Services for Lanai	TRN 551									
	Operating		TRN	3.00*	3.00*					131,943B	
				99,546B	32,397B						
62	Kauai Highways & Services										
	Primary Hwys & Services for Kauai	TRN 561									
	Operating Investment: Capital		TRN	27.43*	27.88*					1,396,493B	
			TRN	727,027B	669,466B	D				1,508,000D	
				1,508,000D							
63	Secondary Hwys & Services for Kauai	TRN 562									
	Operating		TRN	10.65*	10.65*					526,827B	
				347,598B	179,229B						

64	Other Hwys & Services for Kauai Operating	TRN	563	TRN	2.92* 40,414B	2.47* 32,886B	73,300B
65	Land Trans Facilities & Services Support Gen Adm for Land Transportn Fac & Service Operating Investment: Capital	TRN	693	TRN TRN TRN	49,00* 10,145,306B 815,000D 1,113,000N	49,00* 11,376,810B D N	21,522,116B 815,000D 1,113,000N
66	OVERALL PROGRAM SUPPORT FR TRANSPTN F&SV Overall Plng & Research fr Transportn F&S Operating	TRN	901	TRN	3,00* 99,136B	3,00* 100,289B	199,425B
67	Gen Adm for Transportation Fac & Service Operating	TRN	902	TRN TRN	52,00* 1,162,923B 151,987X	52,00* 1,242,003B 155,940X	2,404,926B 307,927X
D. ENVIRONMENTAL PROTECTION							
NATURAL PHYSICAL ENVIRONMENT Pollution Control							
1	Sewage, Indus By-Prds, Htd Liquids & Silt Operating	HTH	841	HTH	20,94* 251,890A 6.56*	20,94* 258,043A 6.56*	509,933A 177,191N
2	Mun, Indus & Agricultural Solid Wastes Operating	HTH	842	HTH HTH	3,00* 29,229A 2,00* 28,680N	3,00* 30,650A 2,00* 30,114N	59,879A 58,794N

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Exp.
Agy.

Org. No.

Program

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Smoke, Particulate Matter, & Noxious Gases

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Operating

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Radiation

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Noise

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Operating

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Operating and Enhancement
Fish and Wildlife

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Operating

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Forests and Open Spaces

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Operating
Investment: Capital

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Inland Waters

Item
No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Operating
Investment: Capital

Item
No.

9	General Support for Nat Phys Environment Office of Environmental Quality Control	GOV	401	GOV	8.00* 282,362A	8.00* 288,146A	570,508A
10	Operating Gen Administration—Nat Phys Envir LNR—Natural Physical Environment	LNR	906	LNR	31.00* 481,680A	31.00* 527,220A	1,008,900A
11	Operating HTH—Natural Physical Environment	HTH	849	HTH	4.00* 93,776A	4.00* 94,362A	188,138A
E. HEALTH							
PHYSICAL HEALTH							
Communicable Diseases							
Tuberculosis							
1	Prevention and Detection of TB	HTH	101	HTH	29.50* 407,328A 3.58*	29.50* 414,907A 3.58*	822,235A 76,869N 164,000C
2	Operating Investment: Capital Outpatient Treatment of TB	HTH	102	HTH	10.27* 192,240A 11.32* 134,477N	10.27* 195,586A 11.32* 137,445N	387,826A 271,922N
3	Operating Inpatient Treatment of TB HTH—Tuberculosis Inpatient	HTH	103	HTH	24.89* 290,809A 2.70* 24,390B	24.89* 295,596A 2.70* 24,390B	586,405A 48,780B
4	Operating Leahi Hospital—TB Inpatient	UOH	800	UOH	996,955A 111.28* 500,607B	1,050,072A 111.28* 512,867B	2,047,027A 1,013,474B

Item No.	Program	Org. No.	Exp. Agy.	Program No.	APPROPRIATIONS						Total Biennium 1973-1975	Subject to Program Appropriations Section Numbers		
					FY 1973-1974	FY 1974-1975	C D E	C D E	C D E					
5	Leprosy Prevention and Detection of Leprosy	HTH	111		1.00*	1.00*								
	Operating				18,238A	18,238A								36,476A
6	Outpatient Treatment of Leprosy	HTH	112		1.00*	1.00*								
	Operating				28,844A	29,156A								58,000A
7	Inpatient Treatment of Leprosy	HTH	113		102.00*	102.00*								
	Operating				1,500,215A	1,510,980A								3,011,195A
8	Venereal Disease Prevention and Detection of VD	HTH	121		83,000B	82,000B								165,000B
	Operating				4.79*	4.79*								131,178A
9	Treatment of Venereal Disease	HTH	122		66,047A	65,131A								
	Operating				7.47*	7.47*								236,674N
10	Other Communicable Diseases Prev & Detection of Other Comm Disease	HTH	131		128,022N	108,652N								
	Operating				1.00*	1.00*								62,821A
					32,198A	30,623A								
					27.59*	27.59*								895,077A
					441,955A	453,122A								
					12.93*	5.93*								
					152,420N	73,679N								226,099N

11	Supporting Services for Comm Diseases Operating	HTH	139	HTH	6,00* 76,831A 1,00* 16,073N	6,00* 77,134A 1,00* 16,073N	153,965A 32,146N
12	Chronic Diseases Prevention & Detection of Chronic Diseases Operating	HTH	151	HTH	14,70* 295,745A 6,90* 85,057N	14,70* 302,327A 6,90* 85,771N	598,072A 170,828N
13	Dental Diseases Prevention & Detection of Dental Disease Operating	HTH	141	HTH	34,00* 326,791A	34,00* 335,480A	662,271A
14	Treatment of Dental Disease Operating	HTH	142	HTH	6,00* 91,554A 1,20* 15,511N	6,00* 94,190A 1,20* 16,295N	185,744A 31,806N
15	Sensory Deficiencies Prevention & Detection of Sensory Defici Operating	HTH	171	HTH	23,60* 302,039A 4,10* 45,692N	23,60* 311,564A 4,10* 46,870N	613,603A 92,562N
16	Nutritional Deficiencies Prevention & Detection of Nutritional De Operating	HTH	181	HTH	5,00* 59,821A 2,00* 31,030N	5,00* 61,456A 2,00* 32,586N	121,277A 63,616N

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Item
No.

Program

Exp.
Agy.

Org. No.

Total
Biennium
1973-1975

C
FY
1974-1975

C
FY
1973-1974

Exp.
Agy.

Org. No.

Program

Item
No.

Item No.	Program	Exp. Agy.	Org. No.	Program No.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers	
					C FY 1973-1974	C FY 1974-1975	C D E	C D E	C D E			
17	Maternal Health Services Family Planning Services HTH—Family Planning Services Operating	HTH	161		3.33*	3.33*	115,407A	123,443A	6.20*	6.20*	238,850A	
18	DSSH—Family Planning Services Operating	SOC	161		2.37*	2.37*	30,882A	31,294A	2.88*	2.88*	62,176A	
19	Short Term Care for Oth Acute Ill & Cond Hospital Care—Short Term Acute Hilo Hospital—Short Term Acute Operating	HTH	211		3.52*	10.15*	1,842,661A	1,885,914A	283.61*	276.98*	3,728,575A	
20	Honokaa Hospital—Short Term Acute Operating	HTH	212		8.87*	9.48*	2,333,221B	2,332,237B	246,776B	246,683B	4,665,458B	
21	Ka'u Hospital—Short Term Acute Operating	HTH	213		8.90*	9.13*	202,589A	220,499A	20.99*	20.38*	423,088A	
											493,459B	
											300,902A	
											293,605B	

22	Kohala Hospital—Short Term Acute Operating	HTH	214	11.38* 176,094A 9.68*	11.53* 182,148A 9.53*	358,242A 194,056B
23	Kona Hospital—Short Term Acute Operating	HTH	215	13.09* 397,443A 48.05*	38.18* 687,613A 34.46*	1,085,056A 768,785B
24	Maui Memorial Hospital—Short Term Acute Operating	HTH	221	39.87* 1,227,250A 199.63*	39.97* 1,313,945A 199.53*	2,541,195A 4,468,740B
25	Hana Medical Center—Short Term Acute Operating	HTH	222	3.51* 88,341A 2.49*	3.51* 90,683A 2.48*	179,024A 75,708B
26	Kula Sanatorium—Short Term Acute Operating	HTH	223	8.39* 120,545A 10.16*	8.60* 122,647A 9.95*	243,192A 212,112B
27	Lanai Community Hosp—Short Term Acute Operating	HTH	241	12.04* 194,454A 4.70*	12.25* 205,655A 4.49*	400,109A 107,014B
28	Kauai Veterans Hospital—Short Term Acute Operating	HTH	251	9.00* 542,489A 58.00*	8.20* 572,744A 58.80*	1,115,233A 1,295,747B

Item No.	Program	Program No.		Exp. Agy.	APPROPRIATIONS						Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
		Org.	No.		FY 1973-1974	FY 1974-1975	C D E	C D E	C D E			
29	Long Term Maint Care for Oth Ill & Cond Hospital Care—Long Term Maintenance Maluhia Hospital—Long Term Maintenance Operating	HTH	301	HTH	51.57*	33.83*	1,050,046A	107.17*	2,035,337A	2,386,886B		
					985,291A	53.83*						
					109.43*	1,193,273B						
30	Leahi Hospital—Long Term Maintenance Operating	UOH	801	UOH	24,283A	17,745A	175.37*	2,081,594B	42,028A	4,093,891B		
					175.37*	175.37*						
					2,012,297B	2,081,594B						
31	Hilo Hospital—Long Term Maintenance Operating	HTH	311	HTH	41.82*	43.59*	754,393A	69.20*	1,468,742A	1,681,692B		
					714,349A	754,393A						
					70.97*	840,846B						
32	Honokaa Hospital—Long Term Maintenance Operating	HTH	312	HTH	1.79*	1.96*	54,915A	6.18*	106,951A	158,754B		
					52,036A	54,915A						
					6.35*	79,377B						
33	Ka'u Hospital—Long Term Maintenance Operating	HTH	313	HTH	4.04*	4.09*	61,896A	3.16*	121,052A	75,054B		
					59,156A	61,896A						
					3.21*	37,859B						

34	Kohala Hospital—Long Term Maintenance	HTH	314						
	Operating	HTH		2.38*	2.44*	81,751A			
				40,797A	40,954A				
				3.44*	3.38*	72,000B			
				36,000B	36,000B				
35	Kona Hospital—Long Term Maintenance	HTH	315						
	Operating	HTH		1.53*	6.62*	258,059A			
				94,432A	163,627A				
				15.33*	10.74*	256,472B			
				127,246B	129,228B				
36	Kula Sanatorium—Long Term Maintenance	HTH	323						
	Operating	HTH		20.55*	22.36*	874,714A			
				429,099A	445,615A				
				91.85*	90.04*	1,886,974B			
				943,657B	943,317B				
37	Lanai Community Hospital—Long Term	HTH	341						
	Operating	HTH		.01*	.01*	9,694A			
				4,847A	4,847A				
				.75*	.75*	18,438B			
				9,219B	9,219B				
38	Samuel Mahelona Hospital—Long Term Maint	HTH	352						
	Operating	HTH		41.34*	41.54*	995,942A			
				493,272A	502,670A				
				13.80*	13.60*	300,344B			
				150,172B	150,172B				
39	Mental Health Preventive Services for Mental Health	HTH	401						
	Operating	HTH		2.60*	2.60*	67,612A			
				33,604A	34,008A				
40	Routine Treatment & Rehab Services for M	HTH	420						
	Operating	HTH		268.90*	268.90*	6,860,695A			
				3,379,744A	3,480,951A				
				8.00*	8.00*	190,490N			
	Investment: Capital	AGS		95,245N	95,245N	1,000C			
				1,000C					

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Item
No.

Program

Org. No.

Exp.
Agy.

FY
1973-1974

FY
1974-1975

Total
Biennium
1973-1975

41 Emergent & Moderately Intense Treatmt—M

HTH 430

Operating

193.15*

193.55*

5,469,498A

HTH

2,712,396A

2,757,102A

22.40*

HTH

217,298B

217,081B

434,379B

HTH

17,500X

17,800X

35,300X

AGS

30,000C

C

30,000C

Investment: Capital

42 Highly Intensive Treatment Services—MH

HTH 440

HTH—Highly Intensive Treat Services—MH

41.50*

41.50*

1,116,630A

HTH

553,287A

563,343A

UOH

238,058A

253,777A

491,835A

UOH

30.35*

30.35*

UOH

22,911B

15,907B

38,818B

General Support for Mental Health

HTH 491

Data Collection for Mental Health

4.00*

4.00*

73,842A

HTH

36,826A

37,016A

HTH

3,745N

3,745N

7,490N

Research and Analysis for Mental Health

HTH 492

Operating

3.00*

3.00*

89,589A

HTH

44,618A

44,971A

Internship Training for Mental Health

HTH 493

Operating

6.00*

6.00*

171,942A

HTH

85,971A

85,971A

77,442N

HTH

38,721N

38,721N

47	Staff Development for Mental Health	HTH	494	HTH	21.00* 251,724A 1.00* 25,000N	21.00* 255,402A 1.00* 25,000N	507,126A 50,000N
48	General Administration for Mental Health	HTH	495	HTH	112.50* 1,379,232A	112.50* 1,378,972A	2,758,204A
49	Mental Retardation Early Id & Treatment Services for MR	HTH	595	HTH	8.30* 264,775A 15.90* 365,843N	8.30* 270,367A 15.90* 366,860N	535,142A 732,703N
50	Community Based Services for the MR	HTH	501	HTH	28.50* 363,121A	28.50* 369,717A	732,838A
51	Waimano Training School and Hospital	HTH	511	HTH	378.00* 3,870,671A 5.00* 71,473N 13,000C	372.00* 3,883,898A .00* N C	7,754,569A 71,473N 13,000C
52	Leahi Hospital—Mental Retardation	UOH	803	UOH	11.00* 135,234B	11.00* 136,910B	272,144B
53	General Support for Mental Retardation General Administration for Mental Retard	HTH	594	HTH	11.00* 120,990A	11.00* 121,283A	242,273A
54	Community Health Services Vector Control	HTH	601	HTH	84.00* 765,283A 6,000T 15,147X	84.00* 779,394A 6,000T 15,797X	1,544,677A 12,000T 30,944X

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS										Subject to Program Appropriation Provisions Section Numbers		
				1973-1974		1974-1975		1975-1976		1976-1977		Total				
				FY	O	FY	O	FY	O	FY	O	Biennium	D			
55	Narcotics and Dangerous Drugs Control Operating	HTH 611	HTH	6.00*	75,849A	1.00*	13,563N	6.00*	74,489A	1.00*	14,267N	6.00*	74,489A	1.00*	150,338A	27,830N
56	Drinking Water Quality Operating	HTH 621	HTH	2.12*	26,928A	.32*	3,739N	2.12*	27,475A	.32*	3,822N	2.12*	27,475A	.32*	54,403A	7,561N
57	Public Sanitation Operating	HTH 631	HTH	56.00*	694,156A			56.00*	709,487A			56.00*	709,487A		1,403,643A	
58	Air Conditioning & Fumigation Control Operating	HTH 641	HTH	1.60*	21,249A			1.60*	22,065A			1.60*	22,065A		43,314A	
59	Medical Standards Setting & Enforcement Medical Facility Stds, Inspection, License Operating	HTH 701	HTH	4.00*	56,571A	10.00*	197,987N	4.00*	59,344A	10.00*	201,597N	4.00*	59,344A	10.00*	115,915A	399,584N
60	Medical Product & Svcs Testing & Certif Operating	HTH 702	HTH	1.00*	10,820A			1.00*	11,354A			1.00*	11,354A		22,174A	

61	Overall Program Support for Health Public Health Nursing Services	HTH	902	HTH	10.71* 151,634A 1.45* 16,839N	10.71* 154,069A 1.45* 17,205N	305,703A 34,044N
	Operating	HTH					
62	Health Education	HTH	908	HTH	16.00* 260,214A 1.00* 9,413N	16.00* 251,198A 1.00* 9,413N	511,412A 18,826N
	Operating	HTH					
63	Records & Data Collection for Health	HTH	903	HTH	19.50* 172,238A	19.50* 173,835A	346,073A
	Operating	HTH					
64	Research and Analysis for Health	HTH	904	HTH	12.50* 205,086A 3.00* 33,583N	12.50* 212,030A 3.00* 33,583N	417,116A 67,166N
	Operating	HTH					
	Overall Program Planning, Eval, Budget— Health						
65	Program Planning, Evaluation, Budget—HTH	HTH	905	HTH	6.00* 73,571A	6.00* 75,368A	148,939A
	Operating	HTH					
66	Comprehensive Health Planning	HTH	906	HTH	2.00* 43,248A 11.50* 185,445N	2.00* 48,178A 11.50* 189,004N	91,426A 374,449N
	Operating	HTH					
67	General Administration for Health Department of Health—Administration	HTH	907	HTH	155.75* 1,547,986A 9.00* 147,768B	155.75* 1,832,154A 9.00* 150,856B	3,380,140A 298,624B
	Operating	HTH					

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers	
				Org.	No.	FY 1973-1974		FY 1974-1975			
						C	D	C			D
68	Investment: Capital Pvt Hosp & Strong-Carter Dental Clinic Operating	SUB	501	HTH AGS		3.00* 32,382N 69,000C	3.00* 32,808N C	65,190N 69,000C			
				HTH		145,000A	145,000A	290,000A			
F. SOCIAL PROBLEMS											
ALLEVIATION OF SOCIAL PROBLEMS											
Help with General Social Adjustment											
1	Veterans Adjustment	SOC	103			4.00* 45,141A	4.00* 47,375A	92,516A			
	Operating			SOC							
2	School-Related Adjustment	HHL	601			123,271A 10.55* 372,317B	123,238A 10.55* 380,630B	246,509A 752,947B			
	Operating			HHL							
3	Job-Related Adjustment	SOC	101			3.75* 108,692A 17.00* 218,783N	3.75* 110,975A 17.00* 221,759N	219,667A 440,542N			
	Operating			SOC							
4	Aid to Troubled Families Family Discord	SOC	111			12.15* 155,678A 16.50* 226,996N	12.15* 167,073A 18.70* 262,699N	322,751A 489,695N			
	Operating			SOC							

5	Child Abuse and Neglect	SOC	112						
	Operating	SOC		6.20*	6.10*	104,534A	104,534A	206,009A	
				8.25*	8.80*	156,220N	161,868N	318,088N	
6	Unmarried Parents	SOC	113						
	Operating	SOC		2.59*	2.59*	45,523A	47,243A	92,766A	
				4.26*	4.26*	74,658N	76,726N	151,384N	
7	Assistance with Personal Problems Senility	SOC	122						
	Operating	SOC		4.84*	4.84*	57,803A	63,357A	121,160A	
				8.11*	10.31*	99,644N	128,497N	228,141N	
8	Aid to the Physically Handicapped Other Handicaps	SOC	134						
	Operating	SOC		.74*	.74*	54,881A	57,493A	112,374A	
				1.26*	1.26*	95,359N	99,901N	195,260N	
9	Substitute Family Services Homemaker Services	SOC	141						
	Operating	SOC		90*	90*	31,011A	31,774A	62,785A	
				1.10*	1.10*	43,671N	44,784N	88,455N	
10	Child Day Care	SOC	142						
	Operating	SOC		1.17*	1.17*	252,963A	253,593A	506,556A	
				3.83*	3.83*	775,164N	776,014N	1,551,178N	

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Item
No.

Program

Exp.
Agy.

Org. No.

FY
1973-1974

FY
1974-1975

Total
Biennium
1973-1975

Item No.	Program	Exp. Agy.	Org. No.	APPROPRIATIONS		Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975		
11	Foster Care		SOC 143	6.87*	6.87*	172,923A	
	Operating	SOC		84,850A	88,073A		
				22.13*	22.13*		
				336,705N	346,890N	683,595N	
12	Adoption		SOC 144	.93*	.93*	27,185A	
	Operating	SOC		13,412A	13,773A		
				3.07*	3.07*		
				45,245N	46,293N	91,538N	
13	Adult Family Boarding Home		SOC 145	.90*	.90*	24,794A	
	Operating	SOC		12,281A	12,513A		
				1.10*	1.10*		
				16,949N	17,456N	34,405N	
14	General Support—Alleviation of Soc Pro Progressive Neighborhoods		GOV 862	2.00*	2.00*	1,122,081A	
	Operating	GOV		751,174A	370,907A		
				216,530N	56,590N	273,120N	
15	Commission on Children and Youth		GOV 861	5.00*	5.00*	151,795A	
	Operating	GOV		75,246A	76,549A		
16	Commission on Aging		BUF 602	1.25*	1.25*	457,881A	
	Operating	BUF		225,142A	232,739A		
				1.75*	1.75*		
				2,256,660N	2,235,000N	4,491,660N	

17	Committee on Employment of Handicapped	GOV	802						
	Operating	GOV		1.75*	1.75*	25,141A	49,294A		
18	Gen Admin—Alleviation of Soc Problems	SOC	191						
	Operating	SOC		4.16*	4.16*	62,954A	125,547A		
		SOC		5.08*	5.08*	88,591N	176,612N		
		SOC							
	ASSURED STANDARD OF LIVING								
	Food								
19	Monetary Payments for Food	SOC	201						
	Operating	SOC		19,273,984A	23,602,009A	42,875,993A			
		SOC		11,848,740N	14,295,941N	26,144,681N			
20	Clothing Monetary Payments for Clothing	SOC	211						
	Operating	SOC		2,116,777A	2,586,137A	4,702,914A			
		SOC		1,294,835N	1,559,230N	2,854,065N			
21	Housing Rental Housing Augmentation	SOC	221						
	Operating	SOC		229,30*	231,30*				
	Investment: Capital	SOC		6,011,246B	6,319,534B	12,330,780B			
		SOC		7,450,000E	E	7,450,000E			
22	Private Housing Augmentation	SOC	222						
	Operating	SOC		5.50*	5.50*	94,781B	185,426B		
23	Monetary Assistance for Housing Housing Payments to Welfare Recipients	SOC	223						
	Operating	SOC		22,592,117A	27,715,770A	50,307,887A			
		SOC		14,030,534N	16,941,424N	30,971,958N			
24	Rent Supplement Payments	SOC	224						
	Operating	SOC		10.70*	10.70*	806,463A	1,583,403A		
	Home Purchase Loans								
	Veterans Loans and Grants								

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS						Total Biennium 1973-1975 E	Subject to Program Appropriation Section Numbers
				Org. No.	FY 1973-1974 E	FY 1974-1975 E	C D E	C D E	C D E		
25	B&F—Veterans Loans & Grants Operating	BUF 806	BUF	2.00*	1,619,104B	1,577,386B	2.00*		3,196,490B		
26	DSSH—Veterans Loans & Grants Operating	SOC 806	SOC	41,000A		41,000A			82,000A		
27	Loans to Hawaiians Operating Investment: Capital	HHL 611	HHL HHL	22.65*	354,743B	370,117B	22.65*		724,860B		
28	Low/Middle Income Loans Operating	SOC 232	SOC	4.10*	74,147B	76,953B	4.10*		151,100B		
29	Broadened Homesite Ownership Operating	SOC 241	SOC	3.00*	36,885A	39,163A	3.00*		76,048A		
30	Health Care Med, Dental & Oth Professional Hlth Serv DSSH—Professional Health Services Operating	SOC 301	SOC SOC	6,948,653A	4,964,858N	8,911,307A	6,373,587N		15,859,960A 11,338,443N		
31	Health—Professional Health Services Operating	HTH 802	HTH HTH	81.70*	1,578,339A	1,628,879A	81.70*		3,207,218A		
				70.03*	1,036,129N	1,046,611N	70.03*		2,082,740N		

32	Hosp, Nursing Hme, & Oth Care Fac—Rm & Bld DSSH—Care Facilities Operating	SOC	302	SOC	16,510,734A 12,191,383N	19,000,389A 14,048,377N	35,511,123A 26,239,760N
33	Health-Care Facilities Operating	HTH	882	HTH	248,000A 55,500N	250,750A 60,750N	498,750A 116,250N
34	Drugs, Prosthetics, and Appliances DSSH—Drugs, Prosthetics & Appliances Operating	SOC	303	SOC	602,242A 437,458N	661,858A 481,204N	1,264,100A 918,662N
35	HTH—Drugs, Prosthetics & Appliances Operating	HTH	803	HTH	30,098A 50* 21,367N	31,098A .50* 21,367N	61,196A 42,734N
36	Home Health Services Operating	SOC	304	SOC	76,667A 55,637N	92,127A 66,951N	168,794A 122,588N
37	Other Related Health Costs DSSH—Other Health Costs Operating	SOC	306	SOC	1,021,412A 756,291N	1,031,871A 827,561N	2,053,283A 1,583,852N
38	Veterans Cemeteries Operating	SUB	806	HTH	26,250A	26,250A	52,500A
39	Gen Administration—Health Care Operating	SOC	308	SOC	2,75* 273,899A 8.25* 453,415N	2,75* 352,636A 8.25* 540,486N	626,535A 993,901N
40	Other Items Related to a Std of Living Operating	SOC	307	SOC	7,639,623A 4,753,737N	9,383,935A 5,746,435N	17,023,558A 10,500,172N

Item No.	Program	Program No.		Exp. Agy.	APPROPRIATIONS										Subject to Program Appropriation Provisions Section Numbers														
		Org.	No.		FY 1973-1974	C D E	FY 1974-1975	C D E	Total Biennium 1973-1975	C D E																			
41	General Support—Assd Std of Living Eligibility Determination—Assd Std Liv Operating	SOC	901	SOC	185.21*	1,757,005A	129,89*	1,289,894N	185.21*	1,678,738A	135.07*	1,442,506N	8.04*	1,678,738A	135.07*	1,442,506N	3,435,743A	2,732,400N											
																			SOC	8.04*	117,737A	4.72*	85,037N	8.04*	117,737A	4.72*	85,037N		
																												SOC	
42	Gen Administration—Assd Std of Living Operating	SOC	395	SOC	8.04*	116,984A	4.72*	85,037N	8.04*	117,737A	4.72*	85,037N	8.04*	117,737A	4.72*	85,037N	234,721A	170,609N											
																			GOV	863	GOV	568,248A	7.00*	131,098N	575,361A	7.00*	131,098N		
																												GOV	
43	Overall Program Support—Soc Problems Hawaii Office of Economic Opportunity Operating	GOV	863	GOV	7.00*	131,098N	131,098N	7.00*	131,098N	575,361A	7.00*	131,098N	575,361A	7.00*	131,098N	262,196N	1,143,609A	262,196N											
																			SOC	903	SOC	.68*	18,669A	2.32*	171,777N	.68*	18,669A	2.32*	171,777N
44	Staff Development—Social Problems Operating	SOC	903	SOC	.68*	18,669A	2.32*	171,777N	.68*	18,669A	2.32*	171,777N	.68*	18,669A	2.32*	171,777N	37,514A	356,023N											
																			SOC	902	SOC	46.76*	481,600A	21.89*	281,542N	46.76*	481,600A	21.89*	281,542N
45	Gen Administration—Social Problems Operating	SOC	902	SOC	46.76*	481,600A	21.89*	281,542N	46.76*	481,600A	21.89*	281,542N	46.76*	481,600A	21.89*	281,542N	1,041,428A	571,791N											
																			SOC	902	SOC	46.76*	481,600A	21.89*	281,542N	46.76*	481,600A	21.89*	281,542N

G. FORMAL EDUCATION

LOWER EDUCATION

Intellectual Learning

1	Mathematics	EDN 101	1,021.86*	1,019.98*	24,654.599A
	Operating	EDN	12,206,574A	12,448,025A	4,254B
		EDN	2,092B	2,162B	256,536N
		EDN	127,915N	128,621N	
2	Language Arts	EDN 111	3,259.37*	3,220.19*	63,749,778A
	Operating	EDN	30,898,293A	32,851,485A	12,471B
		EDN	6,140B	6,331B	32,258,364N
		EDN	16,016,371N	16,241,993N	21,000C
	Investment: Capital	AGS	21,000C		
3	Science	EDN 121	594.35*	594.92*	15,064,302A
	Operating	EDN	7,467,413A	7,596,889A	2,879B
		EDN	1,418B	1,461B	200,373N
		EDN	100,314N	100,059N	1,649,000C
	Investment: Capital	AGS	1,649,000C		
4	Foreign Languages	EDN 131	170.81*	169.83*	4,203,037A
	Operating	EDN	2,081,980A	2,121,057A	751B
		EDN	370B	381B	48,090N
		EDN	24,020N	24,070N	
5	Social-Personal Learnings Health Education	EDN 201	511.43*	508.49*	12,112,768A
	Operating	EDN	5,993,440A	6,119,328A	1,917B
		EDN	941B	976B	101,590N
		EDN	50,454N	51,136N	
6	Music	EDN 211	425.52*	425.07*	10,585,334A
	Operating	EDN	5,245,246A	5,340,088A	1,961B
		EDN	965B	996B	130,901N
		EDN	65,452N	65,449N	411,000C
	Investment: Capital	AGS	411,000C		

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E		
7	Art Operating	EDN 221		339,62*	338,66*					
				4,397,695A	4,469,136A				8,866,831A	
				865B	889B				1,754B	
				64,242N	63,951N				128,193N	
			AGS	266,000C					266,000C	
8	Physical Education Operating	EDN 231		524,43*	521,49*					
				6,178,271A	6,299,846A				12,478,117A	
				1,024B	1,060B				2,084B	
				61,256N	61,676N				122,932N	
			AGS	2,414,000C					2,414,000C	
9	Social Studies Operating	EDN 241		1,278,58*	1,273,23*					
				15,206,796A	15,507,010A				30,713,806A	
				2,604B	2,692B				5,296B	
				158,544N	159,461N				319,005N	
			AGS	816,000C					816,000C	
10	Student Affairs Operating	EDN 251		533,70*	531,24*					
				7,102,394A	7,244,992A				14,347,386A	
				471B	488B				959B	
				1,067,346N	1,067,682N				2,135,028N	
			EDN							
11	Economic Learnings Vocational-Technical Operating	EDN 301		195,81*	194,83*					
				2,642,988A	2,720,979A				5,363,967A	
				5,453B	5,465B				10,918B	
				668,312N	668,100N				1,336,412N	
			AGS	952,000C					952,000C	
			EDN							
			AGS							

12	Practical Arts	EDN	311						
	Operating	EDN		427,52*	5,697,283A	425,07*	11,316,701A		
	Investment: Capital	EDN		1,132B	1,164B	1,164B	2,296B		
		EDN		87,056N	86,525N	86,525N	173,581N		
		AGS		1,452,000C		C	1,452,000C		
13	Administration—Lower Education State Administration	EDN	401						
	Operating	EDN		12,00*	2,512,824A	12,00*	5,036,148A		
		EDN		128,640N		128,567N	257,207N		
14	Staff Services	EDN	411						
	Operating	EDN		132,00*	1,845,166A	132,00*	3,732,930A		
	Investment: Capital	EDN		305,114N	306,190N	306,190N	611,304N		
		AGS		75,000C		C	75,000C		
15	District/School Administration	EDN	421						
	Operating	EDN		896,50*	11,602,734A	881,00*	23,121,734A		
	Investment: Capital	AGS		3,171,000C		C	3,171,000C		
16	Support—Lower Education Lunch	EDN	501						
	Operating	EDN		214,00*	4,606,615A	214,00*	9,637,610A		
	Investment: Capital	EDN		698,50*		712,50*	20,297,166B		
		EDN		10,084,797B	10,212,369B	10,212,369B	385,450N		
		EDN		192,725N		192,725N	1,657,000C		
		AGS		1,657,000C		C			
17	School Repair and Maintenance—Ags	AGS	807						
	Operating	AGS		229,00*	4,007,306A	229,00*	8,020,641A		
		AGS				4,013,335A			
18	School Repair and Maintenance—Edn	EDN	807						
	Operating	EDN		909,11*	8,136,753A	924,61*	16,599,837A		

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS						Total C Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E	C D E		
19	Bus Transportation	AGS 808	AGS	6.00*	6.00*	6.00*	6.00*	6.00*	6.00*	9,927,301A	
	Operating			4,822,893A	5,104,408A						
20	Teacher Housing	SOC 807	SOC	13.40*	13.40*	13.40*	13.40*	13.40*	13.40*	536,896B	
	Operating			264,917B	271,979B						
21	Accreditation	EDN 541	EDN	3.00*	3.00*	3.00*	3.00*	3.00*	3.00*	88,620A	
	Operating			44,136A	44,484A						
22	School Health Services	HTH 871	HTH	6.40*	6.40*	6.40*	6.40*	6.40*	6.40*	825,411A	
	Operating			411,077A	414,334A						
				3.60*	3.60*						
				43,183N	43,705N					86,888N	
23	Continuing Education Public Library	EDN 601	EDN	433.92*	433.92*	433.92*	433.92*	433.92*	433.92*	10,322,577A	
	Operating			5,060,041A	5,262,536A					396,758N	
				200,553N	196,205N						
24	Civil Defense	EDN 611	EDN	2.00*	2.00*	2.00*	2.00*	2.00*	2.00*	64,977N	
	Operating			32,469N	32,508N						
25	Adult Education	EDN 621	EDN	19.00*	19.00*	19.00*	19.00*	19.00*	19.00*	1,994,548A	
	Operating			997,274A	997,274A						
				1.00*	1.00*					244,164B	
				122,020B	122,144B						
				1.00*	1.00*					623,253N	
				309,807N	313,446N						

26	Educational Television	REG	701						
	Operating	REG		21.00*	23.00*	279,348A	510,338A		
		REG		230,990A	120,000N	240,000N	240,000N		
		REG		24,000R	4.00*	28,800R	52,800R		
		REG		250,060X	262,987X		513,047X		
27	(Multi-Purpose Facilities—Elementary)	EDN	000						
	Investment: Capital	AGS		9,771,000C	C		9,771,000C		
28	(Multi-Purpose Facilities—Secondary)	EDN	001						
	Investment: Capital	AGS		5,072,000C	C		5,072,000C		
29	HIGHER EDUCATION								
	University of Hawaii, Manoa								
	Instruction—UoH, Manoa	UOH	101						
	Operating	UOH		1,464,29*	1,455.68*	23,362,846A	45,776,295A		
		UOH		22,413,449A	19.83*	19.83*	5,795,710B		
		UOH		2,842,751B	11.50*	2,952,959B	4,618,702N		
		UOH		11.50*	11.50*	2,197,266N	6,225,000C		
	Investment: Capital	AGS		2,421,436N	C		500,000R		
		AGS		6,225,000C	R				
		AGS		500,000R					
30	Organized Research—UoH, Manoa	UOH	102						
	Operating	UOH		407.09*	398.84*	7,341,275A	14,741,470A		
		UOH		7,400,195A	3.00*	37,536B	66,934B		
		UOH		2.00*	34.42*	718,149N	1,406,298N		
		UOH		29,398B	688,149N		3,440,000C		
	Investment: Capital	AGS		34,42*	C				
		AGS		718,149N					
		AGS		3,440,000C					
31	Public Services—UoH, Manoa	UOH	103						
	Operating	UOH		92.31*	92.31*	1,877,241A	3,729,548A		
		UOH		1,852,307A	11.00*	554,854B	1,081,421B		
		UOH		11.00*	52.64*	52.64*	850,763N		
		UOH		526,567B	846,763N				
		UOH		52.64*					
		UOH		846,763N					

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Item No.	Program	Program No.	Exp. Agy.	FY 1973-1974		FY 1974-1975		Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				C D E	C D E	C D E			
32	Academic Support—UoH, Manoa Operating	UOH 104	UOH	352.60*	5,921,810A	358.10*	5,983,451A	11,905,261A	
				10.00*	10.00*				
				256,026B	260,941B	516,967B			
33	Student Services—UoH, Manoa Operating	UOH 105	AGS	6,978,000C				6,978,000C	
				101.50*	1,624,655A	101.50*	1,648,288A	3,272,943A	
				111.00*	111.00*				
	Investment: Capital	UOH	UOH	6,680,189B	7,065,556B			13,745,745B	
				417,375N	499,748N			917,123N	
				10.00*	10.00*				
34	Institutional Support—UoH, Manoa Operating	UOH 106	AGS	1,018,104X	1,062,727X			2,080,831X	
				6,449,000E				6,449,000E	
				370.50*	5,488,414A	370.50*	5,560,746A	11,049,160A	
	Investment: Capital	UOH	UOH	18.00*	18.00*			36.00*	
				1,329,039B	1,406,391B			2,735,430B	
				474,748X	499,748X			974,496X	
35	Independent Operations—UoH, Manoa Investment: Capital	UOH 107	AGS	1,052,000C	500,000E			1,552,000C	
				6,000,000C				6,000,000C	
36	University of Hawaii, Hilo Instruction—UoH, Hilo Operating	UOH 201	UOH	97.00*		107.00*		204.00*	
				1,406,160A	1,664,017A			3,070,177A	
				110,000B	114,000B			224,000B	
	Investment: Capital	AGS	AGS	2,162,000C				2,162,000C	

37	Public Services—UoH, Hilo Operating	UOH 203	UOH	16,750B	22,650B	39,400B
38	Academic Support—UoH, Hilo Operating	UOH 204	UOH	13.00* 456,403A 2.00*	14.00* 273,018A 4.00*	729,421A
	Investment: Capital		UOH AGS	39,800B 118,000C	70,972B C	110,772B 118,000C
39	Student Services—UoH, Hilo Operating	UOH 205	UOH	9.00* 174,691A 3.00*	9.00* 191,678A 4.00*	366,369A
	Investment: Capital		UOH UOH AGS	82,809B 70,000N 3,754,000E	137,067B 70,000N E	219,876B 140,000N 3,754,000E
40	Institutional Support—UoH, Hilo Operating	UOH 206	UOH	18.00* 331,874A	19.00* 375,343A	707,217A
	Investment: Capital		UOH AGS AGS	4,000B 250,000C 95,000E	5,000B C E	9,000B 250,000C 95,000E
41	Honolulu Community College Instruction—Hono Comm College Operating	UOH 301	UOH	97.00* 1,477,911A	104.00* 1,732,492A	3,210,403A
	Investment: Capital		UOH UOH AGS	52,000B 100,000N 227,000C	55,000B 100,000N C	107,000B 200,000N 227,000C
42	Public Services—Hono Comm College Operating	UOH 302	UOH	8.00* 288,108A	8.00* 299,831A	587,939A
43	Academic Support—Hono Comm College Operating	UOH 303	UOH	17.00* 222,040A	17.00* 229,724A	451,764A

Item No.	Program	Org. No.	Exp. Agy.	APPROPRIATIONS										Subject to Program Appropriation Provisions Section Numbers					
				1973-1974		1974-1975		1975-1976		1976-1977		Total Biennium 1973-1975							
				FY C	FY D	FY E	FY D	FY E	FY D	FY E	FY D	FY E	FY D	FY E	FY D	FY E	FY D	FY E	
44	Student Services—Hono Comm College Operating	UOH 304	UOH	17,00*	242,939A	18,00*	260,696A	503,635A											
			UOH	180,000N	190,000N			370,000N											
45	Institutional Support—Hono Comm College Operating	UOH 305	UOH	22,50*	373,402A	23,50*	432,473A	805,875A											
			UOH	24,090B	26,499B			50,589B											
46	Kapiolani Community College Instruction—Kapiolani Comm College	UOH 311	UOH	84,00*	1,454,000A	86,00*	1,551,131A	3,005,131A											
			UOH	75,000N	75,000N			150,000N											
47	Public Services—Kapiolani Comm College Operating	UOH 312	UOH	5,028A		5,854A		10,882A											
48	Academic Support—Kapiolani Comm College Operating	UOH 313	UOH	11,00*	220,484A	11,00*	207,315A	427,799A											
49	Student Services—Kapiolani Comm College Operating	UOH 314	UOH	14,00*	244,556A	14,00*	250,973A	495,529A											
			UOH	32,000N	32,000N			64,000N											
50	Institutional Support—Kapiolani Comm Operating	UOH 315	UOH	17,00*	314,260A	17,00*	340,169A	654,429A											
			UOH	3,00*	3,00*	3,00*	3,00*	12,00*											
			UOH	144,683B	162,266B			306,949B											

51	Leeward Community College Instruction—Leeward Comm College	UOH	321	UOH	131.50* 2,050,231A	131.50* 2,117,692A	4,167,923A
	Operating				2.00* 150,000B	4.00* 175,000B	325,000B
	Investment: Capital				40,000N 412,000C	40,000N C	80,000N 412,000C
52	Public Services—Leeward Comm College	UOH	322	UOH	2.50* 36,737A	2.50* 37,890A	74,627A
	Operating						
53	Academic Support—Leeward Comm College	UOH	323	UOH	22.00* 364,780A	22.00* 376,180A	740,960A
	Operating						
54	Student Services—Leeward Comm College	UOH	324	UOH	24.70* 336,380A	25.70* 356,099A	692,479A
	Operating				100,000N	100,000N	200,000N
55	Institutional Support—Leeward Comm Col	UOH	325	UOH	42.50* 744,509A	43.50* 799,430A	1,543,939A
	Operating						
56	Windward Community College Instruction—Windward Comm College	UOH	331	UOH	24.50* 432,424A	32.00* 639,211A	1,071,635A
	Operating						
57	Public Services—Windward Comm College	UOH	332	UOH	5,800A	15,000A	20,800A
	Operating						
58	Academic Support—Windward Comm College	UOH	333	UOH	6.00* 174,933A	8.00* 371,373A	546,306A
	Operating						
59	Student Services—Windward Comm College	UOH	334	UOH	5.00* 71,583A	5.00* 82,096A	153,679A
	Operating				16,000N	40,000N	56,000N

66	Maui Community College Instruction—Maui Comm College Operating	UOH 501	53,50*	883,158A 6,000B 50,000N	54,50* 1,690,567A 11,000B 100,000N
67	Public Services—Maui Comm College Operating	UOH 502	23,000A	26,000A	49,000A
68	Academic Support—Maui Comm College Operating	UOH 503	9,00*	179,960A	329,193A
69	Student Services—Maui Comm College Operating	UOH 504	7,50*	128,416A 2,00*	237,664A
70	Institutional Support—Maui Comm Colleg Operating Investment: Capital	UOH 505	16,50* 334,010A 5,00*	16,50* 361,816A 6,00*	695,826A 168,000B 83,000C
71	Kauai Community College Instruction—Kauai Comm College Operating	UOH 601	35,00*	532,440A 6,000B 30,000N	1,004,314A 12,000B 60,000N
72	Public Services—Kauai Comm College Operating	UOH 602	7,000A	7,000A	14,000A
73	Academic Support—Kauai Comm College Operating	UOH 603	7,00*	150,290A	283,782A

Item No.	Program	Org. No.	Program No.	Exp. Agy.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriations Section Numbers
					FY 1973-1974	FY 1974-1975	C O D E	C O D E	C O D E		
74	Student Services—Kauai Comm College Operating	UOH	604	UOH	6,00*	6,00*	101,166A	36,000N	197,282A	69,000N	
75	Institutional Support—Kauai Comm Coll Operating Investment: Capital	UOH	605	UOH UOH AGS	9,50*	9,50*	171,018A	4,000B	185,879A	8,000B	356,897A
76	University of Hawaii System-wide Support Academic Support—UoH, System-wide Supp Operating	UOH	901	UOH UOH	24,00*	24,00*	1,069,404A	215,000T	1,116,628A		2,185,032A
77	Institutional Support—UoH, Syst-wide Su Operating Investment: Capital	UOH	903	UOH	184,50*	184,50*	2,554,271A	40,50*	2,487,673A		5,041,944A
78	Student Loans Operating	BUF	807	UOH AGS	1,117,000N	1,276,000N	100,000C		2,393,000N		100,000C
79	Wstrn Interstate Comm for Higher Educ Operating	GOV	807	BUF	20,000A	20,000A			20,000A		40,000A
80	West Oahu College Instruction—West Oahu College Investment: Capital	UOH	701	GOV AGS	270,600A	225,600A			496,200A		321,000C

81	Academic Support—West Oahu College	UOH	704	UOH	704	1.00*	3.00*	122,911A	
	Operating Investment: Capital	UOH		AGS		20,404A	102,507A	125,000C	
82	Student Services—West Oahu College	UOH	705	AGS	705	54,000C	C	54,000C	
83	Institutional Support—West Oahu College	UOH	706	UOH	706	2.00*	8.00*	146,729A	
	Operating Investment: Capital	UOH		AGS		48,729A	98,000A	3,000,000C	
						3,000,000C	C		
H. LEISURE TIME									
CULTURAL AND ARTISTIC PRESENTATIONS									
Cultural and Artistic Displays									
Historical and Archeological Places									
1	LNR—Historical & Archeological Places	LNR	801	LNR	801	10.75*	10.75*	202,877A	
	Operating Investment: Capital	LNR		LNR		100,351A	102,526A	2,371,000C	
2	DEF—Historical & Archeological Places	DEF	808	DEF	808	5,000A	5,000A	10,000A	
3	SUB—Historical & Archeological Places	SUB	802	BUF	802	40,000A	40,000A	80,000A	
	Operating	SUB		BUF		15,000N	15,000N	30,000N	
				BUF		10,800X	31,850X	42,650X	
4	Arboreta	LNR	802	LNR	802	4.69*	4.69*	116,535A	
	Operating	LNR		LNR		58,656A	57,879A		
5	Aquaria	UOH	881	UOH	881	8.00*	8.00*	215,784A	
	Operating	UOH		UOH		106,845A	108,939A		
6	Other Natural Features	LNR	803	LNR	803	5.20*	5.20*	105,030A	
	Operating Investment: Capital	LNR		LNR		51,600A	53,430A	500,000C	
						500,000C	C		

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Item No.	Program	Org.	No.	Exp. Agy.	APPROPRIATIONS					Total C Biennium 1973-1975 E
					FY 1973-1974 E	FY 1974-1975 E	C O D E	C O D E		
7	Cultural and Artistic Events Performing & Visual Arts Events Operating	BUF	881	BUF BUF	24,250A 58,225N	24,250A 66,100N				48,500A 124,325N
8	Ethnic Group Presentations B&F—Ethnic Group Presentations Operating	BUF	883	BUF BUF	22,100A 32,375N	22,100A 34,825N				44,200A 67,200N
9	AGS—Ethnic Group Presentations Operating	AGS	818	AGS	20,500A	20,500A				41,000A
10	Recreational Activities Skills and Crafts Performing, Visual & Crafts Arts Operating	BUF	884	BUF BUF	2,350A 33,000N	2,350A 34,750N				4,700A 67,750N
11	Outdoor Activities Other Inland-Based Outdoor Activities Operating	LNR	804	LNR LNR LNR LNR	72.50* 785,220A 3.35* 86,520B 5.93*	72.50* 788,464A 3.16* 90,014B 6.12* 110,849N				1,573,684A 176,534B 219,491N 1,900,000C
12	Investment: Capital Other Ocean-Based Outdoor Activities DOT—Other Ocean-Based Activities Operating Investment: Capital	TRN	801	TRN TRN TRN	25.01* 756,574B 105,000B 2,287,000C	25.01* 901,651B B C				1,658,225B 105,000B 2,287,000C

13	LNR—Other Ocean-Based Activities	LNR	805						
	Operating	LNR			35,19*	38,19*	450,726A	856,442A	
					1,21*	1,21*	21,821N	46,231N	
	Investment: Capital	LNR			2,550,000C	C		2,550,000C	
	Overall Program Support for Leisure Time								
	Planning & Analysis for Leisure Time								
14	LNR—Planning & Analysis for Leisure Time	LNR	808						
	Operating	LNR			1,10*	1,10*	15,206A	30,272A	
	Investment: Capital	LNR			50,000C	C		50,000C	
15	PED—Planning & Analysis for Leisure Time	PED	808						
	Operating	PED			1,00*	1,00*	16,032A	31,296A	
	Investment: Capital	PED			100,000C	C		100,000C	
	General Administration for Leisure Time								
16	B&F—General Admin for Leisure Time	BUF	887						
	Operating	BUF			3,00*	3,00*	59,989A	117,596A	
		BUF			26,400N		28,350N	54,750N	
17	LNR—General Admin for Leisure Time	LNR	809						
	Operating	LNR			.55*	.55*	8,182A	15,741A	
					7,559A				
	I. PUBLIC SAFETY								
	CRIMINAL ACTION								
	Pre-trial Processes—Criminal Cases								
	Pre-trial Court Processing								
1	District Courts—Pre-trial processing	JUD	201						
	Operating	JUD			85,00*	85,00*	777,656A	1,521,390A	
					743,734A				
2	Circuit Courts—Pretrial Processing	JUD	202						
	Operating	JUD			39,80*	39,80*	454,397A	916,657A	
					462,260A				

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total C Biennium 1973-1975 E
				FY 1973-1974 E	FY 1974-1975 E	C D E	C D E	C D E	
Org. No.									
3	Detention Facilities Juvenile Detention Facilities Operating	JUD 211	JUD	39.00* 413,849A	39.00* 422,703A			836,552A	
4	Adjudication of Criminal Cases Trial Courts—Criminal Cases District Courts—Criminal Cases Operating	JUD 221	JUD	84.00* 1,114,014A	84.00* 1,120,177A			2,234,191A	
5	Circuit Courts—Criminal Cases Operating	JUD 222	JUD	36.25* 716,432A	36.25* 721,824A			1,438,256A	
6	Supreme Court—Criminal Cases Operating	JUD 223	JUD	4.00* 79,822A	4.00* 79,052A			158,874A	
7	Pre-sentence Investigation Juvenile Pre-sentence Investigation Operating	JUD 231	JUD	23.25* 221,233A	23.25* 228,964A			450,197A	
8	Adult Pre-sentence Investigation Operating	JUD 232	JUD	15.55* 164,614A	15.55* 168,261A			332,875A	
9	Probation Supervision and Counseling Juvenile Probation Operating	JUD 241	JUD	35.50* 669,643A	35.50* 699,761A			1,369,404A	

10	Adult Probation	JUD	242	JUD	14,45*	14,45*	163,884A	323,426A
	Operating				159,542A			
11	Juvenile Correctional Facilities	SOC	401	SOC	68.00*	68.00*	822,732A	1,627,300A
	Operating				804,568A			
12	Adult Maximum Security Facilities Hawaii State Prison	SOC	402	SOC	150.00*	150.00*	1,890,668A	3,754,347A
	Operating				1,863,679A	5.00*	158,841B	
13	Hoomana Vocational School	UOH	859	UOH	11.00*	11.00*	194,386A	382,184A
	Operating				187,798A	34,027N	34,027N	68,054N
14	Adult Honor Camps	SOC	403	SOC	45.00*	45.00*	654,265A	1,296,190A
	Operating				641,925A			
15	Adult In-Community Facilities	SOC	404	SOC	14.00*	14.00*	163,881A	327,514A
	Operating				163,633A			
16	Parole Supervision and Counseling Adult Parole Determinations	SOC	411	SOC	3,000A	3,000A	3,000A	6,000A
	Operating							
17	Juvenile Parole Supervision & Counseling	SOC	412	SOC	9.00*	9.00*	129,715A	258,421A
	Operating				128,706A			
18	Adult Parole Supervision and Counseling	SOC	413	SOC	19.50*	19.50*	213,657A	421,628A
	Operating				207,971A			
19	Criminal Injuries Compensation	SOC	414	SOC	2.00*	2.00*	32,371A	64,038A
	Operating				31,667A			

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Item
No.

Program

Org. No.

Exp. Agy.

FY 1973-1974
C D E
FY 1974-1975
C D E
Total
C
Biennium
D
1973-1975
E

General Support—Criminal Action
Crime Prev, Detect, & Apprehen Support Ser
Criminal Data and Crime Statistics

ATG 191

Operating

7.50* 7.50*
110,276A 139,454A
6.00* 6.00*
168,823N 225,475N

Staff Development—Crime Prevention
Operating

GOV 892

296,927A 285,000A
2,461,938N 2,220,000N

Adjudication Supporting Services
Law Library and Reference Services

JUD 902

Operating

6.00* 6.00*
165,403A 173,479A

General Administration—Adjudication

JUD 904

Operating
Investment: Capital

17.50* 17.50*
463,400A 495,262A
4,227,000C C

Confinement & Parole Supporting Services
Gen Administration—Confinement

SOC 493

Operating

6.00* 6.00*
94,438A 96,677A

Law Enforcement Planning and Analysis

GOV 893

Operating

1.10* 1.10*
34,146A 34,146A
9.90* 9.90*
330,434N 330,434N

191,115A
68,292A
660,868N

26	General Administration—Criminal Action Operating	SOC	990	SOC	15.56*	15.56*	192,999A	373,439A
	PHYSICAL HAZARDS Highway Safety Accident Prevention—Hwy Safety							
27	JUD—Accident Prevention & Hwy Safety Operating	JUD	899	JUD	9.50*	9.50*	100,450A	197,633A
28	Amelioration—Highway Safety Operating	HTH	899	HTH	A 1.00*	500A 1.00*		500A
29	Supporting Services—Hwy Safety Operating	TRN	813	HTH	16,073N	16,881N		32,954N
				TRN	2.50*	2.50*		
				TRN	65,959B	67,419B		133,378B
				TRN	3.00*	3.00*		
				TRN	71,732N	73,482N		145,214N
30	Commercial Harbor Safety Accident Prevention—Harbor Safety	TRN	831	TRN	26.45*	26.45*	988,721B	1,958,434B
31	Boating and Water Safety Accident Prevention—Water Safety	TRN	841	TRN	5.71*	5.71*	124,115B	297,084B
32	Work Place Safety Accident Prevention—Work Place Safety	LBR	891	LBR	32.48*	32.48*	436,163A	860,919A
	Operating				424,756A			
33	Natural Disasters Prevention of Natural Disasters LNR—Flood Control	LNR	810	LNR	2.00*	2.00*	33,037A	65,415A
	Operating Investment: Capital				220,000C			220,000C

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS			Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C O D E		
34	Man-Made Disasters	DEF 111	DEF	47.50*	47.50*		1,154,733A	
	DEF—Prevention of Man-Made Disasters			567,297A	587,436A		303,000N	
	Operating			151,000N	152,000N		144,000C	
35	Investment: Capital	DEF 112	AGS	106,000N		N	106,000N	
	Amelioration of Man-Made Disasters			7.50*	7.50*		309,143A	
	DEF—Amelioration of Man-Made Disasters			167,555A	141,588A			
36	Operating	DEF	AGS	11.50*	11.50*		383,978N	
	Investment: Capital			195,582N	188,396N		94,000C	
	HTH—Amelioration of Man-Made Disasters			93,000N		N	93,000N	
37	Operating	HTH 892	HTH	2.00*	2.00*		87,712A	
	Supporting Services—Man-Made Disasters			43,813A	43,899A			
	Operating			50.00*	50.00*			
38	Investment: Capital	DEF 113	DEF	500,491A	534,166A		1,034,657A	
	General Support—Physical Hazards			64,000N	65,000N		129,000N	
	Planning & Analysis—Physical Hazards			983,000C		C	983,000C	
38	Operating	HTH 894	HTH	116,000N		N	116,000N	
	Operating			5.00*	.00*		88,210N	88,210N

39	Fire Marshal Services	REG	891	REG	2.00*	2.00*	27,047A	53,334A	
	Operating								
J. INDIVIDUAL RIGHTS									
PROTECTION OF THE CONSUMER									
1	Consumer Education	GOV	810	GOV	1.00*	1.00*	22,665A	45,301A	
	Operating								
Testing & Certification of Consumer Good Foods & Drugs—Test & Certification									
2	HTH—Foods & Drugs—Test & Certification	HTH	651	HTH	8.11*	8.11*	93,393A	185,179A	
	Operating						.39*	9,498N	
					4,697N	4,801N			
3	AGR—Foods & Drugs—Test & Certification	AGR	810	AGR	28.00*	28.00*	340,685A	670,387A	
	Operating						28.00*	833,401N	
					329,702A	418,349N			
4	Transportation Equipment and Supplies	AGR	809	AGR	3.00*	3.00*	40,168A	79,792A	
	Operating								
Regulation of Services									
5	Communication Services	REG	101	REG	8.48*	8.48*	118,808A	236,091A	
	Operating						90,351X	178,880X	
					88,529X				
6	REG—Transportation Services	REG	102	REG	15.26*	15.26*	233,301A	461,000A	
	Operating								
Utilities									
7	Utilities	REG	103	REG	10.26*	10.26*	209,038A	420,536A	
	Operating								

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total C Biennium D 1973-1975 E	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E		
8	Financial Services	REG 104		37.00*	37.00*				1,192,634A	
	Operating		REG	593,732A	598,902A					
9	Professional, Vocational & Personal Serv	REG 105		39.49*	39.49*				1,028,194A	
	Operating		REG	504,194A	524,000A					
10	Enforcement of Fair Business Practices Business Registration	REG 111		9.00*	9.00*				200,261A	
	Operating		REG	99,689A	100,572A					
11	Packaging & Labeling	AGR 811		5.00*	5.00*				124,463A	
	Operating		AGR	61,808A	62,655A					
12	Weights and Measures	AGR 812		8.00*	8.00*				214,000A	
	Operating		AGR	106,199A	107,801A					
	Terms of Sale									
13	Reg—Terms of Sale	REG 112		4.26*	4.22*				117,300A	
	Operating		REG	58,381A	58,919A					
14	Consumer Protection—Terms of Sale	GOV 110		11.00*	11.00*				392,846A	
	Operating		GOV	191,769A	201,077A					
15	Gen Support—Protection of the Consumer	REG 191		21.00*	21.00*				562,677A	
	Operating		REG	263,166A	299,511A					

16	Administrative Redress of Grievances Agency Appeal Boards Tax Appeals Board Operating	TAX 106	TAX	8,018A	8,260A	16,278A
17	Labor and Industrial Relations Appeals Operating	LBR 812	LBR	5.00* 127,491A	5.00* 131,159A	258,650A
18	Legal & Judicial Protect of Rts—Civil Case Legal Assistance to Individuals Assistance in Criminal Actions	GOV 821	GOV	33.00* 670,509A	35.00* 731,141A	1,401,650A
19	Operating Assistance in Civil Actions	REG 810	REG	.25* 4,411A	.29* 4,472A	8,883A
20	Operating Legal Action in the Public Interest	ATG 111	ATG	3.50* 67,062A	3.50* 70,415A	137,477A
21	Adjudication of Civil Cases Pre-trial Services—Civil Cases JUD—Pre-trial Services—Civil Cases	JUD 111	JUD	33.45* 377,369A	33.45* 382,395A	759,764A
22	Operating Office of Sheriff—Pre-trial Sves—Civil	ATG 121	ATG	2.00* 19,660A	2.00* 19,660A	39,320A
23	Operating District Courts—Civil Cases	JUD 112	JUD	23.00* 312,616A	23.00* 318,783A	631,399A
24	Operating Circuit Courts—Civil Cases	JUD 113	JUD	64.25* 1,121,264A	64.25* 1,130,149A	2,251,413A
25	Operating Supreme Court—Civil Cases	JUD 114	JUD	16.00* 319,219A	16.00* 316,132A	635,351A
	Operating		JUD	3,000B	3,000B	6,000B

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total C Biennium 1973-1975 E	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974 E	FY 1974-1975 E	C D E	C D E	C D E		
	Program	Org. No.								
26	Post-trial Services—Civil Cases Operating	JUD 115	JUD	26,00*	280,765A	26,00*	285,491A	26,00*	566,256A	
27	Gen Support—Protection of Civil Rights Commission on the Status of Women Operating	BUF 888	BUF	1,00*	22,579A	1,00*	25,209A	1,00*	47,788A	
K. GOVERNMENT-WIDE SUPPORT										
EXEC DIRECTION, COORD, POLICY DEVELOPMENT Executive Director Office of the Governor										
1	Operating	GOV 100	GOV	84,00*	1,221,651A	84,00*	1,453,458A	84,00*	2,675,109A	
2	Office of the Lieutenant Governor Operating	LTG 100	LTG	11,00*	432,866A	11,00*	859,148A	11,00*	1,292,014A	
3	Program Planning, Analysis & Budgeting BUF—Program Planning, Analysis, Budgetin	BUF 101	BUF	60,00*	23,029,163A	60,00*	24,308,305A	60,00*	47,337,468A	
4	Operating PED—Planning, Analysis & Budgeting	PED 211	PED	6,00*	80,025A	6,00*	82,214A	6,00*	162,239A	
5	Policy Development and Coordination Land Use & Physical Plan & Coordination Operating	PED 101	PED	30,50*	495,153A	30,50*	522,313A	30,50*	1,017,466A	

6	Investment: Capital				PED			280,000C				280,000C
					PED			450,000N				450,000N
	Other Policy Development & Coordination											
	GOV—Oth Policy Developmt & Coordinatio	GOV	102									
	Operating	GOV										
								2.00*				
								58,105A				
								4.00*				
								214,315B				
								100,000N				
								2.00*				
								109,841A				
								4.00*				
								65,914B				
								100,000N				
								2.00*				
								109,841A				
								4.00*				
								65,914B				
								100,000N				
								3.00*				
								72,747A				
								43,850N				
								3.00*				
								48,191A				
								45,150N				
								3.00*				
								120,938A				
								89,000N				
8	Fiscal Management											
	Revenue Collection											
	Property Tax Assessment	TAX	101									
	Operating											
								105,67*				
								1,182,753A				
								107,67*				
								1,207,358A				
9	Income Assessment and Audit	TAX	102									
	Operating											
								153,67*				
								1,758,673A				
								153,67*				
								1,792,565A				
10	Tax Collection	TAX	103									
	Operating											
								67,66*				
								687,826A				
								67,66*				
								694,191A				
								1,382,017A				
11	Supporting Services—Revenue Collection											
	Tax Research and Planning	TAX	104									
	Operating											
								6,00*				
								78,652A				
								6,00*				
								80,547A				
								159,199A				
12	Gen Administration—Revenue Collection	TAX	105									
	Operating											
								50,00*				
								965,882A				
								50,00*				
								1,021,362A				
								1,987,244A				

Subject to
Program
Appropriation
Provisions
Section
Numbers

APPROPRIATIONS

Program No.

Program

Item No.

Item No.	Program	Org.	No.	Exp. Agy.	APPROPRIATIONS			Total Biennium 1973-1975
					FY 1973-1974	FY 1974-1975	C O D E	
	Fiscal Procedures and Control Accounting							
13	Acct System Development & Maintenance	AGS	101		9,00*	9,00*	128,523A	252,277A
	Operating			AGS				
14	Expenditure Examination	AGS	102		17,00*	17,00*	239,314A	468,595A
	Operating			AGS				
15	Recording and Reporting	AGS	103		12,00*	12,00*	138,933A	275,280A
	Operating			AGS				
16	Internal Post Audit	AGS	104		12,00*	12,00*	185,693A	370,612A
	Operating			AGS				
	Cash and Debt Management							
17	Cash and Other Assets Management	BUF	111		10,00*	10,00*	132,243A	262,874A
	Operating			BUF	130,631A	27,500X		55,000X
18	Public Debt Service	BUF	112		61,017,921A	72,130,528A		133,148,449A
	Operating			BUF				
	General Services							
19	Legal Services	ATG	101		79,00*	79,00*	1,483,096A	2,889,437A
	Operating			ATG	1,406,341A	14,00*		
				ATG	260,370B	273,389B		533,759B

20	Management Improvement	BUF	121							
	Operating	BUF		9.00*	116,426A	119,509A	9.00*	235,935A		
21	Automated Data Processing Services	BUF	131							
	Operating	BUF		175.20*	4,026,951A	3,947,846A	175.20*	7,974,797A		
		BUF		14.80*	192,000N	199,000N	14.80*	391,000N		
		BUF		239,000X	244,000X	244,000X		483,000X		
22	Records Management	AGS	111							
	Operating	AGS		22.00*	219,500A	206,289A	23.00*	425,789A		
23	Personnel Services									
	Workforce Attraction and Selection	PER	101							
	Operating	PER		19.00*	283,394A	289,345A	19.00*	572,739A		
24	Employee Compensation	PER	111							
	Classification	PER		13.00*	173,314A	168,643A	13.00*	341,957A		
25	Pay	PER	112							
	Operating	PER		2.00*	27,948A	28,220A	2.00*	56,168A		
26	Workforce Effectiveness	PER	121							
	Employee Competence	PER		6.00*	76,497A	77,481A	6.00*	153,978A		
	Operating	PER								
27	Employee Relations	PER	122							
	Operating	PER		8.00*	130,479A	120,606A	8.00*	251,085A		
28	Collective Bargaining Services	PER	131							
	Operating	PER		3.00*	45,113A	46,263A	3.00*	91,376A		

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS						Total Biennium 1973-1975	Subject to Program Appropriation Provisions Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E			
29	Supporting Services Planning, Prog Development & Evaluation	PER 191	PER	3.00* 40,023A	3.00* 41,175A				81,198A		
30	Operating Gen Administration—Personnel Services	PER 192	PER	10.00* 181,587A 4,296N	10.00* 207,249A				388,836A 4,296N		
31	Employee Fringe Benefit Administration Retirement	BUF 141	BUF	18.54* 43,933,601A 6,46*	18.54* 49,749,602A 6,46*				93,683,203A		
32	Operating Group Life Insurance	BUF 142	BUF	114,284S	111,090S				225,374S		
33	Operating Group Medical, Hospital, and Dental Care	BUF 143	BUF	3.00* 1,144,817A 286,872S	3.00* 1,236,439A 300,516S				2,381,256A 587,388S		
	Operating		BUF	5.00* 6,543,920A 1,763,404S	5.00* 7,506,485A 1,847,392S				14,050,405A 3,610,796S		
34	Property Management Public Lands Management	LNR 101	LNR	28.00* 343,400A 530,000C	28.00* 350,330A				693,730A 530,000C		
	Operating Investment: Capital		LNR								

35	Public Buildings Management	AGS	201						
	Operating			AGS	.66*	8,248A	.66*	8,248A	16,409A
36	Personal Property Management	AGS	202						
	Operating			AGS	1.00*	11,794A	1.00*	11,794A	23,563A
37	Insurance Management	AGS	203						
	Operating			AGS	931,600A	288,900X	983,300A	304,300X	1,914,900A
				AGS					593,200X
38	Conveyances and Recording	LNR	111						
	LNR—Conveyances & Recording			LNR	43.00*	490,632A	43.00*	495,189A	985,821A
	Operating								
39	Land Court	JUD	811						
	Operating			JUD	3.00*	45,308A	3.00*	45,329A	90,637A
40	Land Survey	AGS	211						
	Operating			AGS	30.00*	397,636A	30.00*	400,927A	798,563A
	Facilities Construction and Maintenance Construction								
41	Facilities Planning	AGS	221						
	Operating			AGS	2.46*	32,626A	2.46*	32,977A	65,603A
	Investment: Capital			AGS	3,466,000C		3,466,000C		3,466,000C
42	Facilities Design and Construction	AGS	222						
	Operating			AGS	11.00*	143,310A	11.00*	144,379A	287,689A
43	Inspection of Facilities Constructed	AGS	223						
	Operating			AGS	5.88*	81,414A	5.88*	81,900A	163,314A

Item No.	Program	Program No.	Exp. Agy.	APPROPRIATIONS					Total Biennium 1973-1975	Subject to Program Appropriation Section Numbers
				FY 1973-1974	FY 1974-1975	C D E	C D E	C D E		
	Org.	No.								
44	Facilities Operation and Maintenance Custodial Services	AGS	231							
	Operating			122,50*	123,00*					
				1,567,488A	1,661,166A					3,228,654A
				132,400B	136,400B					268,800B
45	Grounds Maintenance	AGS	232							
	Operating			32,00*	32,00*					
				232,839A	229,651A					462,490A
46	Building Repairs and Alterations	AGS	233							
	Operating			22,00*	22,00*					
				515,349A	502,816A					1,018,165A
47	Central Purchasing and Warehousing Central Purchasing	AGS	241							
	Operating			13,00*	13,00*					
				143,812A	148,836A					292,648A
48	Federal Surplus Property Management	AGS	242							
	Operating			7,00*	7,00*					
				93,220X	94,215X					187,435X
49	State Surplus Property Management	AGS	243							
	Operating			10,165X	10,457X					20,622X
50	Transportation Motor Pool	AGS	251							
	Operating			8,50*	8,50*					
				176,276X	181,897X					358,173X
51	Parking Control	AGS	252							
	Operating			10,00*	10,00*					
				263,402X	226,026X					489,428X

52	Communications Telephone	AGS	261					
				AGS	10.00*	10.00*	885,411A	1,716,265A
	Operating				830,854A			
53	Mail	AGS	262					
				AGS	5.00*	5.00*	29,530A	58,196A
	Operating				28,666A			
54	Security of the Civic Center Complex Other State Buildings Security	AGS	301					
				AGS	10.00*	10.00*	76,369A	152,640A
	Operating				76,271A			
55	General Administrative Services	AGS	901					
				AGS	47.00*	47.00*	607,740A	1,097,991A
	Operating				490,251A			

PART III. PROGRAM APPROPRIATION PROVISIONS

ECONOMIC DEVELOPMENT

Commerce and Industry

SECTION 4. Provided, that the appropriation authorized for each fiscal year in Services Development and Marketing—Trade (PED 107) shall be expended only to the extent such funds are matched by industry; provided, however, that the sum of \$10,000 for fiscal year 1973-1974 and \$5,000 for fiscal year 1974-1975 are appropriated on a non-matching basis to encourage the development of a market for anthuriums.

SECTION 5. Provided, that in the Services Development and Marketing—Tourism Program (PED 113), the expending agency shall not engage in tourism promotion other than by contract or contracts not exceeding the total amount of \$1,692,963 in State funds for each fiscal year of the 1973-1975 biennium.

SECTION 6. Provided, that of the general fund appropriation for General Support for Commerce and Industry (PED 119) \$13,329 (2.0) for the fiscal year 1973-74 and \$22,397 (2.0) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Planning and Economic Development that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

Agriculture

SECTION 7. Provided, that the sum of \$4,500 provided for Kona Coffee inspection in the Agriculture—Distribution Systems Improvement Program (AGR 151) shall be contingent on industry meeting not less than twenty per cent of the total inspectional cost through assessment of appropriate coffee inspection fees.

SECTION 8. The Department of Agriculture with the approval of the Governor is authorized to transfer funds within the Department and establish up to 5 positions for agricultural planning and marketing which shall be exempt from the provisions of Chapter 76 and 77, Hawaii Revised Statutes.

SECTION 9. Provided, that of the general fund appropriation for General Administration of Agriculture (AGR 192) \$12,367 (2.0) for the fiscal year 1973-74 and \$20,254 (2.0) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Agriculture that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

ENVIRONMENTAL PROTECTION

Natural Physical Environment

SECTION 10. Provided, that the sum of \$60,000 in general fund appropriation authorized for each fiscal year of the 1973-1975 biennium in the Inland Waters Program (LNR 404) for the continuation of the Water Resources Planning Program shall be allotted only to the extent federal matching funds are made available for this purpose.

SECTION 11. Provided, that of the general fund appropriation for Land and Natural Resources—Natural Physical Environment (LNR 906) \$55,006 (8.0) for the fiscal year 1973-74 and \$89,504 (8.0) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Land and Natural Resources that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

HEALTH

Physical Health—Communicable Diseases

SECTION 12. Of the appropriation made in the Inpatient Treatment of Leprosy Program (HTH 113) for outpatient and special services, Hale Mohalu Hospital and Kalaupapa Settlement, \$1,200,000 for each fiscal year shall be reimbursed from federal receipts.

Hospital Care—Short Term Acute and Long Term Maintenance

SECTION 13. Provided, that the appropriation for hospitals covered under Act 97, Session Laws of Hawaii 1965, are intended for the following average daily inpatient population: Maluhia (biennium 1973-75: 144); Hilo (biennium 1973-75: 220); Honokaa (biennium 1973-75: 27); Kohala (biennium 1973-75: 13); Kona (fiscal year 1973-74: 47; fiscal year 1974-75: 49); Ka'u (biennium 1973-75: 8); Kula (biennium 1973-75: 130); Maui Memorial (fiscal year 1973-74: 86; fiscal year 1974-75: 87); Kauai Veterans Memorial (fiscal year 1973-74: 32; fiscal year 1974-75: 33); Samuel Mahelona Memorial (biennium 1973-75: 100); and Lanai (biennium 1973-75: 7).

SECTION 14. Provided, that in the event the total special fund receipts for Leahi Hospital should fall below \$2,672,449 in fiscal year 1973-74 and \$2,748,703 in fiscal year 1974-75, general fund augmentations are hereby appropriated to Leahi Hospital—Long Term Maintenance Program (UOH 801) but in no event shall such augmentations exceed the sum of \$185,710 for fiscal year 1973-74 and the sum of \$184,448 for fiscal year 1974-75.

Mental Health

SECTION 15. Provided, that the appropriations for Hawaii State Hospital authorized in the Emergent and Moderately Intense Treatment Program (HTH 430) and the Highly Intensive Treatment Services Program (HTH 440) are intended for an average daily inpatient population of 250 for the biennium 1973-75.

Mental Retardation

SECTION 16. Provided, that the appropriation for Waimano Training School and Hospital (HTH 511) is intended for an average daily ward population of 741 for the biennium 1973-75.

General Administration for Health

SECTION 17. Provided, that the subsidies for private hospitals authorized in program (SUB 501) shall be disbursed by the Department of Health.

Overall Program Support for Health

SECTION 18. Provided, that of the general fund appropriation for Department of Health—Administration (HTH 907) \$323,231 (67.75) for the fiscal years 1973-74 and \$532,669 (67.75) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Health that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SOCIAL PROBLEMS

Assured Standard of Living

SECTION 19. Provided, that the appropriation for payments for indigents is intended for average monthly caseloads of: Aid to the Aged, Blind, and Disabled—6,032 cases for fiscal year 1973-74 and 6,541 cases for fiscal year 1974-75; Aid to Families with Dependent Children—14,266 cases for fiscal year 1973-74 and 16,163 cases for fiscal year 1974-75; Child Welfare Foster Case—610 cases for fiscal year 1973-74 and 622 cases for fiscal year 1974-75; and General Assistance—6,849 cases for fiscal year 1973-74 and 7,958 cases for fiscal year 1974-75.

Health Care

SECTION 20. Provided, that the appropriation for medical payments for indigents and medical indigents is intended for the following: inpatient care—18,239 patients for fiscal year 1973-74 and 19,627 patients for fiscal year 1974-75 (average length of stay of 7.5 days per patient); extended facility care 3,648 patients for fiscal year 1973-74 and 3,925 patients for fiscal year 1974-75 (average length of stay of 207 days per patient); and outpatient care—99,303 patients for fiscal year 1973-74 and 106,860 patients for fiscal year 1974-75 (average of 7.2 visits per patient).

Overall Program Support—Social Problems

SECTION 21. Provided, that the sum of \$1,037,000 in general fund appropriation authorized for the Hawaii Office of Economic Opportunity (GOV 863) may be advanced by the Director of Finance for the purposes of making advances subject to federal reimbursements to implement authorized projects, or to provide matching money for projects in the areas of health, education, housing, social welfare or employment.

SECTION 22. Provided, that of the general fund appropriation for General Administration—Social Problems (SOC 902) \$61,322 (13.70) for the fiscal year 1973-74 and \$101,168 (13.70) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Social Services and Housing that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

General Support—Alleviation of Support Problems

SECTION 23. Provided, that the sum of up to \$18,000 in fiscal year 1973-74 and the sum of up to \$72,000 in fiscal year 1974-75 from the appropriation for Progressive Neighborhoods (GOV 862) may be used to contract with the Kalihi-Palama and the Waianae-Nanakuli Welfare Recipient Advisory Councils.

FORMAL EDUCATION

Lower Education

SECTION 24. Provided, that for the Hawaii Curriculum Center (EDN 111) the State may advance general funds subject to reimbursement by federal funds.

SECTION 25. Provided, that of the appropriation for instructional materials, classroom equipment and text books, (EDN 111) that sufficient amounts be set aside and used for new schools.

SECTION 26. Provided, that the appropriation for District/School Administration (EDN 421) includes the sum of \$396,000 for each fiscal year of the biennium 1973-75 for contracting educational services for moderately and severely mentally handicapped students from age 4 to 20 years, including those who have multiple handicaps, and those moderately and severely mentally handicapped students currently enrolled in subsidized programs.

SECTION 27. Provided, that the general fund appropriation for Lunch (EDN 501) shall be expended only to the extent necessary to defray any and all costs of operating public school cafeterias in excess of the moneys received from the sale of meals, the sale of services, the federal government, and from any other sources.

SECTION 28. Provided, that the 20 deleted modified 3 on 2 Program Educational Assistants be considered for the positions of Special Education Aides.

SECTION 29. Provided, that of the general fund appropriation for District/School Administration (EDN 421) \$109,010 (30.00) for the fiscal year 1973-74 and \$111,315 (30.00) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund non-instruction positions in the school level that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 30. Provided, that of the general fund appropriation for Public Library (EDN 601) \$122,904 (36.85) for the fiscal year 1973-74 and \$139,697 (36.85) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the public library that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 31. Provided, that the appropriations for Intellectual Learning (EDN 101, EDN 111, EDN 121, EDN 131), Social-Personal Learnings (EDN 201, EDN 211, EDN 231, EDN 241, EDN 251) and Economic Learnings (EDN 301, EDN 311) are intended for student enrollment projections of 181,436 for fiscal year 1973-74 and 182,184 for fiscal year 1974-75.

Higher Education

SECTION 32. Provided, 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 amounts received is hereby appropriated to Instruction—UOH, Manoa

(UOH 101), Organized Research—UOH, Manoa (UOH 102), and Public Service—UOH, Manoa (UOH 103), respectively; provided, further, that if the federal funds received exceed the amounts designated, then the general fund appropriation for Instruction—UOH, Manoa (UOH 101), Organized Research—UOH, Manoa (UOH 102), and Public Service—UOH, Manoa (UOH 103), respectively, shall be reduced by the amount such receipts exceed the sum estimated.

SECTION 33. Provided, that for the 3rd and 4th year medical school—UOH, Manoa (UOH 101) general funds are hereby appropriated to the extent that federal funds are deficient for 25.50 positions for fiscal year 1973-74 and 30.25 positions for fiscal year 1974-75.

SECTION 34. Appropriations made for "Instruction" in the following community colleges are based on the following student credit hours. For the fiscal year 1973-74, Honolulu Community College 38,544, Leeward Community College 59,610, Windward Community College 10,727, Kapiolani Community College 44,887; and for the fiscal year 1974-75, Honolulu Community College 44,056, Leeward Community College 60,647, Windward Community College 14,617, and Kapiolani Community College 46,204. If the actual student credit hours at any college exceed the projected student credit hours by five per cent (5%) or more, the Governor is authorized to transfer funds and positions from the "Instruction" program of the any above colleges to the "Instruction" program of the college experiencing the increase in student credit hours.

SECTION 35. Provided, that of the appropriation for Kauai Community College—Instruction (UOH 601) the sum of \$30,000 (5.0) for the fiscal year 1973-74 and \$34,000 (5.0) for the fiscal year 1974-75 shall be used to establish a nursing education program college at Kauai Community College.

SECTION 36. Provided, that the Governor is authorized to transfer funds for operating purposes between Instruction—UOH, Manoa (UOH 101) Organized Research—UOH, Manoa (UOH 102), Public Services—UOH, Manoa (UOH 103), Academic Support—UOH, Manoa (UOH 104), Student Services—UOH, Manoa (UOH 105), and Institutional Support—UOH, Manoa (UOH 106) and provided, further, that no transfer from other programs to the above designated programs shall be made.

SECTION 37. Provided, that the appropriation for Organized Research—UOH, Manoa (UOH 102) includes \$3,450,280 and (223.19) positions for the Hawaii Agricultural Experiment Station for fiscal year 1973-74 and \$3,491,940 and (223.19) positions for fiscal year 1974-75.

SECTION 38. Provided, that the appropriation for Public Service—UOH, Manoa (UOH 103) includes \$1,492,456 and (79.31) positions for the Co-operative Extension Service for fiscal year 1973-74 and \$1,504,630 and (79.31) positions for fiscal year 1974-75.

LEISURE TIME

Cultural and Artistic Presentations

SECTION 39. Provided, that the subsidy to the Foundation of History

and the Humanities authorized in Subsidies—Historical and Archeological Places (SUB 802) shall be disbursed by the Department of Budget and Finance.

SECTION 40. Provided, that the sum of \$41,000 appropriated for the biennium to the Kamehameha Day Celebration in the AGS—Ethnic Group Presentations program (AGS 818) shall be allocated in the following manner in each fiscal year: City and County of Honolulu—\$10,000; County of Hawaii—\$5,000; County of Kauai—\$2,500; and County of Maui—\$3,000.

PUBLIC SAFETY

Criminal Action

SECTION 41. Provided, that the appropriation for Juvenile Detention Facilities (JUD 211) is intended for an average daily ward population of 36 children for the fiscal year 1973-74 and 37 children for the fiscal year 1974-75.

SECTION 42. Provided, that the appropriation for Juvenile Correctional Facilities (SOC 401) is intended for an average daily ward population of 77 children for fiscal year 1973-74 and 85 children for fiscal year 1974-75.

SECTION 43. Provided, that \$55,191 in fiscal year 1973-74 and \$64,282 in fiscal year 1974-75 from the appropriation for Hawaii State Prison (SOC 402) shall be used to transport and care for felons transferred to mainland penitentiaries.

Provided, further, that the appropriation for Hawaii State Prison (SOC 402) is intended for an average daily inmate population of 175 felons for fiscal year 1973-74 and 180 felons for fiscal year 1974-75.

SECTION 44. Provided, that the appropriation for Kulani Honor Camp authorized in the Adult Honor Camps program (SOC 403) is intended for an average daily inmate population of 38 felons for fiscal year 1973-74 and 39 felons for fiscal year 1974-75.

SECTION 45. Provided, that the general fund appropriation for Supporting Services (DEF 113) \$6,364 (2.0) for the fiscal year 1973-74 and \$10,480 (2.0) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Defense that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 46. Provided, that of the general fund appropriation for General Administration—Adjudication (JUD 904) \$43,802 (5.50) for the fiscal year 1973-74 and \$70,859 (5.5) for the fiscal year 1974-75 shall be used to establish and fund positions in the Judiciary that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 47. Provided, that the appropriation for Olinda Honor Camp authorized in the Adult Honor Camps program (SOC 403) is intended for an average daily inmate population of 28 felons for fiscal year 1973-74 and 29 felons for fiscal year 1974-75.

SECTION 48. Provided, that \$15,944 in fiscal year 1973-74 and \$16,437 in fiscal year 1974-75 from the appropriation for the Juvenile Parole Supervi-

sion and Counseling program (SOC 412) shall be used for purchasing foster home care and clothing for wards paroled from Hawaii Youth Correctional Facility.

SECTION 49. Provided, that from the appropriation authorized in General Administration—Adjudication (JUD 904), the Judiciary shall make funds available to cover operating expenses of the Judicial Council.

Physical Hazards

SECTION 50. Provided, that if the Hawaii Army National Guard and the Hawaii Air National Guard shall be called or ordered into the service of the United States, the appropriations made in DEF—Prevention of Man-Made Disasters (DEF 111) or any part thereof remaining unexpended shall be available to the Hawaii State Guard. If only a part of the Hawaii Army 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 appropriations in DEF 111 or any part thereof remaining unexpended between the Hawaii State Guard and the Hawaii National Guard.

SECTION 51. Provided, that of the appropriation for financial services (REG 104) the sum of \$160,000 (6) for the fiscal year 1973-74 and \$160,000 (6) for the fiscal year 1974-75 shall be used to implement the provisions of H.B. No. 637; and, provided, further, that if said bill does not become law, the above appropriation shall not be used for any other purpose.

GOVERNMENT-WIDE SUPPORT

Executive Direction, Coordination, Policy Development

SECTION 52. Provided, that the Governor may transfer funds and positions from the 52 and 52 positions authorized for the Office of the Governor (GOV 100) for the respective fiscal years of the 1973-75 biennium for the further implementation of the public employment program.

Provided, further, that any special or non-general fund programs or agencies which are allocated any of the 52 and 52 positions for the respective fiscal years of 1973-75 biennium for the public employment program are hereby authorized to additionally expend available special or non-general funds to meet the salary, equipment and fringe benefit costs of the allocated positions.

SECTION 53. Provided, that the appropriations for the Office of the Governor (GOV 100) and Governor—Other Policy Development and Coordination (GOV 102) shall be expended at the discretion of the Governor.

SECTION 54. Provided, that the appropriation for the Office of the Governor (GOV 100) includes the Governor's contingent fund, expenditures from which 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 regular session of the legislature convening in 1975.

SECTION 55. Provided, that the appropriation for the Office of the Lieutenant Governor (LTG 100) shall be expended at the discretion of the Lieutenant Governor.

SECTION 56. Provided, that any balance remaining on June 30, 1973 of the \$103,000 appropriated in Act 202, SLH 1972, for the purposes of the Legislative Reapportionment Commission and the Advisory Council to the Commission is reappropriated for the same purposes for fiscal year 1973-74.

General Services

SECTION 57. Provided, that of the general fund appropriation authorized for Legal Services (ATG 101), \$20,000 in each fiscal year shall be used for the payment of tort claims arbitrated, compromised or settled for amounts not in excess of \$2,000.

Provided, further, that of the general fund appropriation authorized for Legal Services (ATG 101), \$150,000 in each fiscal year shall be used for litigation purposes.

SECTION 58. Provided, that the Governor may transfer funds and personnel between existing programs of the State government for the purpose of establishing an integrated statewide data processing system.

SECTION 59. Provided, that the Board of Trustees of the Employees' Group Medical and Hospital Care program may use so much of the contributions appropriations under Group Life Insurance (BUF 142) and Group Medical, Hospital, and Dental Care (BUF 143) as necessary to advance to employee-beneficiaries their monthly contributions to the fund.

SECTION 60. Provided, that of the general fund appropriation for Program Planning, Analysis, Budgeting (BUF 101) \$42,468 (7.0) for the fiscal years 1973-74 and \$70,310 (7.0) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Budget and Finance that were approved in the Governor's 1973-75 budget as amended but not otherwise amended by this act.

SECTION 61. Provided, that of the sum appropriated to Program Planning, Analysis, Budgeting (BUF 101) the sum of \$20,026,252 in general funds, \$3,072,071 in special funds and \$1,592,007 in federal funds for fiscal years 1973-74 and \$21,265,145 in general funds, \$3,146,825 in special funds and \$1,567,747 in federal funds for fiscal years 1974-75 shall be used to fund all the collective bargaining cost items as submitted via the governor's messages and the salary and other adjustments provided for officers and employees excluded from collective bargaining units.

General Services

SECTION 62. Provided, that of the general fund appropriation for General Administrative Services (AGS 901) \$64,972 (14.0) for the fiscal year 1973-74 and \$105,083 (14.0) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Accounting and General Services that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 63. Provided, that of the general fund appropriation for Legal Services (ATG 101) \$15,459 (2.5) for the fiscal year 1973-74 and \$25,857 (2.5) for the fiscal year 1974-75 shall be used with the approval of the Gover-

ACT 218

nor to establish and fund positions in the Department of Attorney General that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 64. Provided, that of the special fund appropriation for the Office of Governor (GOV 102) the sum of \$64,315 (4.0) for the fiscal year 1973-74 and \$65,914 (4.0) in the fiscal year 1974-75 is for the funding of the Interdepartmental Transportation Control Commission.

EMPLOYMENT

Overall Program Support—Employment

SECTION 65. Provided, that of the general fund appropriation for General Administration for Employment (LBR 902) \$37,922 (6.08) for the fiscal year 1973-74 and \$63,054 (6.08) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Labor and Industrial Relations that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

TRANSPORTATION FACILITIES AND SERVICES

Overall Program Support for Transportation Facilities and Services.

SECTION 66. Deleted.

SECTION 67. Deleted.

SECTION 68. Provided, that of the special fund appropriation for General Administration for Air Transportation Facilities and Services (TRN 293) \$198,324 (34.00) for the fiscal year 1973-74 and \$207,869 (34.00) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Transportation that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 69. Provided, that of the special fund appropriation for General Administration for Water Transportation Facilities and Services (TRN 493) \$174,543 (16.00) for the fiscal year 1973-74 and \$179,820 (16.00) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Transportation that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 70. Provided, that of the special fund appropriation for General Administration for Land Transportation Facilities and Services (TRN 693) \$115,614 (14.00) for the fiscal year 1973-74 and \$121,166 (14.00) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Transportation that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

SECTION 71. Provided, that of the special fund appropriation for General Administration for Transportation Facilities and Services (TRN 902)

\$62,618 (5.00) for the fiscal year 1973-74 and \$65,765 (5.00) for the fiscal year 1974-75 shall be used with the approval of the Governor to establish and fund positions in the Department of Transportation that were approved in the Governor's 1973-75 budget as amended but not otherwise funded by this act.

PART IV. CAPITAL IMPROVEMENT PROJECTS

SECTION 72. CAPITAL IMPROVEMENT PROJECTS AUTHORIZED. The sums of money appropriated or authorized in Part II of this act for capital investments shall be expended for the projects listed below. Several or more related or similar projects may be combined into a single project, if such combination is advantageous or convenient, for land acquisition, design and construction purposes, provided, that the total cost of the projects thus combined shall not exceed the total of the sum specified for the projects separately. (The amount after each cost element and the total funding for each project listed in this part are in thousands of dollars.)

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)										
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	C	O						
			Org.	No.										
A. ECONOMIC DEVELOPMENT														
COMMERCE AND INDUSTRY														
Transportation, Communications & Utility Services Development & Mkt—T,C,&U														
1.	01010303 Kona Water Project, Hawaii Kona Water Project, Hawaii—Incremental development of water system including plans and construction of source development, a development shaft, pumps and appurtenances, transmission mains, and storage facilities.	G03	LNR	140										
	Land Acquisition												40	
	Design												287	
	Construction												1,276	
	Total Funding												1,603C	
2.	01010303 West Maui Water Project, Maui West Maui Water Project, Maui—Incremental development of water systems, including plans and construction of source development, transmission mains, storage facilities and appurtenances including development of water resources in Kahakuloa. Unexpended funds from prior appropriations may be used to supplement the appropriation for this project.	G04												
	Design													23
	Construction													277
	Total Funding													300C
3.	01010303 Kau Water Project, Hawaii Kau Water Project, Hawaii—Incremental development of water system, including plans	G06												
	Design													23
	Construction													277
	Total Funding													300C

and construction of source development, pipelines and storage facilities.

Construction	810		810
Total Funding	810C	C	810C

4. 01010303 Hoolehua Water Project, Molokai G08
 Hoolehua Water Project, Molokai—Incremental development of water system, including plans and construction of pipelines, tanks, pumps and appurtenances for Hoolehua, Molokai.

Land Acquisition	10		10
Design	22		22
Construction	288		288
Total Funding	320C	C	320C

5. 01010303 Kekaha-Waimea Water System, G16
 Kauai

Kekaha-Waimea Water System, Kauai—Incremental development of water system including plans and construction of source development, pipelines, booster pumps and storage facilities.

Design	14		14
Construction	165		165
Total Funding	179C	C	179C

6. 01010303 Koloa-Poipu Water System, Kauai G18
 Koloa-Poipu Water System, Kauai—Incremental development of water system including plans and construction of pipelines, storage facilities, source development and appurtenances.

Land Acquisition	10		10
Design	40		40
Construction	479		479
Total Funding	529C	C	529C

10.	01010303	G37					
	North Kohala, Hawaii—Plans and construction of an agricultural research facility, including purchase of necessary land.						
	Land Acquisition					I	
	Design					32	
	Construction					292	
	Total Funding					325C	C
	Trade and Finance						
	Services Development & Mkt—Trade		PED	107			
11.	01010403	FZ1					
	Expand FTZ-9 on 45 acres of Aneueue site, to broaden zone activities to include trans-shipment, manufacturing, re-export assembly of foreign and domestic goods as well as the storage and warehouse operation conducted at Pier 39. Improvements include utilities, fencing, warehouse, office building construction, and landscaping.						
	Construction					267	
	Total Funding					267C	C
12.	01010403	FZ2					
	improvements						
	Roof and supply utilities to shed V-yard at Pier 39, purpose is to increase size of shed area to meet customer demand. Fence 300,000 sq ft of open area and alarm same. Purpose is to expand facility to meet customer demand.						
	Construction					459	
	Total Funding					459C	C
	AGRICULTURE						
	Product Development and Marketing for Ag Commercial Fishery—Product Development		LNR	171			

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS(\$1,000's)		Total Biennium 1973-1975
				FY 1973-74	FY 1974-75	
13.	0102030103 Sand Island Fishery Station Landscaping Paving	C08				
	Landscaping of station site and paving of parking lot and roadways between tanks and buildings to make it compatible with proposed Sand Island State Park.					
	Design		4			4
	Construction		34			34
	Total Funding		38C		C	38C
14.	0102030103 Sand Island Fishery Station Thermo-Control Room	C09				
	Install mezzanine floor and wall in existing building for thermo-control room required for year round production of seed stock. Includes heaters, pumps, controls, and recorders.					
	Design					1
	Construction		14			14
	Total Funding		15C		C	15C
B. EMPLOYMENT						
ASSISTANCE IN WORK RELATED DIFFICULTIES						
Vocational Rehabilitation						
Physical Disabilities—Employment						
1.	02040301 Extended Sheltered Workshop	504				
	To provide sheltered employment to 100 severely disabled persons on Oahu. Gross building area of 14,000 sq ft and land area of 60,000 sq ft.					
						SOC ¶ 802

308
29
242
579C

308
29
242
579C

C

2. 02040301 Renovation of Hoopono Phase 2 508
To air condition an area of 8,547 square feet
and to install 8,400 square feet of vinyl asbestos
floor tile.

7
46
53C

7
46
53C

C

3. 02040301 Renovation of Hoopono Phase 3 509
To air condition an area of 13,200 square feet
and to sound proof crafts room and wood and
metal working shop.

13
86
99C

13
86
99C

C

**C. TRANSPORTATION FACILITIES
AIR TRANSPORTATION FACILITIES &
SERVICES**

Airport Facilities & Services
Honolulu International Airport Fac & Svc
Overseas Facilities & Services for HIA

TRN 102

1. 0301010101 Construction of Reef Runway A02
Construct dike, dredge and fill, construct run-
way and taxiways, relocate sewers, construct
fire station, install security fencing and con-
struct other related improvements.

750
17,856
9,303D
9,303N

750
17,856
9,303D
9,303N

D N

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	C O D E	FY 1974-75	C O D E	Total Biennium 1973-1975	
2.	0301010101 Supplemental HIA Expansion Program	A04							
	Improvements and modifications to baggage claim areas, miscellaneous road, parking lot and drainage improvements, continuation of the landscaping program, refacing of tower building and modification to baggage storeroom, installation of three 747 hardstands, taxiway improvements, addition to maintenance facility, and other improvements.			330		330		330	
	Design			6,670		6,670		6,670	
	Construction			4,453B	B	4,453B		4,453B	
	Total Funding			2,547E	E	2,547E		2,547E	
3.	Waimea-Kohala Airport Fac & Svcs Inter-Island F&S fr Waimea-Kohala Airport		TRN	116					
	Apron								
	Expand the aircraft parking apron, improve the taxiway grade at the apron and other miscellaneous airfield improvements.								
	Design			10		10		10	
	Construction			150		150		150	
	Total Funding			160D	D	160D		160D	
4.	0301010401 Construct Covered Entryway to Terminal	C52							
	Construct a covered entryway to the passenger terminal and appurtenances.								

	Design			4	
	Construction			36	
	Total Funding			40D	
	Upolu Airport Facilities & Service				
	Inter-Island Fac & Svcs for Upolu Airport	TRN	118		D
5.	0301010501 Upolu Airport Passenger & Maint. Shelter		C81		
	Construct new passenger and maintenance shelter, and other miscellaneous improvements.				
	Design			1	
	Construction			19	
	Total Funding			20D	
	Kahului Airport Facilities & Service				
	Inter-Island Fac & Svcs fr Kahului Airport	TRN	131		D
6.	0301010601 Improve Access Rd. and Construct Maint. Fac		D03		
	Project to include grading, paving, landscaping and lighting access roadway, installation of underground electrical and communication system, sewer system and other improvements, construct new maintenance baseyard facilities.				
	Design			40	
	Construction			620	
	Total Funding			660D	
	Lihue Airport Facilities & Service				
	Inter-Island Fac & Svcs for Lihue Airport	TRN	161		D
7.	0301011001 Lihue Airport Development		E02		
	Plans, land acquisition and construction of a new runway and taxiway. Other miscellaneous improvements.				
	Land Acquisition			1,400	
	Design			150	
	Total Funding			920D	
				630N	

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)						
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975		
8.	Oahu Airport Facilities & Service		TRN	175						
	03010112 Oahu Airport	A70								
	Oahu Airport Construction—Project to include construction of terminal facilities, apron expansion, additional tee hangars and miscellaneous improvements. Phase II of the airfield improvements will consist of constructing the base course, paving, lighting, marking and other improvements.									
	Land Acquisition					1,300				1,300
	Design					95				95
	Construction					1,180				1,180
	Total Funding					1,710E			E	1,710E
						865N			N	865N
9.	Air Transportation Fac & Serv Support		TRN	293						
	Gen Adm for Air Transpton Fac & Svc	F01								
	03010303 Statewide Airport Planning									
	Statewide Airport planning which provides basic data and information for proper planning and the establishment of development priorities of the state airport system facilities and continue review and updating of master plans.									
	Design									
	Total Funding									
						150			B	150
						150B				150B
10.	Statewide Airport Certification	F02								
	Statewide airport certification which provides procurement of fire and rescue and other required equipment for the statewide system of airports and construction of security fencing.									

lighting, and other miscellaneous airport improvements.

Design	50	
Construction	440	
Total Funding	490B	B

WATER TRANS FACILITIES & SERVICES
 Harbors Facilities & Services
 Honolulu Harbor Facilities & Services
Overseas Fac & Svcs fr Honolulu Harbor

TRN 301

11. 0302010101 Misc Improv to Exist Pier Fac at J03

Hon Har
 Miscellaneous improvements to existing piers, sheds and yard facilities at Honolulu Harbor, including improvements to lighting, oil lines, paving, and other facilities. Funds appropriated for this project may be used for Inter-Island facilities also.

Design	35	
Construction	165	
Total Funding	200B	B

12. 0302010101 Expans Container Fac Dev Trans-shipment Hon

Development of Transshipment and container facilities on Sand Island including pier, yard, shed and other improvements.

Design	336	
Construction	1,614	
Total Funding	1,950B	B

13. 0302010101 Improvements to Piers 15-18 Hon J08 Harbor

Development of berthing areas for commercial fishing vessels. Unexpended funds from Act 155/69 Item C-14 may be used to supplement the appropriation for this project.

Design	336	
Construction	1,614	
Total Funding	1,950D	D

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)				
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	C O D E	C O D E
	Design Construction Total Funding			86 414 500D		86 414 500D		
14.	0302010101 Acquisition and Development of J19 Piers 41-42 FY 74 initial payment for acquisition of land, facilities; FY 75 initial development; FY 77 final payment for acquisition of land and facilities, succeeding years further development. Land Acquisition Total Funding			4,810 4,810D		4,810 4,810D		
	Hilo Harbor Facilities & Services Inter-Island Fac & Svcs for Hilo Harbor		TRN 312					
15.	0302010302 Improv to Inter Island Fac Hilo L02 Harbor Improvements to Inter-Island facilities at Hilo Harbor including modifications to Pier 1 shed and apron, expansion of container fac. Pier 2 shed extension improvements to facilities at Pier 2-3 area, removal of bag sugar warehouse, and other improv. Unexpended funds from Act 68 SLH 1971 Item No H-19 may be used to supplement the appropriation for this project. Design Construction Total Funding			269 1,291 1,560D		269 1,291 1,560D		

<p>Kahului Harbor Facilities & Services Inter-Island Fac & Svcs for Kahului Harbor</p>		TRN	332
16.	<p>0302010502 Impr. to Inter-Is. Fac. at Kahului M02 Harbor Pier 2 shed extension, acquisition of surplus federal property and other improvements. Land Acquisition Total Funding</p>		<p>150 150D</p> <p>D</p> <p>150 150D</p>
<p>Other Water Trans Facilities & Services</p>		TRN	401
17.	<p>030202 Inter-Island Ferry Terminals Statewide I02 Construction of ferry terminals on the Islands of Kauai, Oahu, Maui, and Hawaii for the Inter-Island ferry system and other improvements.</p>		<p>638 3,062 3,700D</p> <p>D</p> <p>638 3,062 3,700D</p>
18.	<p>030202 Misc. Imprv. to Fac. at Neighbor Is. I03 Ports Improvements to yard areas, sheds, piers, utilities, water areas and other facilities.</p>		<p>4 21 25B</p> <p>B</p> <p>4 21 25B</p>
19.	<p>030202 Statewide Commercial Har. Sewer Sys I04 Improv. Study and implementation of statewide sewage system for commercial harbors. Implementation costs are dependent upon study findings and recommendations.</p>		<p>95 5 100B</p> <p>B</p> <p>95 5 100B</p>

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)							
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975			
20.	Water Trans Facilities & Svcs Support Pllng & Anlyls fr Water Transpfn Fac & Sv	101	TRN 491	80				80			
	03020301 Statewide Harbor Planning			80B				80B			
	Continuing harbor studies, research and advance planning of harbor and terminal facilities on all islands.										
	Design Total Funding										
	LAND TRANSPORTATION FACILITIES & SERVICE										
	Corridors & Highways & Services Oahu Highways & Services										
	Interstate H-1 Hwy & Services for Oahu										
21.	0303010101 Interstate Route H-1—Middle Street separation to Old Waialae Road, Honolulu, Oahu—Safety improvements along existing Lunailo Freeway from Middle Street separation to Old Waialae Road.		TRN 501								
	Land Acquisition			188				188			
	Construction			3,213				3,213			
	Total Funding			273D			D	273D			
				3,128J			J	3,128J			
22.	0303010101 Interstate Route H-1, Landscaping Palailai to Amakoa, Oahu—Incremental landscaping, including sprinkler systems and other appurtenances necessary for the continual maintenance of the improvements.										
	Design			15				15			
	Construction			85				85			
	Total Funding			100D			D	100D			

23.	0303010101 Interstate Route H-1—East of Kunia I.C. to East of Waiawa Interchange, Oahu—Construction of divided highway, including the Waiawa Interchange, from east of Kunia Interchange to east of Waiawa Interchange.	2,022 296D 1,726J	D J	2,022 296D 1,726J
Construction Total Funding				
24.	0303010101 Interstate Route H-1—East of Halawa I.C. to Middle Street separation, Oahu—Incremental construction of eight free-way lanes, including Pearl Harbor, Airport Keehi Interchanges.	1,100 35,716 6,010D 30,806J	D J	1,100 35,716 6,010D 30,806J
Land Acquisition Construction Total Funding				
Interstate H-2 Hwy & Services for Oahu TRN 502				
25.	0303010102 Interstate Route H-2—Waiawa Interchange toward Schofield Barracks, Oahu—Incremental construction of divided highway (including major crossing structures at Waikakalaua and Kipapa Gulches and interchanges in the vicinity of Wahiawa and Milliani Town) from Waiawa I.C. to Schofield Barracks.	8,390 1,074D 7,316J	D J	8,390 1,074D 7,316J
Construction Total Funding				
Interstate H-3 Hwy & Services for Oahu TRN 503				
26.	0303010103 Interstate Route H-3—Junction at H-1 to Kaneohe Marine Corps Air Station, Oahu—Incremental Construction of divided			

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975	
	highway from junction at H-1 to Kaneohe Marine Corps Air Station.			110,075					110,075
	Construction			16,473D		D			16,473D
	Total Funding			93,602J		J			93,602J
Primary Highways & Services for Oahu									
			TRN 504						
27.	0303010104 Castle Junction Interchange, Koolauloko, Oahu. Grade separation at the intersection of Kalaniana'ole, Pali and Kamehameha Highways.								
	Land Acquisition			194					194
	Total Funding			194D		D			194D
28.	0303010104 Kamehameha Highway, Helemano-Wailua Junction to Haleiwa Beach Park, Oahu —Realignment and improvement of highway from Helemano-Wailua Junction to Haleiwa Beach Park.								
	Land Acquisition			239					239
	Design			112					112
	Total Funding			99D		D			99D
				252K		K			252K
29.	0303010104 Puuloa Road—Kamehameha Highway to Peltier Avenue, Honolulu, Oahu—Widening existing two-lane facility.								
	Land Acquisition			46					46
	Total Funding			46M		M			46M

30.	0303010104 Liliha St. Widening H-1 to King R64 St., Oahu Widening of Liliha Street from H-1 to King Street, to be supplemented by unexpended funds from Act 38, SLH 1966, Item 11-C-41 for design and construction.	367 83D 284K	367 83D 284K
	Construction		
	Total Funding		
31.	0303010104 Nimitz Hwy—Kakaako St. to R65 Bishop St., Oahu Divided highway from Kakaako Street to Bishop Street. To be supplemented by unexpended funds from Act 195, SLH 1965, Item D-29 and Act 187, SLH 1970 Item C-24 for Design, Land & Construction.	227 25 350 602K	227 25 350 602K
	Land Acquisition		
	Design		
	Construction		
	Total Funding		
32.	0303010104 Likelihe Hwy-Kahekili Hwy I.C., R71 Koolaupoko Construction of interchange to replace the existing at-grade intersection.	66 66D	66 66D
	Design		
	Total Funding		
33.	0303010104 Kamehameha Hwy, Kaneohe, Oahu R87 Resurfacing and improvement of mauka lanes of Kamehameha Highway between Likelihe and Pali Highways.	306 306D	306 306D
	Construction		
	Total Funding		

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)								
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975	C O D E			
34.	0303010104 Kahekili Hwy widening, Kaneohe, Oahu Widen the existing two-lane Kahekili Highway to a four-lane divided facility.	S40		288					288			
	Design			288D					288D			
	Total Funding											
35.	0303010104 Improv. to Oahu Dist. Baseyard, Hon., Oahu. Improvements to Motor Pool Building.	S42										
	Design			3					3			
	Construction			17					17			
	Total Funding			20D					20D			
36.	0303010104 Waianae and Wahiawa Baseyards, Waianae and Wahiawa, Oahu—Construction of buildings and improvements. Demolish and remove existing buildings.	S43										
	Design			6					6			
	Construction			35					35			
	Total Funding			41D					41D			
37.	0303010104 Farrington Highway Improvements Piliokoe Gulch towards vicinity of Makaha, Oahu—Incremental construction for improvements, widening and realignment.	S66										
	Land Acquisition			1,174					1,174			
	Construction			2,468					2,468			
	Total Funding			3,642D					3,642D			
38.	0303010104 Emergency truck turnouts at Pali & Likelike Highways, Oahu—Construction of emergency truck turnouts.	S68										

	Construction				30				30
	Total Funding				30D				30D
	Secondary Hwys & Services for Oahu		TRN	505					
39.	0303010105 Ala Moana Blvd., Highway Light- ing System, Ala Wai Canal to Kalakaua Ave- nue, Honolulu, Oahu—Convert existing high- way lighting system from series overhead wire, to multiple, underground cable.	S41							
	Design				17				17
	Construction				155				155
	Total Funding				172D		D		172D
40.	0303010105 Mokapu Boulevard, Median Land- scaping and sprinkler system, Kalaheo Street to Oneawa St., Kaneohe, Oahu—Installation of landscaping and sprinkler systems.	S45							
	Design				22				22
	Construction				171				171
	Total Funding				193D		D		193D
41.	0303010105 Fort Weaver Road realignment and widening including improvements to Kunia Road to provide for a connection to H-1, Ewa, Oahu—Incremental realignment and improve- ment of existing two-lane highway to a divided highway, or temporary improvements to the existing two-lane highway.	S70							
	Land Acquisition				600				600
	Design				365				365
	Construction				5,700				5,700
	Total Funding				6,665D		D		6,665D
	Hawaii Highways & Services								
	Primary Hwys & Services for Hawaii		TRN	511					
42.	0303010201 Hilo Waterfront Road, vicinity of Waiuku River to Hilo Wharf, South Hilo, Ha- wau—Plans for the improvement of Hilo Bay-	T02							

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)				
				FY 1973-74	FY 1974-75	C O D E	Total Biennium 1973-1975	C O D E
Org. No.	Project No.	Item No.	Program ID	FY 1973-74	FY 1974-75	C O D E	Total Biennium 1973-1975	C O D E
	front Highway or Kamehameha Avenue or Kalaniana'ole Avenue from the vicinity of Wailuku River to Hilo Wharf. To be supplemented by funds from Act 217, SLH 1967, Item C-123.			100 100D			100 100D	
43.	Design Total Funding 0303010201 Hawaii Belt Rd: Holualoa to Papa, Hawaii—Incremental construction of two-lane highway from Holualoa to Papa. To be supplemented by unexpended funds from Act 217, SLH 1967, Item C-109 and Act 40, SLH 1968, Item C-63.		T03					
44.	Design Total Funding 0303010201 Kuakini Highway, Hawaii Realignment of present 2-land hwy to meet Kailua-Kawaihae Rd.		T04					
	Land Acquisition Total Funding			457 457D			457 457D	
45.	0303010201 Hawaii Belt Rd: Mud Lane towards Kamuela Race Track, South Kohala and Hamakua, Hawaii. Realignment of highway between Mud Land and Kamuela Race Track on an alignment by-passing Waimea.		T07					
	Land Acquisition Design Total Funding			370 176 546D			370 176 546D	

46.	0303010201 Hawaii Belt Rd, improvements, T16 Section 19H, Hawaii—Realignment of portion of Hawaii Belt Road including the construction of the Kapehu and Kahue Bridges.	63 144 565 772D	63 144 565 772D
	Land Acquisition		
	Design		
	Construction		
	Total Funding		D
47.	0303010201 Hawaii Belt Road: Replacement of T27 5 Bridges Hawaii Belt Road improvement, Hamakua, Hawaii—Replace existing wooden bridges at Kainēhe, Kaholalele, Paaulo School and East Paaulo Streams and concrete bridge at Kealaka Stream.	1,210 1,210D	1,210 1,210D
	Construction		
	Total Funding		D
48.	0303010201 Hawaii Belt Road, Route 190D, T28 Keamuku towards Waimea, South Kohala, Hawaii—Land acquisition, plans and construction of new two-lane highway approximately three miles south of the Saddle Road.	45 50 29 124D	45 50 29 124D
	Land Acquisition		
	Design		
	Construction		
	Total Funding		D
49.	0303010201 Mamalahoa Highway, Puna, Hawaii Extension of existing two-lane outbound highway from vicinity of Slaughter House Road to south of the Keaau-Paho Road Junction including improvements to the Volcano Road and Keaau-Paho Road Intersection.	35 35D	35 35D
	Design		
	Total Funding		D

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)														
				FY 1973-74	C O D E	FY 1974-75	C O D E	Total Biennium 1973-1975	C O D E									
50.	0303010201 Kona Baseyard Maintenance Bldg. Hawaii—Construction of baseyard in Kona.	T63																
	Design																	
	Total Funding																	
51.	0303010201 Hawaii Belt Road, Kahuku to Honuapo Kau, Hawaii—Incremental realignment and improvement of approximately 18 miles of highway.	T69																
	Land Acquisition																	
	Total Funding																	
52.	0303010201 Kanoolehewa Avenue—Makalika Street to Kamehameha Avenue, Hawaii	T70																
	Construction of four-lane highway utilizing the present two-lane highway and constructing an additional two-lane highway on a parallel alignment from Makalika St to Kamehameha Ave. Existing two-lane highway to be resurfaced with asphalt concrete.																	
	Construction																	
	Total Funding																	
53.	0303010201 Kailua-Kawaihae Rd: Keahole to Hapuna, Hawaii—Incremental construction of two-lane highway to supplement prior appropriations.	T71																
	Land Acquisition																	
	Construction																	
	Total Funding																	

54.	Secondary Hwys & Services for Hawaii 0303010202 Honokaa-Waipio Rd: Hamakua, Hawaii Design and construction of two-lane highway from Haina Road intersection to Waipio Look-out.	TRN 512		
	Design		50	50
	Total Funding		50D	50D
	Maui Highways & Services Primary Hwys & Services for Maui	TRN 531		
55.	0303010301 Maui Baseyard, Kahului, Maui Design and construction for Maui District Base-yard.			
	Design		35	35
	Construction		550	550
	Total Funding		585D	585D
56.	0303010301 Haleakala Hwy—Airport to Kula Highway Makawao, Maui—Widen, realign and reconstruct highway Kahului Airport junction on Hana Highway to Kula Highway junction at Pukalani.			
	Construction		214	214
	Total Funding		214K	214K
57.	0303010301 Honoapiilani Hwy, Lahaina, Maui Construction of two-lane highway from Honokowai to Honokahua.			
	Land Acquisition		121	121
	Design		163	163
	Construction		167	167
	Total Funding		284D	284D
	Secondary Hwys & Services for Maui	TRN 532		
58.	0303010302 Puunene Ave. Improvements, Maui			
	Construction		167K	167K

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)			
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	
			Org.	No.	C O D E	C O D E	'C O D E
59.	Construct improvements from Kaahumanu Avenue to Kuihelani Highway.						
	Design			11			11
	Construction			750			750
	Total Funding			761D	D		761D
60.	0303010302 Kuihelani Hwy, Kahului Airport to Maalaea.						
	Maui—Construction of two-lane highway from Hana Highway near Kahului to Honopiilani Highway near Maalaea.						
	Land Acquisition			863			863
	Construction			1,865			1,865
Total Funding			985D	D		985D	
				1,743L	L		1,743L
61.	Other Hwys & Services for Maui		TRN	533			
	0303010303 Kahekili Hwy—Waihee to Honokohau, Maui						
	Incremental widening, paving, and improvement of existing dirt road between Waihee and Honokohau.						
	Land Acquisition			10			10
Design			15			15	
Construction			275			275	
Total Funding			300D	D		300D	
	Kauai Highways & Services						
	Primary Hwys & Services for Kauai		TRN	561			
	0303010601 Kauai Belt Rd., Hanalei to Kalihiwai						
	Hanalei, Kauai—Construction of highway, in-						

cluding appurtenant drainage, landscaping and improvements.

Land Acquisition 184
 Design 31
 Total Funding 215D D 215D

62. 0303010601 Kauai Belt Rd., Lumahai to Hanalei X04

Kauai—Construction of highway, including major drainage structure and landscaping.

Design 94
 Total Funding 94D D 94D

63. 0303010601 Kauai Belt Road—Kapaa Town Section, Kauai X08

Construction of highway from Waiakea Canal to Kawaihau Road including parking strips, curbing, sidewalks and landscaping.

Construction 658
 Total Funding 658D D 658D

64. 0303010601 Kauai Baseyard, Kapaa, Kauai X10

Supplemental appropriation to complete base-yard facilities.

Construction 270
 Total Funding 270D D 270D

65. 0303010601 Kauai Belt Road—Truck Climbing Lanes X13

At Wahiawa, Lawai and Omao, Koloa, Kauai—Land acquisition, plans and construction for climbing lanes in valley section including landscaping.

Land Acquisition 32
 Design 12
 Construction 54
 Total Funding 98D D 98D

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)						
				FY 1973-74	C O D E	FY 1974-75	C O D E	Total Biennium 1973-1975	C O D E	
66.	0303010601 Kauai Belt Road, Drainage Improvements Lihue, Kauai.—Land acquisition, plans and construction for installation of storm drains and landscaping between Poinciana and Hardy Streets.	X17		3					3	
				4					4	
				24					24	
				31D			D		31D	
67.	0303010601 Safety Improvements at Various Locations Kauai.—Construction of turn arounds at Luma-hai and Holoholoku Heiau; scenic stops for Sleeping Giant and Queen Victoria's profile; bus stops along Kuhio Highway and at various locations.	X38		2					2	
				13					13	
				127					127	
				142D			D		142D	
68.	Land Trans Facilities & Services Support Gen Adm for Land Transportn Fac & Service 03030303 Miscellaneous Drainage Improvements Statewide.—Drainage improvements to existing highway facilities.	X97	TRN 693	30					30	
				120					120	
				150D			D		150D	

69. 03030303 Miscellaneous Improvements—
To Existing Intersections and Highway
Facilities X98

Statewide—Miscellaneous improvements to existing intersections and highway facilities necessary for traffic safety.

Design	40	40
Construction	160	160
Total Funding	200D	200D

70. 03030303 Highway Route Planning, Traffic, Finance X99

Road use, road life and economic studies, statewide—Highway studies and research and advance planning of federal highway projects. This required to qualify the state to receive federal aid on specific projects.

Design	1,578	1,578
Total Funding	465D	465D
	1,113N	1,113N

D. ENVIRONMENTAL PROTECTION

NATURAL PHYSICAL ENVIRONMENT
Preservation and Enhancement
Forests and Open Spaces LNR 402

1. 04010202 Forest Roads D01

Forest roads. Roads are constructed, on an incremental basis, primarily by forestry using our own equipment. Standards call for unpaved single-tract, 12 feet wide with drainage ditches and culverts. Roads provide access for reforestation, fire protection, pest control, logging, and recreation.

Design	7	7
Construction	90	90
Total Funding	97C	97C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975			
						C	O	D	E
2.	04010202 DLNR Baseyard, Maui Design and construct a departmental baseyard for Maui facility to include covered parking, shops, flammable storage, fire cache, office and restroom, nursery area, warehouse and caretaker's housing.	D05		20 350 370C					20 350 370C
3.	04010202 DLNR Baseyard, Kauai Complete construction plans and cost estimate for construction of a DLNR baseyard on Kauai.	D06							C
	Design Total Funding			25 25C					25 25C
	Inland Waters		LNR	404					C
4.	04010204 Hawaii Water Resources Regional Plan Hawaii Water Resources Regional Plan, State-wide—Formulation of a multi-agency/multi-purpose long-range guide for federal, state, county and private interests to conserve, develop and utilize Hawaii's total water and related land resources in an efficient and timely manner.	G01							
	Design Total Funding			776 776N					776 776N

E. HEALTH

PHYSICAL HEALTH

Communicable Diseases
Tuberculosis

Prevention and Detection of TB

HTH 101

1. 05010101 Lanakila Health Center B01

Construction of a three story building with parking lot, retaining walls, landscaping, fencing and related work. Facility to house the following branches of the health department: tuberculosis, mental health, public health nursing, communicable diseases, dental health and health education.

Construction
Total Funding

164
164C C 164
164C

Mental Health

Routine Treatment & Rehab Services for M

HTH 420

2. 050202 Lahaina Health Center E21

Construction of a health center with a gross floor area of 8,200 sq ft to house mental health, children's health services, dental health, public health nursing, health education and dept of social services. Project to be funded by transfer from other mental health projects.

Construction
Total Funding

1
1C C 1
1C

Emergent & Moderately Intense Treatmt—M

HTH 430

3. 050203 Sam Mahelona Centralized Laundry Equipment D15

Install one 135 pound staph barrier washer and one 275 pound tumbler to replace existing washer and tumblers at Samuel Mahelona Hospital.

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975			
			Org.	No.	C D E	C D E	C D E	C D E	
	Design Construction Total Funding				I 29 30C			I 29 30C	
	Mental Retardation Waimano Training School and Hospital		HTH	511					
4.	050303 WTSH—Sewerage System Connection to City & County of Honolulu sewer system.	F03							
	Design Total Funding				I3 13C			I3 13C	
	Overall Program Support for Health General Administration for Health Department of Health—Administration		HTH	907					
5.	05060701 Lihue Ambulance Quarters This project will provide a base of operations for 24 hours emergency ambulance service covering the eastern half of Kauai. Facilities include ambulance port and living quarters for personnel. Project will be part of the proposed new county fire station to be constructed in Lihue.	I23							
	Design Construction Total Funding				7 62 69C			7 62 69C	

F. SOCIAL PROBLEMS

ASSURED STANDARD OF LIVING
Housing
Rental Housing Augmentation

SOC 221

1.	06020301 Federal Low Income 325 Family Dwellings 2 to 5 Bedrooms masonry and or frame Construction Total Funding	H01		7,450 7,450E	E	7,450 7,450E
	Home Purchase Loans Loans to Hawaiians		HHL 611			
2.	0602030402 Nanakuli Subdivision 110 Units Oahu Nanakuli, Oahu to put in roads, curbsings, water and electrical lines for 430 residence lots in in- crements of 110, 110, 110, and 100. To provide loan fund capitalization for construction of 112 homes. Design Construction Total Funding	H20		50 830 880C	C	50 830 880C
3.	0602030402 Waianae Subdivision 150 Units Oahu Waianae, Oahu to build roads and curbsings, install utilities and stake out for 307 residence lots at Waianae, Oahu in increments of 150, 100, and 57. To provide loan capitalization for construction loans for 107 units. Design Construction Total Funding	H23		40 774 814C	C	40 774 814C
4.	0602030402 Nanakuli Drainage Project, Oahu Plans and construction of drainage facilities, including land acquisition. Design Construction Total Funding	H26		150 1,350 1,500C	C	150 1,350 1,500C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)						
				FY 1973-74	FY 1974-75	C D E	C D E	Total Biennium 1973-1975		
5.	0602030402 Waimanalo Drainage Project, Oahu Plans and construction for drainage facilities including land acquisition.	H27								
	Design			100						100
	Construction			900						900
	Total Funding			1,000C					C	1,000C
G. FORMAL EDUCATION										
LOWER EDUCATION										
Intellectual Learning										
Language Arts										
1.	07010102 Hickam Intermediate, Oahu Plan and construct four English classrooms. Sitework. Four of 16 classrooms.	D34	EDN 111							
	Design			21						21
	Total Funding			21C					C	21C
Science.										
2.	07010103 Kamiloiki Elementary Plan and construct science classroom.	D14	EDN 121							
	Design			6						6
	Total Funding			6C					C	6C
3.	07010103 Aliamanu Intermediate, Oahu Renovate 4 cr to 4 science cr.	D33								
	Design			14						14
	Construction			115						115
	Total Funding			129C					C	129C

4.	07010103 Hickam Intermediate, Oahu Plan and construct six science classrooms. Sitework. Six of 16 classrooms.	D34		
	Design		39	39
	Total Funding		39C	39C
5.	07010103 Kealahoe Elem School, North Kona, Hawaii Plan and construct science classroom facility.	0D5		
	Design		10	10
	Construction		101	101
	Total Funding		111C	111C
6.	07010103 Hilo Second High School, Hilo, Hawaii Construct 4 science classroom-labs plans.	1D1		
	Design		37	37
	Construction		512	512
	Total Funding		549C	549C
7.	07010103 Molokai High and Inter School, Molokai Plan and construct 8 cr bldg, drainage improve- ments, and renovation of existing facilities.	2D9		
	Construction		400	400
	Total Funding		400C	400C
8.	07010103 Kauai High and Inter Plan and construct 6 science classrooms as part of 12 classroom building with labs and science equipment, 2 physical science rooms, 2 biology rooms, 1 chemistry, 1 physics-electronics room.	7D4		
	Construction		415	415
	Total Funding		415C	415C
	Social-Personal Learnings			

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)						
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	C O D E	C O D E		
	Music		EDN 211							
9.	07010202 Kamiloiiki Elementary Plan and construct music classroom.	D13								
	Design			5		5				
	Total Funding			5C		5C				
10.	07010202 Kailua Intermediate, Oahu Plan and construct music building.	D92								
	Design			14		14				
	Construction			136		136				
	Total Funding			150C		150C				
11.	07010202 Kealahehe Elem School, North Kona, Hawaii Plan and construct music facility.	0D6								
	Design			10		10				
	Construction			97		97				
	Total Funding			107C		107C				
12.	07010202 Hana High and Elem School, Maui Plan and construct music bldg.	3D3								
	Design			14		14				
	Construction			135		135				
	Total Funding			149C		149C				
	Art		EDN 221							
13.	07010203 Kamiloiiki Elementary Plan and construct art classroom.	D16								
	Design			6		6				
	Total Funding			6C		6C				

14.	07010203 Kealakehe Elem School, North Kona, ODH Hawaii Plan and construct art classroom facility.				11 114 125C	C	11 114 125C
15.	Kauai High and Intermediate Plan and construct 2 art classrooms as part of 12 classroom building.	7D7					
	Construction Total Funding				135 135C	C	135 135C
16.	Physical Education Kaiser High School Plan & construct PE classrooms, athletic fa- cilities, and gymnasium.	D18	EDN	231			
17.	Construction Total Funding				345 345C	C	345 345C
18.	Hickam Intermediate, Oahu Plan and construct two physical education classrooms. Site work. Two of sixteen classrooms.	D34					
	Design Total Funding				17 17C	C	17 17C
19.	King Intermediate and High, Oahu Plan and construct athletic facilities.	D93					
	Design Construction Total Funding				17 158 175C	C	17 158 175C
	Kealakehe Elem School, N Kona, Hawaii Construction of playground 165,050 sq. ft.	0D4					
	Construction Total Funding				132 132C	C	132 132C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)				
				FY 1973-74	FY 1974-75	C D E	C D E	Total Biennium 1973-1975
20.	Hilo Second High School, Hilo, Hawaii Plan and construct 2 PE classroom and PE locker shower facility and 4 paved courts and covered playcourt and playgrounds.	0D8		73 1,355 1,428C				73 1,355 1,428C
21.	Kau High & Pahala Elem, Kau, Hawaii Construct physical education classrooms and PE locker shower facilities.	ID5		3 459 462C				3 459 462C
22.	Social Studies 07010205 Moanalua High, Oahu Plan and construct 12 cr bldg.	D38	EDN 241					
23.	Economic Learnings Vocational-Technical 07010301 Nanakuli High, Oahu Plan and construct industrial education building.	D67	EDN 301	816 816C				816 816C
24.	Construction 07010301 Hilo Second High School, Hilo, Hawaii Plan and construct 2 business educ rooms,	0D9		242 242C				242 242C

	wood technology shop, home economics classroom.				
	Design	39		39	
	Construction	535		535	
	Total Funding	574C	C	574C	
25.	07010301 Kauai High and Inter Plan and construct 2 home economics classrooms as part of 12 classroom building.				
					7D5
	Construction	136		136	
	Total Funding	136C	C	136C	
	Practical Arts				EDN 311
26.	07010302 Hickam Intermediate, Oahu Plan and construct four practical arts classrooms.				
	Site work.				
	Four of 16 classrooms.				
	Design	36		36	
	Total Funding	36C	C	36C	
27.	07010302 Mililani Hi and Int, Oahu Plan and construct practical arts center.				
	Design	13		13	
	Construction	1,046		1,046	
	Total Funding	1,059C	C	1,059C	
28.	07010302 Hana High and Elem School, Maui Plan and construct ind arts or bldg.				
	Design	17		17	
	Construction	204		204	
	Total Funding	221C	C	221C	
29.	07010302 Kauai High and Inter Plan and construct 1 typing room and 1 business room as part of 12 classroom building.				
	Construction	136		136	
	Total Funding	136C	C	136C	

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS(\$1,000's)						
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	C	D	E	
30.	Administration—Lower Education Staff Services	8D7	EDN 411							
	Facilities Plan and construct storeroom and custodial facilities to provide storage and distribution of school and custodial supplies.			75 75C						75 75C
31.	District/School Administration	D01	EDN 421							
	Classrooms Relocation of approximately 200 portable and construction of approximately 20 portable classrooms to meet temporary and sudden enrollment increases, consolidations, to provide temporary facilities while new schools are planned and to house peak enrollments.									
32.	Design Construction			160 975						160 975
	Total Funding			1,135C					C	1,135C
32.	707010403 Lump Sum Minor Improvements and Additions	D02								
	Additions Additions, renovations and improvements to buildings and school sites for students' safety and health, protection of property, and to improve the educational programs.									
	Design Construction			50 395						50 395
	Total Funding			445C					C	445C

33.	<p>07010403 Lump Sum Minor Land Acquisitions D03 Acquisition of small parcels of land abutting existing school sites which are needed for better location of buildings and to provide better access which were not foreseen in the original construction.</p>	<p>120 120C</p>	C	<p>120 120C</p>
34.	<p>07010403 Lump Sum for Master Plans and Site Studies D04 Master plans, preland acquisition studies, site selection and feasibility studies to meet future and unforeseen school needs due to residential developments.</p>	<p>50 50 100C</p>	C	<p>50 50 100C</p>
35.	<p>07010403 Removal of Architectural Barriers D05 To provide ramps and other corrective measures for easy accessibility of school facilities to handicapped persons. Planning and construction of improvements at a few selected schools.</p>	<p>30 170 200C</p>	C	<p>30 170 200C</p>
36.	<p>07010403 Honolulu District Office Bldg. D31 Plan and construct a new office building for the Honolulu district. 1 of 2 parts.</p>	<p>37 37C</p>	C	<p>37 37C</p>
37.	<p>07010403 Pearl City High, Oahu D78 Plan and construct administration building including connection to existing covered walkway and site improvement.</p>			

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)				
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	C O D E	C O D E
	Construction Total Funding			263 263C	C	263 263C		
38.	07010403 Waimanalo Elementary and Intermediate, Oahu Construct administration building, demolish old building.	D90						
	Construction Total Funding			175 175C	C	175 175C		
39.	07010403 Hilo Second High School, Hilo, Hawaii Plan and construct parking area for 200 vehicles access roadway 1,500 ft custodial shed.	0D7						
	Design Construction Total Funding			44 652 696C	C	44 652 696C		
	Support—Lower Education Lunch		EDN 501					
40.	07010501 Kaalakei Elementary Plan & construct serving kitchen.	D20						
	Construction Total Funding			74 74C	C	74 74C		
41.	07010501 Kalama Uka Elementary Plan and construct kitchen-multi-purpose dining room.	D21						
	Design Total Funding			14 14C	C	14 14C		
42.	07010501 Hickam Intermediate, Oahu Plan and construct kitchen and multi-purpose	D49						

dining room.					
Design		43		43	
Total Funding		43C	C	43C	
43.	07010501 Hoaeae Elementary, Oahu Plan and construct serving kitchen and lanai including compactor system and site improvement.				
					D65
Construction		83		83	
Total Funding		83C	C	83C	
44.	07010501 Campbell High, Oahu Plan and construct food service center consisting of central kitchen, dining room, lanai, renovation of existing kitchen into dining room, drainage and site improvements.				
					D66
Construction		882		882	
Total Funding		882C	C	882C	
45.	07010501 Kahuku High and Elementary, Oahu Plan and construct manufacturing kitchen and dining room.				
					D89
Design		37		37	
Total Funding		37C	C	37C	
46.	07010501 Pukalani Elementary School, Maui Plan and construct cafeteria				
					2D7
Design		27		27	
Construction		336		336	
Total Funding		363C	C	363C	
47.	07010501 Hana High and Elem School, Maui Plan and construct cafeteria.				
					3D4
Construction		161		161	
Total Funding		161C	C	161C	

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)							
				FY 1973-74	C D E	FY 1974-75	C D E	Total Biennium 1973-1975	C D E		
48.	Continuing Education. (Multi-Purpose Facilities—Elementary) 070205 Kaalakei Elem Plan & construct 16 classrooms including land acquisition and plans for second increment. This appropriation may be used to supplement item G-76 of this act if Kaalakei School is not constructed.	D11	EDN 000	735 735C					735 735C		
49.	070205 Kalama Uka Elementary Plan and construct 16 classrooms to include master plans preparation. Classrooms.	D12		603 64 667C					603 64 667C		
50.	070205 Kamiloiki Elementary Plan and construct a special classroom. 4 of 4.	D15		17 17C					17 17C		
51.	070205 Jefferson Elementary Plan and construct library building, to include demolition and site work.	D27		250 250C					250 250C		

52.	070205 Hawaii School for Deaf and Blind Construct library and demolition of old cafe.	D28		
	Design		12	12
	Construction		239	239
	Total Funding		251C	251C
53.	070205 Waiau Elem, Oahu Construct 16 cr bldg and site improvements.	D35		
	Design		3	3
	Construction		769	769
	Total Funding		772C	772C
54.	070205 Pearl Ridge Elem, Oahu Plan and construct library and site improve- ment.	D36		
	Design		8	8
	Total Funding		8C	8C
55.	070205 Waimalu Uka Elementary Land Acquisition	D39		
	Total Funding		350	350
			350C	350C
56.	070205 Waimalu Uka, Oahu Plan and construct 16 cr bldg and site improve- ments.	D40		
	Design		3	3
	Total Funding		3C	3C
57.	070205 Mililani-Kai Elem, Oahu Land acquisition, plan and construct 16 class- rooms, sitework.	D41		
	Land Acquisition		674	674
	Design		59	59
	Total Funding		733C	733C
58.	070205 Makalapa Elem, Oahu Plan and construct 8 cr bldg.	D43		
	Design		28	28
	Total Funding		28C	28C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)																
				FY 1973-74	C O D E	FY 1974-75	C O D E	Total Biennium 1973-1975	C O D E											
59.	070205 Kipapa Elem, Oahu Plan and construct 8 cr bldg.	D45		28								28								
	Design			28C																28C
60.	070205 Hoaeae Elem, Oahu Plan and construct 16 classroom building with temporary admin, library, health rm, and teacher's workrooms and land acquisition.	D64																		
	Construction			690								690								690
	Total Funding			690C								690C								690C
61.	070205 Puuloa Elem, Oahu (Kaimiloa) Plan and construct 16 classroom building with teacher's workroom, lanai, toilets and site improvement.	D68																		
	Construction			577								577								577
	Total Funding			577C								577C								577C
62.	070205 2nd Elementary School in Nanakuli Area Plan and construct 8 classroom building with teacher's workroom and toilets and site improvements.	D69																		
	Design			36								36								36
	Construction			440								440								440
	Total Funding			476C								476C								476C
63.	070205 Hoaeae Elem, Oahu Plan and construct 8 classroom building with teacher's workroom, toilets and site improvements.	D72																		

64.	Design Total Funding	070205 August Ahrens Elem, Oahu Plan and construct 8 classroom building with teacher's workroom, toilets, site improvement and demolition of old admin-library building.	D74	32 32C	C	32 32C
65.	Design Total Funding	070205 2nd Elementary School in the Nanakuli Area Land acquisition and complex development re- port.	D82	32 32C	C	32 32C
66.	Land Acquisition Total Funding	070205 Kainalu Elem, Oahu Renovate and expand classrooms to library.	D91	20 20C	C	20 20C
67.	Design Construction Total Funding	070205 Kealahou Elem School, North Kona, HI Hawaii Plan and construct 9 classrooms and parking area supplement to prior appropriations.	0D2	14 136 150C	C	14 136 150C
68.	Construction Total Funding	070205 Hilo Union Elem School, Hilo, Hawaii Construct library, administration building and parking supplement to prior appropriation.	ID2	392 392C	C	392 392C
69.	Design Construction Total Funding	070205 Pukalani Elem School, Maui Plan and construct 16 crs and sitework.	2D6	4 271 275C	C	4 271 275C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)			
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	
			Org. No.				
	Construction			1,101		1,101	
	Total Funding			1,101C	C	1,101C	
70.	070205 Waipahu VI Elem Land acquisition and master plan.	37D					
	Land Acquisition			385		385	
	Total Funding			385C	C	385C	
71.	070205 Waipahu VI Elem Plan and construct 1st increment: 16 classroom bldg, serving kitchen-multi-purpose dining room bldg, and site improvements.	38D					
	Design			56		56	
	Total Funding			56C	C	56C	
72.	New Kihei Elementary School, Maui Plan and construct 16 crs and parking and site-work.	4D1					
	Design			84		84	
	Construction			6		6	
	Total Funding			90C	C	90C	
73.	Solomon Elementary, Oahu Plan and construct 12 classroom building.	43D					
	Design			52		52	
	Total Funding			52C	C	52C	
74.	Mililani Uka Elem Land acquisition, complex development report, first increment plans, and construction and site improvement.	60D					
	Land Acquisition			550		550	
	Design			85		85	

	Construction Total Funding			916 1,551C	C	916 1,551C
75.	New Hanalei School Complex development report for new Hanalei school at Princeville.	7D1				
	Design Total Funding			50 50C	C	50 50C
	(Multi-Purpose Facilities—Secondary)		EDN 001			
76.	Kaiser High School Plan and construct library and forecourt in- cluding language laboratory and convert tem- porary library back to science classrooms.	D17				
	Design Construction Total Funding			30 100 130C	C	30 100 130C
77.	Campbell High, Oahu Plan and construct classroom building with 37 classrooms, and laboratories, teachers' work- room, lanais, toilets, site improvement and correction of architectural barriers.	D70				
	Construction Total Funding			726 726C	C	726 726C
78.	Nanakuli High-Inter School Plan and construct 8 classroom building with teacher's workroom, toilets and site improve- ments.	D73				
	Design Total Funding			50 50C	C	50 50C
79.	070206 Waipahu High, Oahu Plan and construct library and site improve- ment.	D75				
	Design Total Funding			26 26C	C	26 26C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	C O D E	FY 1974-75	C O D E	Total Biennium 1973-1975	C O D E
80.	070206 Waipahu High, Oahu Plan and construct 10 classroom building with teacher's workroom, toilets and site improvements.	D76		16 229 245C				16 229 245C	
81.	070206 Ahuimanu Intermediate, Oahu Site selection and land acquisition. Land Acquisition Total Funding	D88		65 65C			C	65 65C	
82.	070206 Hilo Second High School, Hilo, Hawaii Construct 18 classrooms. Construction Total Funding	ID0		340 340C			C	340 340C	
83.	070206 Kona Kona High and Int Sch, S Kona, Hawaii Planning and construction—12 classroom intermediate classroom building. Design Total Funding	ID4		74 74C			C	74 74C	
84.	070206 Lahaina Intermediate (New) Site work, plan and construction of classrooms, parking area and dining facilities. Construction Total Funding	2D8		1,270 1,270C			C	1,270 1,270C	

85.	070206 Hana High and Elementary School, Maui Plan and construct four cr bldg.	3D0		
	Design		17	
	Construction		200	
	Total Funding		217C	C
86.	070206 Hana High and Elementary School, Maui Plan and construct covered walkways.	3D1		
	Design		20	
	Construction		239	
	Total Funding		259C	C
87.	070206 New Kahului Intermediate School Master plan and design of a new school—con- struction of 16 classrooms.	3D7		
	Design		100	
	Total Funding		100C	C
88.	070206 Maui High School, Maui Plan and construct special education crs.	3D8		
	Design		20	
	Total Funding		20C	C
89.	070206 Waiuu High and Intermediate Plans for 1st increment and site improvement.	64D		
	Design		130	
	Construction		244	
	Total Funding		374C	C
90.	070206 Mililani High, Oahu Supplemental appropriation for 2nd increment.	66D		
	Construction		606	
	Total Funding		606C	C
91.	070206 Moanalua High, Oahu Construction	67D		
	Total Funding		425	
			425C	C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)							
				FY 1973-74	C O D E	FY 1974-75	C O D E	Total Biennium 1973-1975	C O D E		
92.	HIGHER EDUCATION University of Hawaii, Manoa Instruction—UOH, Manoa	002	UOH 101								
	07030101 Agricultural Sciences Facilities, Phase I										
	Agricultural Sciences Facilities, Phase I University of Hawaii, Manoa Campus										
	Construction of classrooms, laboratories and offices for the departments of agricultural engineering and entomology of the college of tropical agriculture.										
	Construction			4,540						4,540	
	Total Funding			4,540C						4,540C	
93.	07030101 Art Facilities Art Facilities, University of Hawaii, Manoa Campus	004									
	Construction of a facility to house the art department, accommodate the 1975 enrollment increase and to provide a remedy for the existing deficiencies within the present instructional facilities.										
	Construction										
	Total Funding										
94.	07030101 Auditorium Building New Auditorium Building University of Hawaii, Manoa Campus Construction of a 1,000 seat auditorium.	005									
	Construction										
	Total Funding										
	Construction			829						829	
	Total Funding			829C						829C	
	Construction										
	Total Funding										
	Construction			206						206	
	Total Funding			206C						206C	

95.	07030101 Improvements to Physical Education Fac	028			
	Improvements to Physical Education Facilities University of Hawaii, Manoa Campus				
	Incremental planning and construction of improvements to provide adequate facilities for the physical education, intramurals, athletic and recreational programs at the rate of approximately 3 acres per year.				
	Design		11	11	
	Construction		139	139	
	Total Funding		150C	150C	C
96.	07030101 Medical School Development	039			
	Medical School Development				
	University of Hawaii at Manoa				
	Development of facilities for a 4-year medical school.				
	Design		17	17	
	Construction		233	233	
	Total Funding		250C	250C	C
97.	07030101 Law School Development	044			
	Law School Development				
	University of Hawaii at Manoa				
	Development of facilities for a law school.				
	Design		30	30	
	Construction		220	220	
	Total Funding		250C	250C	C
98.	07030101 Center for Korean Studies	045			
	Center for Korean Studies				
	University of Hawaii, Manoa Campus				
	Construction of a Korean style building containing offices, meeting rooms, library, study rooms, and research offices for the center for Korean studies.				
	Design		34	34	
	Construction		466	466	
	Total Funding		500R	500R	R

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)				
				FY 1973-74	FY 1974-75	C D E	C D E	Total Biennium 1973-1975
99.	Organized Research—UOH, Manoa 07030102 Mauna Kea Summit Access This project being designed and constructed for University of Hawaii. Title change. From Act No. 187/70 \$175,000 are county funds not included in appropriations.	T15	UOH 102	3,100 3,100C			C	3,100 3,100C
100.	Construction Total Funding 07030102 Astronomy Facilities Astronomy Facilities, Institute for Astronomy University of Hawaii, Manoa Campus Construction of facilities for the Institute of Astronomy. Containing offices, laboratories, workshops, seminar rooms, conference and reading rooms.	101						
101.	Construction Total Funding Academic Support—UOH, Manoa 07030104 Hamilton Library, Phase 2 Hamilton Library, Phase 2 University of Hawaii, Manoa Campus Construction of a core stack building addition to the Hamilton Library to provide space for 3,000 additional readers and 1.5 million volumes. Included is the renovation of a portion of the phase 1 basement area for the graduate school of library studies.	176	UOH 104	340 340C			C	340 340C
	Construction Total Funding			6,978 6,978C			C	6,978 6,978C

	Student Services—UOH, Manoa		UOH	105	
102.	07030105 Student Housing Facilities Student Housing Facilities University of Hawaii, Manoa Campus Plans and construction of student dormitories with kitchen and dining facilities, including furniture and equipment and landscaping.	213			
	Design				525
	Construction				5,924
	Total Funding			E	6,449E
	Institutional Support—UOH, Manoa		UOH	106	
103.	07030106 Pedestrian Crossing, Dole Street Pedestrian Crossing, Dole Street University of Hawaii, Manoa Campus Plans and construction of a pedestrian crossing under Dole Street to provide safe crossings for pedestrians going to and from the new parking structures and to facilitate the flow of auto- mobile traffic.	231			
	Design				34
	Construction				11
	Total Funding			C	45C
104.	07030106 Mauka-Makai Mall, Phase I Mauka-Makai Mall, Phase I University of Hawaii, Manoa Campus Construction of the Mauka-Makai Mall from the new parking structures to Varney Circle.	238			
	Design				37
	Total Funding			C	37C
105.	07030106 Major CIP Planning Major CIP Planning, University of Hawaii at Manoa Continuing studies, research, and advanced planning of major facilities and utilities for the	239			
	Design				37
	Total Funding			C	37C

APPROPRIATIONS (\$1,000's)

Program ID

Total
Biennium
1973-1975

FY
1974-75

FY
1973-74

Org. No.

Capital
Project
No.

Program and Capital Project

Item
No.

Manoa based programs to enable the preparation of more definitive program plans and cost estimates for budgeting and in seeking federal funds.

100
100C

100
100C

100
100C

240

Design
Total Funding
07030106 Minor CIP Projects
Minor CIP Projects, University of Hawaii at Manoa

106.

Planning, constructing and equipping of minor improvements, including the construction of new facilities as well as modifications to existing structures of the Manoa based programs. Improvements are necessary to provide more efficient utilization of existing spaces and to create new spaces for changing and expanding programs.

20
280
300C

20
280
300C

20
280
300C

241

Design
Construction
Total Funding
07030106 General Utilities and Site
Improvements
General Utilities, Roads and Site
Improvements
University of Hawaii at Manoa
Incremental planning and construction of utilities, roads and site improvements on the Manoa campus and Manoa based programs (re-search centers and other support areas).

107.

	Construction Total Funding			469 500C	C	469 500C
108.	07030106 Traffic Circulation Improvements Traffic Circulation Improvements University of Hawaii, Manoa Campus Plans and construction of a road system to fa- cilitate traffic circulation to and from the pro- posed parking structures and to and from the dormitory areas and the mauka campus.	242				
	Design Construction Total Funding			50 20 70C	C	50 20 70C
109.	07030106 University Services Center University Services Center University of Hawaii, Manoa Campus Modifications to second floor of Hemenway Hall to provide for a faculty-staff services cen- ter, including furniture and equipment.	243				
	Design Construction Total Funding			33 467 500E	E	33 467 500E
	Independent Operations—UOH, Manoa		UOH	107		
110.	07030107 East-West Center Facility East-West Center Facility, Manoa Administration building containing offices, seminar rooms, conference rooms, library, and research areas.	276				
	Construction Total Funding			6,000 6,000C	C	6,000 6,000C
	University of Hawaii, Hilo Instruction—UOH, Hilo		UOH	201		
111.	07030201 Phys. Ed., Intramural & Athletic Fac., Ph. I University of Hawaii at Hilo, Hilo College	301				

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)							
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975			
	Incremental construction of physical education, athletic and recreational facilities.										
	Construction			938						938	
	Total Funding			938C						938C	
112.	07030201 Classroom Building No. 4 Classroom Building No. 4 University of Hawaii at Hilo, Hilo College Construction of a classroom building for the social sciences and humanities programs.	303									
	Construction			1,224						1,224	
	Total Funding			1,224C						1,224C	
	Academic Support—UOH, Hilo		UOH 204								
113.	07030204 Auditorium-Theater, Phase 2 Auditorium-Theater Phase 2 University of Hawaii at Hilo, Hilo College Construction and landscaping to complete the stage, dressing and storage areas of the auditorium-theater.	383									
	Construction			118						118	
	Total Funding			118C						118C	
	Student Services—UOH, Hilo		UOH 205								
114.	07030205 Student Housing, Phase 4 Student Housing Facility, Phase 4 University of Hawaii at Hilo, Hilo College Student housing facility to accommodate 256 students.	405									
	Construction			3,754						3,754	
	Total Funding			3,754E						3,754E	

UOH 206

Institutional Support—UOH, Hilo

115.	<p>07030206 Faculty Housing Units, Phase I 428 Faculty Housing Units, Phase I University of Hawaii at Hilo, Hilo College Construction of 32 faculty housing units at Hilo College to be shared by all activities under the Hilo Chancellor's Office.</p>	<p>68 27 95E</p>	<p>E</p>	<p>68 27 95E</p>
<p style="padding-left: 40px;">Design Construction</p>				
<p style="padding-left: 40px;">Total Funding</p>				
116.	<p>07030206 Minor CIP 432 Minor CIP University of Hawaii at Hilo, Hilo College Plans and construction of minor improvements, including construction of new facilities as well as modifications to existing facilities. Modifi- cations are necessary to make possible more efficient use of existing spaces and to create new spaces to accommodate changes in pro- grams.</p>	<p>68 27 95E</p>	<p>E</p>	<p>68 27 95E</p>
<p style="padding-left: 40px;">Design Construction</p>				
<p style="padding-left: 40px;">Total Funding</p>				
117.	<p>07030206 General Utilities, Roads & Site 433 General Utilities, Roads, and Site Improvements University of Hawaii at Hilo, Hilo College Incremental construction of utilities for major projects, removal, demolition, or relocation of structures, connection of roadways to improve circulation and safety, and to improve various areas for maximum utilization of space.</p>	<p>9 91 100C</p>	<p>C</p>	<p>9 91 100C</p>
<p style="padding-left: 40px;">Design Construction</p>				
<p style="padding-left: 40px;">Total Funding</p>				
<p style="padding-left: 40px;">Design Construction</p>				
<p style="padding-left: 40px;">Total Funding</p>				

<p>General Instructional Facilities J-2, Leeward Comm. Coll. Plans, construction, furniture and equipment for Building J-2.</p>		<p>95 95C</p>	<p>C</p>	<p>95 95C</p>
<p>Construction Total Funding</p>	<p>L05</p>	<p>07030501 Leeward Comm. Coll.— Conversion of Exist. Fac. Conversion of Existing Facilities, Leeward Community College Conversion, modifications and renovations of existing facilities to accommodate program re- quirements.</p>		
<p>121.</p>				
<p>Design Construction Total Funding</p>	<p>L06</p>	<p>07030501 Leeward CC—Engr. Trades Bldg. D-3 & D-4 Engineering Trades Buildings D-3 and D-4, Leeward Comm. College. Plans, construction, furniture and equipment of a 25,000 sq. ft. building for the vocational- technical programs.</p>	<p>C</p>	<p>17 233 250C</p>
<p>122.</p>				
<p>Design Construction Total Funding</p>	<p>UOH</p>	<p>335</p>	<p>C</p>	<p>57 10 67C</p>
<p>Windward Community College Institutional Support—Windward Comm Coll</p>	<p>W01</p>	<p>07030605 Windward CC—New Campus Windward Community College—New Campus Development</p>		
<p>Plans, construction and equipment for the in- cremental development of a new campus. Ini- tial development for approximate enrollment of 2,000. Campus to be designed for 5,000.</p>	<p>123.</p>			

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)							
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975			
124.	Construction Total Funding			250				250			
	07030605 Windward CC—Development of College	W03		250C				250C			
	Plans and construction to renovate existing facilities at Hawaii State Hospital for Windward Community College, including parking facilities and improvements to utilities and site improvements.										
	Design Construction Total Funding			34				34			
	Hawaii Community College Instruction—Hawaii Comm College		UOH 401	466				466			
125.	Hawaii Community College Instruction—Hawaii Comm College		UOH 401	500C				500C			
	07030701 New Shops & Classrm Bldgs on Hilo Campus Site	H08									
	University of Hawaii at Hilo Hawaii Community College Construction of new mechanical trades, building trades, business and distributive education, restaurant training and other para-technical trades buildings on the Hilo campus site.										
	Design Total Funding			250				250			
	Maui Community College Institutional Support—Maui Comm Colleg		UOH 505	250C				250C			
126.	07030805 Maui CC—Site Development Site Development—Maui Community College	M75									
	Construction of improvements to Kahului										

Beach Road to provide safe intersection where new access to college will be constructed. Clearing, grading and landscaping of undeveloped lands, including additional parking and roadways.

Design	8	8
Construction	75	75
Total Funding	83C	83C

Kauai Community College
Institutional Support—Kauai Comm Coll
 UOH 605

127. 07030905 Kauai CC—Development of New Campus K05

Kauai Community College—Development of New Campus
 Preparation of educational specifications and master plan. Design and construction of complete new campus for the relocation of the existing campus. Estimated enrollment—1,500. Initial development—50-75 acres includes other necessary on- and off-site improvements.

Design	257	257
Construction	4,669	4,669
Total Funding	4,926C	4,926C

University of Hawaii System-Wide Support
Institutional Support—UOH, Syst-Wide Su
 UOH 903

128. 07031003 University System Planning, Statewide 001

University System Planning, Statewide
 Plans and studies to determine the needs for additional campuses, impact studies, evaluations of sites and master planning.

Design	100	100
Total Funding	100C	100C

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)						
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975		
129.	West Oahu College Instruction—West Oahu College	W01	UOH 701							
	07031101 West Oahu College Plans and construction of a new campus to accommodate 3,500 students in 1976. Land area—150-250 acres. Construction will be in two major stages: Phase I—3,500 students, Phase II—4,500 students.									
	Design Total Funding			321 321C					321 321C	
130.	Academic Support—West Oahu College	W30	UOH 704							
	07031104 West Oahu College West Oahu College— Plans and construction for the incremental development of the campus.									
	Design Total Funding			125 125C					125 125C	
131.	Student Services—West Oahu College	W50	UOH 705							
	07031105 West Oahu College West Oahu College Plans and construction for the incremental development of the campus.									
	Design Total Funding			54 54C					54 54C	
132.	Institutional Support—West Oahu College	W70	UOH 706							
	07031106 West Oahu College—Site Development									

West Oahu College—Site study, development of educational specifications, master plan for a new campus. Plans and construction for the development of the site including grading, drainage, utilities, roadways, parking, landscaping and off site improvements.

Construction	3,000	3,000
Total Funding	3,000C	3,000C

H. LEISURE TIME CULTURAL AND ARTISTIC PRESENTATIONS

Cultural and Artistic Displays
 Historical and Archeological Places
LNR-Historical & Archeological Places LNR 801

1. 0801010301 Statewide Historic Preservation F10 Program
 Incremental development of comprehensive statewide historic preservation survey and plans and incremental research, acquisition, preservation, restoration, development and interpretation of Hawaii's historic places, structures and objects.

Land Acquisition	165	165
Total Funding	165C	165C

2. 0801010301 Iolani Palace Restoration F11
 Incremental research, planning, preservation, restoration and interpretation of Iolani Palace, Barracks, grounds, and appurtenances as a historic restoration complex.

Design	65	65
Construction	1,277	1,277
Total Funding	1,342C	1,342C

3. 0801010301 Russian Fort F12
 Restoration of Fort Elizabeth, a national historical landmark portraying a Russian episode

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)								
				FY 1973-74	FY 1974-75	C D E	C D E	Total Biennium 1973-1975	C D E			
	in Hawaii's history. Incremental planning and research, stabilization, restoration, construction and interpretive features including public access and use of facilities.											
	Land: Acquisition			125						125		
	Design			25						25		
	Total Funding			150C					C	150C		
4.	0801010301 Lapakahi State Park		F13									
	This 1 by 4 mile area is considered the second most important archaeological area in the state and offers a rich opportunity for public interpretation of early Hawaiian fishing & agricultural system. The major portion of the land is state owned. Park development consists of research, restoration and an interpretive program plus facilities for public comfort and convenience.											
	Land: Acquisition			100						100		
	Total Funding			100C					C	100C		
5.	0801010301 Kealakekua Bay		F14									
	Incremental acquisition, planning and research for a major park comprising the most important historic and archaeological place in the entire state, planning and research will be followed by park development, continued research and interpretive facilities. The project is timed so that the key facilities will be in operation by 1978, the 200th Anniversary of Captain Cook's Landing.											
	Land: Acquisition			500						500		
	Total Funding			500C					C	500C		

- 6. 08010301 Royal Mausoleum—Nuuanu F15
 Petroglyphs
 FY 1971-72 renovation of chapel and other improvements at Royal Mausoleum state monument. FY 1973-78 acquisition of additional land for public access and some archaeological features. Plans and research of site including interpretation of historic and archaeological values.
 Land Acquisition 114
 Total Funding 114C
- 7. 08010106 Nuuanu Pali State Park F30
 Park expansion to include the area between the Pali Golf Course and the existing overlook.
 Land Acquisition 345
 Total Funding 345C
- 8. 08010106 Iao Valley State Park F32
 Incremental development per master plan.
 Design 10
 Construction 95
 Total Funding 105C
- 9. 08010106 Wailuku River State Park F33
 Development of trails, picnicking and other facilities; development of an interpretive master plan.
 Land Acquisition 50
 Total Funding 50C
- 10. 08020202 Hawaii Game Management Facilities C02
 Incremental development of game management plan.
 Land Acquisition 50
 Total Funding 50C

LNR 803

LNR 804

RECREATIONAL ACTIVITIES

Outdoor Activities

Other Inland-Based Outdoor Activities

08020202 Hawaii Game Management Facilities C02

Incremental development of game management plan.

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	C	D	E
	ment facilities including construction of access roads, water units, game range improvements, signs and markers and range cabin.			5		5			
	Construction			5C	C	5C			
11.	08020202 Kauai Game Management Facilities	C03							
	Construct cattle guards pipeline water units at Kekaha; paving of parking area at Kokee hunter checking station; game enclosures in game management areas; signs and markers.								
	Construction			2		2			
	Total Funding			2C	C	2C			
12.	08020202 Honolulu Game Management Facilities	C04							
	Cattle guards and incremental clearing and planting at Kuaokala Game Management Area, electrification of Makiki Warehouse Workshop.								
	Construction			1		1			
	Total Funding			1C	C	1C			
13.	08020202 Forest Trails	D02							
	Forest trails. Trails are constructed, on an incremental basis, primarily by forestry with summer students. Trails are at least 2 feet wide with hazardous spots corrected. Trails provide remote outdoor recreation including hunting, fire and pest control access, and occasionally route for rescue operations.								
	Design								
									3

	Construction Total Funding			38 41C	C	38 41C
14.	08020202 Forest Trail Shelters Trail shelters. Trail shelters are constructed, on an incremental basis, primarily by forestry with summer students. Shelter units are open sides, 12 x 16 feet fiberglass roof with a table, 2 benches, and a pit toilet. Units are purchased prefabricated. Shelters are for wilderness picnic, hikers' rest stops, campsite for trail maintenance crew.	D03				
	Construction Total Funding			20 20C	C	20 20C
15.	08020202 Wailua River State Park Land acquisition of inholdings. Archaeological-biological research, development of interpretive program and facilities according to master plan.	F54				
	Land Acquisition Design Construction Total Funding			165 8 140 313C		165 8 140 313C
16.	08020202 Waiapanapa State Park Incremental development of major park with outstanding scenic and historic values including picnic areas, campground and low cost vacation facilities.	F55	LNR	804	C	
	Design Construction Total Funding			18 182 200C	C	18 182 200C
17.	08020202 Kahana Valley State Park Incremental development including historic restoration, water features, and other recreation and cultural and heritage opportunities per master plan.	F57				

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)										
				FY 1973-74	C O D E	FY 1974-75	C O D E	Total Biennium 1973-1975						
	Design Construction Total Funding			43								43		
				1,125								1,125		
				1,168C						C		1,168C		
18.	08020202 Waitoa River State Recreation Area Incremental development of major recreation area including landscaping per master plan.	F58												
	Design Construction Total Funding			5								5		
				95								95		
				100C						C		100C		
19.	08020202 Honomolino State Park Provide a wilderness park. Acquire land in- holdings and develop minimal waste disposal facilities, trails and signs.	F63												
	Construction Total Funding			50								50		
				50C						C		50C		
	Other Ocean-Based Outdoor Activities DOT-Other Ocean-Based Activities		TRN 801											
20.	08020301 Ala Wai Boat Harbor Oahu Continue developments to increase capacity, including moorings and shore facilities and other improvements.	O20												
	Design Construction Total Funding			164								164		
				786								786		
				105B						B		105B		
				845C						C		845C		
21.	08020301 Haleiwa Boat Harbor Oahu Plans and construction to continue develop- ment of the light draft harbor to accommodate	O40												

additional craft. Develop boat harbor using master plan as a guide.

69
331
400C
C

69
331
400C

Design
Construction
Total Funding

22. 0802020301 Waianae Boat Harbor Oahu O50

Construction of a new all weather marina on the Ewa side of Kaneiio Point, Waianae, consisting of dredging entrance channel portion of harbor and construction of breakwater, groin, rockwall, mooring, shore facilities & other improvements. Possible federal aid anticipated in the planning period is approximately \$1,680,000.

380
380C
C

380
380C

Construction
Total Funding

23. 0802020301 Nawiliwili Boat Harbor Kauai 01K

Construction of a boat harbor at Nawiliwili. Dredge portion of berthing area, construct revetment launching ramp, mooring facilities, backup area, and other improvements. Possible federal funds anticipated in the planning period is approximately \$232,000.

46
111
157C
C

46
111
157C

Design
Construction
Total Funding

24. 0802020301 Statewide Improvements to Boat-01S

ing Fac.
Improvements to existing boat harbors, boat launching facilities and boat refuge areas, and construction of new boat launching ramps and supporting facilities, including studies of possible new sites, design and construct boat launching facilities throughout the state using master plan guide.

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	FY 1974-75	C O D E	C O D E	Total Biennium 1973-1975	
25.	Design Construction			42					42
	Total Funding			203					203
	0802020301 Maalea Boat Harbor Improve-ments, Maui	02M		245C			C		245C
	Additional facilities and other improvements to develop the existing boat harbor including marginal wharf extension, paving, sprinkler, utilities, planning and other improvements. Federal-state project to modify harbor including navigational changes and additional mooring fac. Possible federal aid anticipated in the planning period is approximately \$618,000.								
26.	Design Construction			94					94
	Total Funding			66					66
	0802020301 Statewide Sewage System imprv to Boats Fac.	02S		160C			C		160C
	Study and implementation of a statewide sewage system for recreational harbors and boating facilities. Implementation costs are dependent upon study findings and recommendations.								
27.	Design Construction			95					95
	Total Funding			5					5
	LNR-Other Ocean-based Activities		LRN 805	100C			C		100C
	0802020302 Makua-Kaena Point State Park Incremental acquisition of private lands, de-								

	velopment of beach parks from Makua to Mokuieia.			
	Land Acquisition	800	800	
	Total Funding	800C	800C	C
28.	0802020302 Makena-La Perouse State Park F73 Incremental acquisition of land and development of master plan. Protection of archaeological and biological features. Eventual expansion of the park to interpret these features and expand recreation opportunities.	560	560	
	Land Acquisition	560	560	
	Total Funding	560C	560C	C
29.	0802020302 Haena Beach State Park F74 Incremental acquisition of land and incremental development as overnight campground, picnic area, swimming beach, hiking trails. Development to be low density and rustic so as not to detract from values of site. Sufficient parking for hikers.	700	700	
	Land Acquisition	700	700	
	Total Funding	700C	700C	C
30.	0802020302 Hapuna Beach State Park F75 Incremental development, land acquisition, plans, construction and landscaping.	15	15	
	Design	285	285	
	Construction	300C	300C	
	Total Funding			C
31.	0802020302 Kiholo Bay State Park F79 Acquisition of private inholdings master plan and construction of initial area. Temporary construction to follow opening of Kawaihae-Kailua highway scheduled for 1973.	75	75	
	Land Acquisition	75	75	
	Total Funding	75C	75C	C

park and trail system.

Design	100		100
Total Funding	100C	C	100C

I. PUBLIC SAFETY

CRIMINAL ACTION

General Support—Criminal Action
 Adjudication Supporting Services
General Administration—Adjudication

JUD 904

1. 0901090204 State Judiciary Complex 001

Construction of new buildings which will ultimately total 253,000 net sq ft to form the judiciary complex. This complex will serve the supreme court, first circuit court and the family court.

Land Acquisition	3,178		3,178
Total Funding	3,178C	C	3,178C

2. 0901090204 Honolulu District Court 051

This project would provide in two increments a 90,000 net sq ft facility for the district court of Honolulu, central office of the rural district courts, and the traffic violations bureau.

Land Acquisition	1,049		1,049
Total Funding	1,049C	C	1,049C

PHYSICAL HAZARDS

Natural Disasters
 Prevention of Natural Disasters
LNR—Flood Control

LNR 810

3. 090210101 Statewide Silt Basins Study and G37

Development
 Statewide silt basins study and development—conduct a study on the possibility of creating sediment or silt basins and develop sediment or silt basins throughout the state.

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)			
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	
			Org. No.	C O D E	C O D E	C O D E	
4.	Design Total Funding Maui 0902110101 Kahului Flood Control Project G38 Kahului Flood Control Project, Maui—Plans and construction of flood prevention and control facilities including land acquisition.			60 60C	C	60 60C	
5.	Design Total Funding Man-made Disasters DEF-Prevention of Man-made Disasters 09021201 Addition to National Guard Armory, A21 Honolulu Planning and construction of an addition to the existing brigade armory at 22nd Avenue, Honolulu. Addition will be of permanent masonry construction containing approximately 6,000 square feet of floor space and including all utilities and other supporting items required to complete the facility for occupancy.		DEF 111	160 160C	C	160 160C	
6.	Design Construction Total Funding Amelioration of Man-made Disasters DEF-Amelioration of Man-made Disasters 0902120201 Replacement of Disaster Warning C12 Sirens Incremental replacement of civil defense disas-		DEF 112	20 230 144C 106N	C N	20 230 144C 106N	

ter warning sirens, statewide, worn out and unserviceable due to age, use and exposure. Federal matching funds are reimbursable to the State.

Design	I
Construction	18
Total Funding	10C 9N

7. 0902120201 Additional Disaster Warning Sirens C13
 Incremental installation of additional Civil Defense disaster warning sirens, statewide, to expand the coverage of warning system to keep pace with new developments, growth of communities and population shifts. Federal matching funds will be reimbursed to the State.

Design	I
Construction	59
Total Funding	30C 30N

8. 0902120201 Radio controlled Siren Warning C15
 System
 Provide adaptability design and incremental implementation of a project to replace the present telephonically controlled siren warning system with a radio controlled siren warning system. Federal matching funds are reimbursable to the State.

Design	6
Construction	102
Total Funding	54C 54N

Supporting Services—Man-made Disasters DEF 113

9. 09021203 Departmental Administration Building D13
 Planning and construction of a special designed

APPROPRIATIONS (\$1,000's)

Program ID

Capital Project No.

Program and Capital Project

Item No.

FY 1973-74
FY 1974-75
Total Biennium 1973-1975

C O D E
C O D E
C O D E

C O D E

two story permanent masonry building containing approximately 30,000 square feet, including all utilities, parking areas, and other supporting features, to provide executive office space and facilities for administration of the State Department of Defense.

40
1,059
983C
116N

40
1,059
983C
116N

C
N

K. GOVERNMENT-WIDE SUPPORT
EXEC DIRECTION, COORD, POLICY DEVELOPMENT
Policy Development and Coordination
Land Use & Physical Plan & Coordination

PED 101

1. 11010301 Comprehensive Development Planning Statewide

Comprehensive development planning, statewide—Continuous investigation, research, updating and coordination of statewide development plans, community development programs, and planning projects to implement major recommendations of general plan revision program and to assist county planning programs. May be matched or augmented by federal funds as available.

550
200C
350N

550
200C
350N

C
N

2. 11010301 Five Year Land Use District Boundary Review
 A five year comprehensive review of classification and districting of all lands in the state and of the regulations applicable in each district. Encompasses from collection and analysis of data to adoption of boundaries through public hearings.
- | | | |
|--|--------------------|--------------------|
| | 180
80C
100N | 180
80C
100N |
| | | C N |
- GENERAL SERVICES
 Property Management
Public Lands Management LNR 101
3. 11030701 Waimea Heights Houselots, Kauai E08
- | | | |
|---------------|------|------|
| Design | 30 | 30 |
| Construction | 400 | 400 |
| Total Funding | 430C | 430C |
4. 11030701 Puna Farm Lots E16
- | | | |
|---------------|------|------|
| Construction | 100 | 100 |
| Total Funding | 100C | 100C |
- FACILITIES CONSTRUCTION AND MAINTENANCE
 Construction
Facilities Planning AGS 221
5. 1103080101 New State Office Bldg No. 1 Phase 3 A17
 Incremental development of state office building No. 1, including parking garage, landscaping and demolition of existing buildings.
- | | | |
|---------------|--------|--------|
| Design | 25 | 25 |
| Construction | 1,699 | 1,699 |
| Total Funding | 1,724C | 1,724C |

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	C D E	FY 1974-75	C D E	Total Biennium 1973-1975	
6.	1103080101 Vineyard Street Garage, Capitol A18 Complex To supplement prior appropriation.								
	Land Acquisition			297				297	
	Total Funding			297C			C	297C	
7.	1103080101 Remodeling State Office Spaces, A22 Statewide Remodeling and upgrading state office spaces, statewide.								
	Design			46				46	
	Construction			331				331	
	Total Funding			377C			C	377C	
8.	1103080101 Advance Planning, Statewide A24 To prepare reports such as system development, project development, site selection, state capitol complex policy committee, staff study, CIP assistance, building inventory, state capitol complex plan review, office space inventory, office space layout, analysis of lease request, analysis of office space request in state buildings and other planning projects.								
	Design			75				75	
	Total Funding			75C			C	75C	
9.	1103080101 Waimea Civic Center, Hawaii A26 Development of the Civic Center.								
	Design			9				9	
	Total Funding			9C			C	9C	
10.	1103080101 Pearl City Civic Center A30 Expansion of the Civic Center and a new state								

office building to provide office space for various state agencies.

5
5
10C

C

5
5
10C

Land Acquisition
Design
Total Funding

11. 1103080101 Kaneohe State Office Bldg. A37
A new site and state office building to provide office space for various state agencies.

678
12
690C

C

678
12
690C

Land Acquisition
Design
Total Funding

12. 1103080101 New State Office Bldg. No. 2 Des. A40
and Const
A new state office building in the capitol mall block, including parking.

86
86C

C

86
86C

Design
Total Funding

13. 1103080101 Wahiawa Civic Center, Oahu A42
Expansion of the Civic Center and a new state office building to provide space for various state agencies.

5
5C

C

5
5C

Design
Total Funding

14. 1103080101 Addition to Lihue S.O. Bldg. Des. A46
and Cons
Additional offices on the third floor of the state office building.

40
40C

C

40
40C

Design
Total Funding

15. 1103080101 Maint and Svc Facil Hilo A52
DAGS Maintenance Building and related work.

30
30C

C

30
30C

Design
Total Funding

Item No.	Program and Capital Project	Capital Project No.	Program ID	APPROPRIATIONS (\$1,000's)					
				FY 1973-74	FY 1974-75	Total Biennium 1973-1975	C	O	
			Org. No.	D	E	D	E	D	E
16.	1103080101 Makawao-Paia Civic Center A new site and state office building to accommodate various state agencies.	A78							
	Land Acquisition			2				2	
	Design			8				8	
	Total Funding			10C			C	10C	
17.	1103080101 Capitol Mall Traffic Imp. Roadway improvements in the mauka portion of the State Capitol Complex, to include landscaping of the mall extension.	A79							
	Design			7				7	
	Construction			91				91	
	Total Funding			98C			C	98C	
18.	1103080101 Purchase of Makai Land-State Capitol Comp Acquisition of Tani Building to house state agencies.	A88							
	Land Acquisition			15				15	
	Total Funding			15C			C	15C	

PART V. SUPPLEMENTAL APPROPRIATIONS

SECTION 73. There is hereby appropriated as operating costs to Program Planning, Analysis, Budgeting (BUF 101) the following sums or so much thereof as may be necessary to fund those collective bargaining cost items retroactive to fiscal year 1972-73 by the respective contracts, including 5.5% salary increase for teachers (Unit 5) and educational officers (Unit 6) effective as of September 1, 1972, including salary increases for officers and employees excluded from collective bargaining units.

General fund	\$8,579,757
Special fund	\$ 998,646
Federal fund	\$ 359,563

Said retroactive salary increases shall be disbursed with due consideration to the availability of the State's cash resources but in no event shall payments extend beyond December 31, 1973.

SECTION 74. Section 73 shall take effect upon its approval.

SECTION 75. The Governor is hereby authorized to establish, within the Office of the Governor for administrative purposes, a temporary advisory commission on revenues and expenditures, which shall consist of a cross-section of the community, including representatives of the business, labor and government sectors.

The Governor shall appoint members in such numbers as he deems advisable, as provided in Section 26-34, Hawaii Revised Statutes. He shall further appoint such staff members as necessary who shall be exempt from Chapters 76 and 77 of the Hawaii Revised Statutes. The Commission shall elect a chairman from its members who shall serve without compensation but shall be reimbursed for any expenses incurred in the performance of their duties.

The purpose of the commission is to review taxes and revenues, expenditures, and governmental operations and to make such recommendations necessary to improve the efficiency and effectiveness thereof.

The Commission shall be dissolved when the final report has been rendered to the Governor and the 1975 Legislature.

There is hereby appropriated to the Office of the Governor (GOV 100) the sum of \$100,000, or so much thereof as may be necessary, for the purposes specified above.

SECTION 76. The following sums or so much thereof as may be necessary are hereby appropriated to the program as designated to fund the following community organizations during fiscal year 1973-74.

Hawaii† Theater for Youth (BUF 881)	\$35,000
Hawaii Youth Symphony (BUF 881)	30,000
Honolulu Symphony Society (BUF 881)	50,000
	(3.0)

†Probably should read Honolulu.

Pacific and Asian Affairs Council (UOH 903).....	65,000
Young Farmer Program (UOH 903).....	50,000

SECTION 77. The sums of \$375,000 for the fiscal year 1973-74 and \$375,000 for the fiscal year 1974-75, or so much thereof as may be necessary are hereby appropriated to general administration for employment (LBR 902), to implement the provision of S.B. No. 14, provided that if said bill does not become law, the appropriation shall not be used for any other purpose.

SECTION 78. The following sums or so much thereof as may be necessary is hereby appropriated to the program as designated to fund the following programs during the fiscal year 1973-74:

Training of mobile intensive care paramedics to improve emergency cardiac and non-cardiac care (UOH 101)..... \$75,000.

Continuation of those aspects of the college opportunity programs deemed to be effective and appropriate for assumption by the University relating to a summer and first-year residential college program for the disadvantaged (UOH 101) \$168,838.

For deposit in the Hawaii fisheries new vessel construction loan revolving fund (LNR 151) \$300,000.

Creation of a housing relocation unit to locate housing in cooperation with the Hawaii housing authority for welfare recipients at the lowest available rates (SOC 395)..... \$65,000.

Supplies, equipment and personnel necessary to implement research on pineapple production and labor efficiency in the pineapple industry (UOH 102) \$280,000.

To contract with the Hawaii center for environmental education to provide services to all state organizations, public and private, involved in environmental education activities (GOV 401) \$50,000.

To implement the provisions of S.B. No. 1206, provided that if said bill does not become law, the above appropriation shall not be used for any other purpose (PED 201)..... \$126,000.

Continuation of the Hawaii Legal Services Project of the Legal Aid Society of Hawaii; provided that upon receipt of federal moneys by the Hawaii Legal Services Project for the continuation of its operations during this period, then any amount of State of Hawaii revenues expended for that purpose in excess of \$58,515 shall be reimbursed to the State of Hawaii by the Hawaii Legal Services Project (GOV 863) \$105,000.

SECTION 79. There is hereby appropriated to the Assured Standard of Living Program (SOC 201, SOC 211, SOC 223, SOC 307) the following sums, or so much thereof as may be necessary, to provide for a ¾ of 1% increase of welfare recipients' monthly payments to give recipients the benefits provided non-welfare recipients by the tax credit provision of S.B. No. 1283:

	1973-74	1974-75
General fund	\$362,775	\$413,881
Federal fund	\$224,736	\$253,555

PART VI. ISSUANCE OF BONDS

SECTION 80. GENERAL OBLIGATION BONDS. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects included in Part II and listed in Part IV of this act and designated to be financed from general obligation bond fund and from the general obligation bond fund with debt service cost to be paid from special funds, provided that the sum total of the general obligation bonds so issued shall not exceed \$168,603,000.

SECTION 81. AIRPORT REVENUE BONDS. The Department of Transportation is authorized to issue airport revenue bonds for airport capital investment projects included in Part II and listed in Part IV of this act and designated to be financed by revenue bond funds, in such principal amount as shall be required to yield the amounts appropriated for such capital investments, plus, if so determined by the department and approved by the Governor, such additional amounts as may be necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the airport revenue bonds to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to Sections 243-4(a) (2) and 248-8, Hawaii Revised Statutes, as amended, or such parts of either thereof as the department may determine, including rents, landing fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund. The Governor, in his discretion, is authorized to use the airport revenue fund to finance those projects in Part II where the method of financing is designated to be by airport revenue bond funds.

SECTION 82. HOUSING AUTHORITY REVENUE BONDS. The Hawaii Housing Authority is authorized to issue housing authority revenue bonds pursuant to Section 103-7, Hawaii Revised Statutes, for housing capital investment projects included in Part II and listed in Part IV of this act and designated to be financed by revenue bond funds. The expenses of the issuance of such housing authority revenue bonds and the principal and interest on such bonds sold shall not be a general obligation of the State of Hawaii.

SECTION 83. UNIVERSITY OF HAWAII REVENUE BOND. The University of Hawaii is authorized to issue revenue bonds for the incremental development of University dormitory facilities and faculty housing facilities as contained in Part II and listed in Part IV hereof.

PART VII. PROGRAM APPROPRIATIONS

SECTION 84. Deleted.

SECTION 85. The appropriations and authorizations, as the case may be, set forth opposite the cost categories in section 3, Act 68, Session Laws of Hawaii 1971, for the following programs, are amended to read as follows:

EDUCATION AND CULTURE

	Exp. Agy.	FY 1971-72	FY 1972-73	Total Biennium FY 1971-73
LOWER EDUCATION				
Language Arts				
Investment: capital	AGS	7,530,000	4,381,000	11,911,000
School Lunch				
Investment: capital	AGS	2,829,000	2,978,000	5,807,000

SECTION 86. Section 4, Act 68, Session Laws of Hawaii, 1971, is amended by modifying the scope or expenditure pattern of certain projects enumerated therein and by adding new projects thereto. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in section 4, Act 68, Session Laws of Hawaii, 1971, but not listed below. The Act 68 projects, the modifications and the new projects are as follows:

B. ECONOMIC DEVELOPMENT

Water and Land Development (To be expended by the Department of Land and Natural Resources, Land Management)

11. Anuenue Development, Oahu

Development of a long-range master plan for land use, access, utilities for a State park, industrial, waterfront industrial and park access, including roads, water and drainage facilities, sewerage system and utilities; and construction.

Design	130	—	130
Construction	740	—	740
Total Funding	870(g)	—	870(g)

C. EDUCATION AND CULTURE

LOWER EDUCATION

[39. Mikilua Elementary, Oahu

Plan and construction of serving kitchen and eating area.

Design	17	—	17
Construction		164	164
Total Funding	17(g)	164(g)	181(g)]

[64. Mikilua Elementary

Plan and construct 1st increment; 16 classrooms, parking and sitework.

Design	100	—	100
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Construction	—	527	527
Total Funding	100(g)	527(g)	627(g)]
65. Second Elementary School in the Nanakuli Area			
Plans and construction of 16 classrooms, serving kitchen-dining room and site improvements.			
Design	75	—	75
Construction	67	691	758
Total Funding	142	691(g)	833(g)
61. Makakilo Waena Elementary, Oahu			
Land acquisition, plan and construct 16 classrooms.			
Land	440	—	440
Design	176	—	176
Construction	100	621	721
Total Funding	716	621(g)	1,337(g)
47a. Makakilo Waena Elementary, Oahu			
Plans and construction of multi-purpose dining room.			
Design	25	—	25
Construction	265	—	265
Total Funding	290(g)	—	290(g)
11. Kaneohe Intermediate (New School), Oahu			
Plan and construct locker/showers.			
Construction	—	517	517
Total Funding	—	517(g)	517(g)
17. Kaneohe Intermediate (New School), Oahu			
Plan and construct nine-classroom practical arts building.			
Construction	—	689	689
Total Funding	—	689(g)	689(g)
31. Kaneohe Intermediate (New School), Oahu			
Construct food preparation area.			
Construction	—	313	313
Total Funding	—	313(g)	313(g)
51. August Ahrens Elementary School, Oahu			
Construct 10 classrooms, demolition of buildings E and G.			
Construction	405	—	405
Total Funding	405(g)	—	405(g)
51a. August Ahrens Elementary School, Oahu			
Ground improvements adjacent to library.			
Construction	30	—	30
Total Funding	30(g)	—	30(g)
5. Kaiser High, Oahu			
Plan and construct a gymnasium.			
Construction	—	330	330
Total Funding	—	330(g)	330(g)

ACT 218

SECTION 87. Section 4, Act 202, Session Laws of Hawaii, 1972, is amended by modifying the scope or expenditure pattern of certain projects enumerated therein and by adding new projects thereto. Nothing in this section shall affect the continuing effectiveness of those projects enumerated in section 4, Act 202, Session Laws of Hawaii, 1972, but not listed below. The Act 202 projects, the modifications and the new projects are as follows:

22. New Kailua High, Oahu			
Construct administration building.			
Design	—	20	20
Construction	—	249	249
Total Funding	—	269(g)	269(g)
75. Kailua High (New School), Oahu			
Construct classrooms, library, renovate old library and administration to classrooms, custodial area and sitework.			
Design	200	—	—
Construction	1,767	649	2,616
Total Funding	1,967(g)	649(g)	2,616(g)
77. Kaneohe Intermediate (New School), Oahu			
Construct classrooms with teachers' workroom.			
Construction	—	1,480	1,480
Total Funding	—	1,480(g)	1,480(g)

SECTION 88. The following sums or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated or authorized, as the case may be, to be expended by the Department of Accounting and General Services, unless otherwise specified in the subsection, out of moneys in the treasury received from general revenues and general obligation bond funds. (The amount after each project listed in this section is in thousands of dollars.) General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein that do not have funding specifically designated, provided that the sum total of the general obligation bonds so issued shall not exceed \$44,000.

A. DEPARTMENT OF LAND AND NATURAL RESOURCES
(To be expended by the Department of Land and Natural Resources)

- 1. Fort Ruger Land Acquisition Project, Oahu 1
Acquisition of federal lands located at Fort Ruger by direct purchase and/or acquisition of other lands for land exchange with said federal lands. Unencumbered balances in Item B-4 of Act 155, SLH 1969, shall be used to supplement this project.
- 2. Kahala Heights Park, Oahu 1
Incremental land acquisition, planning and construction of a park at Kahala Heights. Unencumbered balances in Item I-B-4 of Act 176, SLH 1972, shall be used to supplement this project.

B. DEPARTMENT OF EDUCATION

- 1. Aina Haina Elementary School, Oahu 1
Renovation and improvements to existing library. Unencumbered balances in Items F-120 of Act 187, SLH 1970, and I-E-5 of Act 197, SLH 1971, may be used for this project.

2. Farrington High School, Oahu 1
Plan and construct or improve and expand the administrative facilities. Unencumbered balances in Items F-46, F-47, and F-57 of Act 187, SLH 1970, may be used for this project.
3. Kalakaua Intermediate School, Oahu 1
Plans for music building. Unencumbered balances in Item I-E-52 of Act 1971, SLH 1971, and Item I-E-105 of Act 176, SLH 1972, may be used for this project.
4. Kalani High School, Oahu 1
Improvements and renovations for teacher work centers and custodial storage. Unencumbered balances in Item F-123 of Act 187, SLH 1970, may be used for this project.
5. Kalihi Elementary School, Oahu 1
Improvements and expansion to existing library. Unencumbered balances in Item F-140 of Act 155, SLH 1969 and Item F-43 of Act 187, SLH 1970, may be used for this project.
6. Lanakila Elementary School, Oahu 1
Plan and construct or renovate and improve existing facilities to accommodate the following: teachers' dining room, teachers' work centers and custodial storage room. Unencumbered balances in Item I-E-42 of Act 176, SLH 1972, may be used for this project.
7. Dole Intermediate School, Oahu 1
Expansion and improvements to existing library. Unencumbered balances in Item F-171 of Act 155, SLH 1969, and Item I-E-101 of Act 176, SLH 1972, may be used for this project.
8. Niu Valley Intermediate School, Oahu 1
Improvements and expansion of parking, existing instrumental and choral rooms, and existing facilities for teacher work centers and custodial storage room. Unencumbered balances in Item I-E-31A of Act 176, SLH 1972, may be used for this project.
9. Kaiser High School, Oahu 1
Planning and construction of a gymnasium, including equipment. Unexpended balances, in Items I-E-120 of Act 176, SLH 1972, and I-K-14 of Act 197, SLH 1971, shall be used for this project.
10. Stevenson Intermediate School, Oahu 1
Security gates and work required to secure main building (A). Unencumbered balances in Item I-E-105 of Act 197, SLH 1971, may be used for this project.
11. Washington Intermediate School, Oahu 1
Improvements and renovations to library and science classrooms and renovation to existing classrooms for teacher work centers and custodial storage room. Unencumbered balances in Items F-30 and F-32 of Act 187, SLH 1970, and I-E-130 of Act 197, SLH 1971, may be used for this project.
12. Aiea High School, Oahu 1
Planning and construction of toilet facilities, concession booth and chain link fence for the football field and air-conditioning, carpeting and other appurtenances for the library. Unencumbered balances in Item F-91 of Act 187, SLH 1970, may be used for this project.
13. Leilehua High School, Oahu 1
Planning and construction of a paved playcourt. Unencumbered balances in Item F-96 of Act 187, SLH 1970, may be used for this project.

14. Aliamanu Intermediate School, Oahu 1
 Planning and construction for the installation of wooden louvers. Unencumbered balances in Items F-78 of Act 155, SLH 1969, and I-E-6 of Act 176, SLH 1972, may be used for this project.
15. Kipapa Elementary School, Oahu 1
 Ground improvements. Unencumbered balances in Item F-142 of Act 155, SLH 1969, may be used for this project.
16. Pearl Harbor Kai Elementary School, Oahu 1
 Planning and construction of a paved playcourt. Unencumbered balances in Item F-159 of Act 155, SLH 1969, may be used for this project.
17. Moanalua Elementary School, Oahu 1
 Improvement and expansion of the library. Unencumbered balances in Item I-E-84 of Act 197, SLH 1971, may be used for this project.
18. Manana Elementary School, Oahu 1
 Planning and construction of a parking lot, extension of covered walkway and site improvements. Unencumbered balances in Item I-E-55 of Act 176, SLH 1972, may be used for this project.
19. Pearl City Elementary School, Oahu 1
 Carpeting and air-conditioning of Library and site improvements consisting of masonry wall, chain link fence, and landscaping. Unencumbered balances in Items F-71 of Act 187, SLH 1970, and I-E-70 of Act 176, SLH 1972, may be used for this project.
20. Kailua High School, Oahu 1
 Improvements to athletic facilities. Unencumbered balances in Item F-157 of Act 155, SLH 1969, may be used for this project.
21. New Ahuimanu Elementary School, Oahu 1
 Plans and construction of first increment—classrooms, administration, library, kitchen/multi-purpose dining room. Unencumbered balances in Item F-11 of Act 187, SLH 1970, may be used for this project.
22. Ka'u High School, Hawaii 1
 Construction of science classrooms. Unencumbered balances in Item III-E-6 of Act 197, SLH 1971, may be used for this project.
23. Mountain View Elementary and Intermediate School, Hawaii 1
 Community-school library. Unencumbered balance in Item III-E-10 of Act 197, SLH 1971, may be used for this project.
24. Kealakehe Elementary School, Hawaii 1
 Construct playground and 12-classroom building. Unencumbered balances in Item F-206 of Act 155, SLH 1969, may be used for this project.
25. Naalehu Elementary School, Hawaii 1
 Plans and construction of a four-classroom building. Unencumbered balances in Items F-173 of Act 187, SLH 1970, III-E-18 and III-E-23 of Act 197, SLH 1971, and III-E-4 of Act 176, SLH 1972, may be used for this project.
26. Kahului Elementary School, Maui 1
 Plans, construction and equipment for a teachers' workroom. Unencumbered balances in Item F-150 of Act 187, SLH 1970, may be used for this project.
27. Kualapuu Elementary School, Maui 1
 Renovation, expansion, and improvements to library facilities. Unencumbered balances in Item F-151 of Act 187, SLH 1970, may be used for this project.

- 28. Lanai High and Elementary School, Lanai 1
Construction of classrooms. Unencumbered balances in Item F-154 of Act 187, SLH 1970, may be used for this project.
- 29. Makawao Elementary School, Maui 1
Renovations and improvements to existing school facilities. Unencumbered balances in Items F-144 of Act 187, SLH 1970, and III-E-3 of Act 197, SLH 1971, may be used for this project.
- 30. Kaumakani Elementary School, Kauai 1
Plan and construct classroom building with team center. Unencumbered balances in Item IV-E-4 of Act 176, SLH 1972, may be used for this project.

C. DEPARTMENT OF HEALTH

Public Health and Others

- 1. Lahaina Health Center, Maui 1
Plans and construction for Lahaina Health Center, including emergency health care. Funds appropriated in Item H-18 of Act 187, SLH 1970 and Item II-F-2 of Act 197, SLH 1971, which are unencumbered shall be used for this project.

Act 97 Hospitals

- 2. Hilo Hospital, Hilo, Hawaii 1
Plans and construction of additions, renovations and remodeling of medical and ancillary facilities. Funds appropriated in Item E-19 of Act 68, SLH 1971, which are unencumbered shall be used for this project.
- 3. Maui Memorial Hospital, Maui 1
Plans and construction of New Class A Quarterway Home to place selected mental patients for independent living prior to community placement. Funds appropriated in Item H-25 of Act 187, SLH 1970, which are unencumbered shall be used for this project.
- 4. Kauai Veterans Memorial Hospital, Waimea, Kauai 1
Plans and construction for acute care unit, including necessary equipment, and other improvements. Unexpended balances in Item 4-A-36 of Act 68, SLH 1971, Item IV-K-15 of Act 197, SLH 1971, Items C-107 and Q-20 of Act 187, SLH 1970, and Item N-62 of Act 155, SLH 1969, shall be used for this project.

Grant-In-Aid

(To be expended by the Department of Health)

- 5. Wilcox Memorial Hospital, Lihue, Kauai 1
Plans and construction for ancillary services, including equipment and improvements. Portions of Item IV-B-13 of Act 68, SLH 1971, may be used for this project.

D. DEPARTMENT OF SOCIAL SERVICES AND HOUSING

- 1. Conditional Release Center, Oahu 1
Plans, construction and equipment for a second pre-parole Conditional Release Center. Unexpended balances in Item I-2 of Act 187, SLH 1970, and Item G-2 of Act 68, SLH 1971, may be used for this project.

E. UNIVERSITY OF HAWAII

- 1. Windward Community College, Oahu 1
Acquisition of land, plans, and construction of a satellite vocational

educational building in the Kahaluu-Waihee area. Unencumbered balances in Item K-17 of Act 176, SLH 1972, may be used for this project.

- 2. Student Unions, Hilo Campus, University of Hawaii, Hawaii
Construction and acquisition of furniture and equipment for a student union building. Unexpended balances in Item E-39 of Act 40, SLH 1968, may be used for this project. 1

F. AID TO COUNTIES

(To be expended by the City and County of Honolulu)

- 1. Dike Road, Kawainui Swamp, Oahu
Preliminary planning and engineering of a four-lane dike road. Unencumbered balances in Item K-17 of Act 176, SLH 1972, may be used for this project. 1
- 2. Kailua Field development, Oahu
Supplemental appropriation for construction and equipping of a recreation center building and a swimming pool complex. Sum appropriated to be matched by the City and County of Honolulu. Unencumbered balances in Item K-17 of Act 176, SLH 1972, may be used for this project. 1
- 3. Heeia Land Acquisition Project, Oahu
Acquisition of Heeia Fishpond and Matson Point. Unencumbered balances in Item K-17 of Act 176, SLH 1972, may be used for this project. 1
- 4. Honolulu Theater for Youth, Oahu
Plans and construction of a theater, including workshops, to be located Ewa of Keeaumoku Street. Unexpended balances in Item M-1 of Act 40, SLH 1968, and Item O-1 of Act 155, SLH 1969, may be used for this project. 1

PART VIII. SPECIAL PROVISIONS

SECTION 89. Sand Island income from lands and facilities dedicated to the University of Hawaii shall be expended for the operating expenses of the University. Such income, excluding amounts required to reimburse the general fund for capital improvements, 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 under Part II of this act. Sand Island income from other lands and facilities, other than those set aside for Harbors or Foreign Trade Zone purposes, shall be deposited into the general fund.

SECTION 90. The sum of \$698,000 for fiscal year 1973-74 and \$698,000 for fiscal year 1974-75 of supplementary cost of education payments made on behalf of the East-West Center or so much thereof as may be made available, is hereby authorized to be expended for operating purposes by the University of Hawaii. The sums made available 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 in Part II of this act. In the event the actual amount of supplementary cost of education payments should fall under or exceed the amount estimated, the appropriations made to the University of Hawaii for operating purposes in Part II of this act shall be decreased or increased by the amount the actual supplementary cost of education payments fall under or exceed the amount of \$698,000 for each fiscal year of the biennium.

SECTION 91. If a sum less than \$10,000,000 is provided to the Department of Education for each fiscal year of the biennium 1973-75 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 \$10,000,000 and the sum so provided is hereby appropriated to the Department of Education; and provided, further, that if a sum greater than \$10,000,000 is provided then the appropriation to the Department of Education shall be reduced to the extent the estimated sum of \$10,000,000 is exceeded for each fiscal year of the biennium 1973-75.

SECTION 92. The Department of Education may recruit for and make commitments to fill new certificated instructional positions for the school year 1974-75 and the school year 1975-76.

SECTION 93. The University may contract for instructional personnel from July 1, 1973 to June 30, 1974 for the first year of the biennium and July 1, 1974 to June 30, 1975 for the second year of the biennium where such personnel will experience hardship in relocating to Hawaii.

SECTION 94. Whenever the expending agency to which an appropriation is made is changed due to legislation enacted during any session of the legislature which affects the appropriations made by this act, the Governor, or the Department of Budget and Finance, if so delegated by the Governor, shall transfer the necessary funds to the proper expending agency.

SECTION 95. In allotting funds for health programs, social welfare programs, hospitals and other programs 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 programs 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 the medical care for the needy and medically needy exceeds the anticipated average sum per patient day upon which the appropriation therefor was based, the program 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. In the event that the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient day, or the caseload trend for money or medical assistance payments is higher than the specified figure, the Governor is authorized to utilize such savings as may be available from appropriated funds of any program for the purpose of meeting the deficit in the social welfare program of the Department of Social Services and Housing.

SECTION 96. With the approval of the Director of Budget and Finance, the Department of Health may transfer funds appropriated to the Department of Health for the care and treatment of patients to the Department of Social Services and Housing whenever the Department of Social Services and Hous-

ing can utilize such funds to match federal funds which may be available to help finance the cost of outpatient, hospital, or skilled nursing home care of indigents or medical indigents

The Department of Social Services and Housing is authorized to enter into agreements with the Department of Health to furnish outpatient, hospital and/or skilled nursing home care and to pay the Department of Health for such care. With the approval of the Director of Budget and Finance, the Department of Health may deposit part of such receipts into the appropriations from which transfers were made.

SECTION 97. Unless otherwise provided in this act, the Governor is authorized to transfer funds between appropriations for research and development and operating purposes, provided that the programs from and to which transfers are made are within the same major program area; and provided, further, that such transfer shall not be made to implement any collective bargaining contracts signed after this Legislature adjourns sine die.

SECTION 98. Where a program is financed by the general fund as well as by source of funding other than the general fund, the general fund appropriation shall be decreased to the extent that the amount received from the non-general fund source exceeds the amount approved in this act from such source; provided that such decrease of the general fund appropriation shall not jeopardize the receipt of the increased amount from the non-general fund source; 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 Finance if such authority is so delegated by the Governor.

SECTION 99. 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, including the State highway system and the maintenance thereof, 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 the physically handicapped, college and high school students age 16 and above, the unemployed, and persons whose earning capacities are or may be reduced by old age; provided, that when such person is employed by any government official, body, or agency, he may be employed on a temporary basis and his employment shall be exempt from Chapters 76, 77 and 88 of the Hawaii Revised Statutes, as amended; and provided, further, that such person shall meet the minimum requirements necessary for such positions.

SECTION 100. 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 101. 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(3), with the exception of such proceeds covered under Section 171-19, Hawaii Revised Statutes, as amended, to be disposed of by the Board of Land and Natural Resources, in order to reimburse the general fund for the appropriation made in Part II of this act to the Department of Education for the support of public schools, to the extent such proceeds are realized for the period beginning July 1, 1973 to June 30, 1975. 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 102. For the biennium 1973-75, in the absence of legislative authorization for the expenditure of special and trust funds in Part II of this act, agencies responsible for such funds are authorized to expend so much as may be necessary to carry out the purpose of each such fund; provided that such expenditures are approved by the Board of Education for the Department of Education and in all other cases by the Governor or by the Director of Finance if so delegated by the Governor; and provided further that such expenditures shall not exceed the amounts available in such funds.

SECTION 103. Any law or any provision of this act to the contrary notwithstanding, the appropriations made for capital investment projects included in Part II and listed in Part IV of this act shall not lapse at the end of the fiscal year for which the appropriation is made, provided that all appropriations made to be expended in fiscal year 1973-74 which are unencumbered as of June 30, 1978 shall lapse as of that date and provided further that the lapsing date shall not apply to projects necessary to qualify for federal aid financing and reimbursement.

SECTION 104. All subsidies made to non-public organizations in this act shall, as a condition of receiving such money, (1) comply with the allotment system as provided in Chapter 37, Hawaii Revised Statutes, (2) allow the expending or other related agency full access to their records, files, reports, and other related areas in order to assist and improve their management and fiscal practices and (3) submit all future budget requests on a form prescribed by the Director of Finance.

SECTION 105. The designated expending agency for capital investments appropriated in Part II, and described in Part IV is authorized to delegate to other state or county agencies the planning and construction of such projects when it is determined by such agency that it is more advantageous to do so.

SECTION 106. All general obligation bond funds used for highway, land development, harbor or airport capital investment purposes, designated by the letter (D), shall have the bond principal and interest reimbursed from the State highway fund, the harbor special fund or the airport revenue fund, respectively. Bonds issued for irrigation projects shall be reimbursed, as provided by Section 174-21, Hawaii Revised Statutes.

The Governor, at his discretion, is authorized to use the State highway fund, the harbor special fund or the airport revenue fund to finance the re-

spective highway, harbor or airport projects in Part IV or which were previously authorized, where the method of financing is designated to be general obligation bond fund with debt service cost to be paid from special funds.

SECTION 107. The negotiation for the purchase of land by State agencies shall be subject to the approval of the Governor. Private lands may be acquired for the purpose of exchange for federal lands when the Governor determines that such acquisition and exchange are necessary for the completion of any herein authorized projects.

SECTION 108. In the event that the amount specified for a capital investment project listed in Part IV where the source of funding for the project is designated as the general obligation bond fund shall not be wholly required to complete the work of such project, or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be expended with the approval of the Governor for any other capital improvement project authorized by the legislature in this act or in a prior year, or which may be authorized by the legislature in the future.

SECTION 109. In the event that the amount specified for a capital investment project listed in Part IV where the source of funding for the project is designated as special funds, general obligation bond with debt service cost to be paid from special funds, or revenue bond fund shall not be wholly required to complete the work of such item, or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be expended with the approval of the Governor for any other capital improvement project authorized by the legislature in this act or in a prior year, or which may be authorized by the legislature in the future.

SECTION 110. The Governor may authorize the expenditure of funds for capital investment projects not previously authorized or not listed in Part IV to cope with unforeseen emergencies arising from elements such as fires and natural disasters and for any federal aid portion of any capital investment project listed in Part IV where application for such aid has been made and approval has been denied; provided that such emergencies or denial of federal aid create an urgent need to pursue a course of action which is in the best interest of the State; and provided further that the Governor shall use the project adjustment fund appropriated in Part II to accomplish the purposes of this section.

SECTION 111. 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 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 State costs whenever possible.

SECTION 112. In connection with all State park capital investment projects authorized in Part II and described in Part IV, the Board of Land and Natural Resources exempted from the provisions of Chapters 76 and 77, Hawaii Revised Statutes, and who are unemployed and are duly registered as unemployed with the Department of Labor and Industrial Relations. The Board may, upon approval of the Governor, enter into contract for the necessary equipment, supplies, materials, labor, professional service and technical assistance to be used in the projects.

SECTION 113. Where it has been determined that changed conditions, such as reduction in the particular population being served, permit the reduction in the scope of a project listed in Part IV, the Governor may authorize such reduction of project scope, provided that the scope of a project shall not be reduced merely because the appropriation for a project is insufficient.

SECTION 114. In the event the State should assume the direct operation of any non-public agency receiving State funds under the provisions of this act, such funds shall be applied as a credit to the State against such capital costs as land, structures, and equipment, in acquiring that non-public agency.

SECTION 115. The Governor shall determine when and the manner in which authorized projects will be initiated. In releasing funds for projects, the Governor shall consider the objectives of the user agency, its programs, the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the project will meet the objectives of said user agency and the State. Agencies responsible for construction shall take into consideration the objectives of the user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of said user agency in the most efficient and economical manner possible.

SECTION 116. The Governor is hereby authorized to establish 40 permanent or temporary positions during each fiscal year of the biennium to be allocated by him to any of the departments as he shall deem proper. Priority shall be given to positions relating to collective bargaining, electronic data processing and program evaluation. No positions shall be established under this section to implement any collective bargaining agreement signed after this Legislature adjourns sine die.

SECTION 117. Any provision of law to the contrary notwithstanding the Governor is authorized to utilize such sums as provided by this act for salary increases for public officers and employees excluded from collective bargaining under Chapter 89, Hawaii Revised Statutes; provided that said increases shall not exceed and shall not take effect earlier than increases for comparable members of collective bargaining units.

SECTION 118. Except for East-West Center position requirements the

University of Hawaii shall not establish nor fill any position which is not funded by this act and which would exceed the maximum position count provided for the program by this act unless said establishment and filling is approved by the Governor, or by the Director of Finance if so delegated.

PART IX. MISCELLANEOUS AND EFFECTIVE DATE

SECTION 119. MISCELLANEOUS. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 120. In the event manifest clerical, typographical or other mechanical errors are found in this act, the Governor is hereby authorized to correct such errors. All changes made pursuant to this section shall be reported to the legislature at its next session.

SECTION 121. EFFECTIVE DATE. Except as provided for in Section 74, Part V, this act shall take effect on July 1, 1973.

(Approved June 8, 1973.)

ACT 219

S. B. NO. 902

A Bill for an Act Relating to the Creation of District Family Courts.

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

SECTION 1. Chapter 571, Hawaii Revised Statutes, is further amended by adding the following sections:

“Sec. 571- . District family courts; district family judges; appointment; sessions. In addition to the district courts established under section 604-1, there may be established in each of the judicial circuits of the State of Hawaii a district family court with the powers and under the conditions herein set forth which shall be styled as follows:

- (1) For the first judicial circuit: The district family court of the first circuit.
- (2) For the second judicial circuit: The district family court of the second circuit.
- (3) For the third judicial circuit: The district family court of the third circuit.
- (4) For the fifth judicial circuit: The district family court of the fifth circuit.

When in the discretion of the chief justice of the supreme court the urgency or volume of cases so requires, he may appoint one or more district family court judges for each judicial circuit. In substitution for the district family judges appointed under the authority of this chapter, the chief justice

may designate any district judge of a district court appointed pursuant to chapter 604 to act as a district family court judge within any circuit; such judge when so designated shall exercise the powers of a district judge appointed pursuant to this section.

The district family courts shall hold sessions at such places and as often as the family court judge or the senior family court judge, if there is more than one, of the judicial circuit shall prescribe.

Sec. 571- . Qualifications; tenure; removal. Each district family judge shall reside in the judicial circuit for which he is appointed and shall have been an attorney licensed to practice in all the courts of the State for at least five years. District family judges shall hold office for a term of six years and until their successors are appointed and qualified; provided, that any district family judge may be summarily removed from office, and his commission revoked by the supreme court whenever the supreme court deems such removal necessary for the public good or the volume of cases within the circuit is reduced to a level where the reduction of the number of district family judges within a circuit is deemed advisable.

Sec. 571- . Salary of district family judges. The compensation of district family court judges of the various district family courts of the State shall be eighty percent of the compensation of a circuit court judge.

Sec. 571- . Disqualification; absence; vacancy. Whenever it is advisable, by reason of a vacancy in the office of district family judge of any circuit, or by reason of the disqualification of any district family judge, or his inability to attend to his duties by reason of temporary absence, or for any other reason, the chief justice of the supreme court may designate the district family judge of any other circuit or any district judge appointed pursuant to chapter 604 to hear and determine any or all matters then or thereafter pending in the district family court to which he is called for such purpose, and while so engaged, he shall have and exercise all of the powers of a regularly appointed district family judge of the circuit to which he is called.

Sec. 571- . Jurisdiction. The senior judge or judge of the family court of the circuit may direct that any case coming within the jurisdictional provisions of this chapter, or all cases of a class or within a district to be designated by him, shall be heard by the district family judge.

Sec. 571- . Powers.

(a) The district family judges may:

- (1) Administer oaths;
- (2) Subpoena and compel the attendance of witnesses from any part of the circuit and, if the subpoena is endorsed with proper words of authority by a judge of the family court of the judicial circuit in which the district family court is situated, from any part of the State, and compel the production of books, papers, documents including school, medical and financial records, or tangible things;
- (3) Summon and compel the attendance of parties to a proceeding from any part of the circuit and, if the summons is endorsed by a judge of the family court of the judicial circuit in which the district family

court is situated, from any part of the State;

- (4) Perpetuate testimony under the rules and orders of the family court, and issue commissions for the perpetuation of testimony to be used on controversies pending before them;
- (5) Grant continuances in proceedings before them;
- (6) Enforce decrees of the family court of its judicial circuit; and punish contempts according to law;
- (7) In a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of a sentence; and
- (8) Appoint guardians ad litem for minors or incompetents or attorneys to represent parties in accordance with law.

(b) Every witness duly subpoenaed as provided in this section shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts.

(c) Except as otherwise provided in this chapter or in chapter 666, a summons or other writ issued by a district family court may be served only in the judicial circuit in which the district family court is situated."

SECTION 2. Chapter 571, Hawaii Revised Statutes, is further amended to substitute the words "district family judge" or "district family judges" wherever the word "referee" or "referees" appears therein.

SECTION 3. The first sentence of section 571-5, Hawaii Revised Statutes, is amended by inserting the words "and district family judges" before the phrase "is hereby created."

SECTION 4. Section 571-7, Hawaii Revised Statutes, is hereby repealed.

SECTION 5. The requirement that district family judges be attorneys licensed to practice before the Supreme Court of Hawaii shall not apply to incumbent referees.

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

(Approved June 14, 1973.)

ACT 220

S. B. NO. 993

A Bill for an Act Amending the Hawaiian Homes Commission Act, 1920, as Amended.

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

SECTION 1. Section 213(b) of the Hawaiian Homes Commission Act, 1920, as amended, is further amended to read:

"(b) Hawaiian home-loan fund. Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provisions of law or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or

need not be reimbursed) shall equal \$5,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 215, or as payments representing reimbursements on account of advances made pursuant to section 209(1), but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in this Act, and for the payments provided for in section 209(1), and shall not be expended for any other purpose whatsoever, except as provided in paragraph (c) and (d) of this section.

Thirty per cent of the state receipts derived from the leasing of cultivated sugarcane lands under any other provisions of law or from water licenses, over and above the present ceiling in the Hawaiian home-loan fund of \$5,000,000, which additional amount is hereinafter called 'Additional Receipts', shall be deposited into a special revolving account within the Hawaiian home-loan fund until the aggregate amount of the Additional Receipts so deposited (including the principal and advances made from the Additional Receipts but not from moneys borrowed under (6) hereinbelow, and all transfers which have been made from the Additional Receipts to other funds for which this fund has not been or need not be reimbursed) shall equal \$5,000,000. In addition to these moneys there shall be covered into the special revolving account of the loan fund, moneys borrowed under (6) hereinafter, installments of principal and interest paid by borrowers upon loans from the special revolving account, whether from the Additional Receipts or such borrowed moneys. To the extent as stated hereinafter, the Additional Receipts shall be repaid to the general fund of the State upon proper action by the legislature directing repayment.

Eighty-five per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Development Fund Portion', is to be transferred to the Hawaiian home development fund, to be used in accordance with the amended provisions of subsection (c) of this section.

Fifteen per cent of the annual Additional Receipts, hereinafter called the 'Additional Receipts—Loan Fund Portion,' shall be retained in the special revolving fund and be used for and in connection with the repair or maintenance or purchase or erection or improvement of dwellings on either Hawaiian home lands or non-Hawaiian home lands, whether owned or leased, with loans by the department or by financial institutions, governmental or private. In furtherance of the purposes herein, the department may do any one or more of the following, with moneys from the Additional Receipts—Loan Fund Portion and any borrowed moneys under (6) hereinbelow:

- (1) The department may extend the benefits of the special revolving account only to native Hawaiians as defined in the Act;
- (2) The department may loan, or guarantee the repayment of or otherwise underwrite any authorized loan, up to a maximum of \$25,000; provided, that where, upon the death of a lessee living on Hawaiian home lands who leaves no relatives qualified to be a lessee on Hawaiian home lands, or the cancellation of a lease by the lessee, the department shall be authorized to make payment and to permit assumption of loan in excess of \$25,000 under and in accordance with the provisos of section 215(1), subject, as stated, to the provisions

- of section 215(3);
- (3) Where the dwelling is on Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or other governmental agencies may make loans, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, all applicable provisions of the Act, including but not limited to the provisions of sections 207, 208, 209, 210, 215, 216, and 217, and to such legislative amendments of the Act herein or hereafter enacted, provided such amendments do not change the qualifications of lessees or constitute a reduction or impairment of the Hawaiian home loan fund, Hawaiian home operating fund or Hawaiian home development fund or otherwise require the consent of the United States. Loans made to lessees by governmental agencies shall be approved by the department, and the department may assure the payment of such loans, provided that the department shall reserve the following rights, among others: the right of succession to the lessee's interest and assumption of the contract of loan; right to require that written notice be given to the department immediately upon default or delinquency of the lessee; and any other rights necessary to protect the monetary and other interests of the department;
 - (4) Where the dwelling is on non-Hawaiian home lands, anything in the Act to the contrary notwithstanding, either the department or financial institutions may make loans, and in connection with such loans, the department shall be governed by, and the loans made in connection with the repair or maintenance or purchase or erection or improvement of dwellings shall be subject to, such terms and conditions as the department may, by rules and regulations not inconsistent with the provisions of this legislative amendment to such Act, promulgate; provided, the department shall require any loan made or guaranteed or otherwise underwritten to be secured adequately and suitably by a first or second mortgage or other securities;
 - (5) The department shall establish interest rate or rates at two and one-half per cent a year or higher, in connection with authorized loans on Hawaiian home lands or non-Hawaiian home lands, and where the going rate of interest on moneys borrowed by the department under (6) immediately following or loans made by financial institutions to native Hawaiians is higher, pay from the special revolving fund from either the Additional Receipts—Loan Fund Portion or the moneys borrowed, the difference in interest rates;
 - (6) The department may borrow and deposit into the special revolving account for the purposes of repairing or maintaining or purchasing or erecting or improving dwellings on Hawaiian home lands and non-Hawaiian home lands and related purposes as provided for in the second paragraph of (8) hereinafter, from financial institutions, governmental or private, and if necessary in connection therewith, to pledge, secure or otherwise guarantee the repayment of moneys borrowed with all or a portion of the estimated sums of Additional Re-

- ceipts for the next ensuing ten years from the date of borrowing, less any portion thereof previously encumbered for similar purposes;
- (7) The department may purchase or otherwise acquire, or agree so to do, before or after default, any notes and mortgages or other securities, covering loans under this program made by financial institutions, and guarantee the repayment of or otherwise underwrite, the loans, and accept the assignment of any notes and mortgages or other securities in connection therewith;
 - (8) The department may exercise the functions and reserved rights of a lender of money or mortgagee of residential property in all direct loans made by the department with funds from the Additional Receipts—Loan Fund Portion or with funds borrowed under (6) hereinabove (but not with funds from the original \$5,000,000, unless such exercise is authorized by the Act), or in all loans by financial institutions made to Hawaiians under this program. The functions and reserved rights shall include but not be limited to, the purchasing, repurchasing, servicing, selling, foreclosing, buying upon foreclosure, guaranteeing the repayment or otherwise underwriting, of any loan, protecting of security interest, and after foreclosure, the repairing, renovating or modernization and sale of the property covered by the loan and mortgage, to achieve the purposes of this program while protecting the monetary and other interests of the department.

The Additional Receipts—Loan Fund Portion, less any amounts thereof utilized to pay the difference in interest rates, discounts, premiums, necessary loan processing expenses, and other expenses authorized in this legislative amendment, are subject to repayment to the general fund upon appropriate legislative action or actions directing whole or partial repayment.”

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

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

(Approved June 20, 1973.)

*Edited accordingly.

**TABLES SHOWING EFFECTS
OF ACTS**

GENERAL INDEX

TABLES SHOWING EFFECT OF ACTS
SEVENTH LEGISLATURE, REGULAR SESSION OF 1973
STATE OF HAWAII

Key: Am = Amended _____ = Section number to
 N = New be assigned in
 R = Repealed HRS Supplement

A. SECTIONS OF HAWAII REVISED STATUTES
AFFECTED

Section No.	Effect	Act No.	Section No.	Effect	Act No.
VOLUME I			28-27	Am	31
1-21, 29, 32	Am	31	28-38, 40	Am	27
11-____ (2 secs)	N	217	37-77	Am	178
11-1, 3, 5, 12,	Am	217	39-125 to 131 (pt V)	N	161
14, 15, 17 to			40-58	Am	16
20, 22, 24 to					
26, 51, 62, 63			VOLUME 2		
to 65, pt VI,			46-____	N	137
71 to 77, 91, 92,			46-____	N	143
96, 97, 111, 113			46-____	N	162
to 115, 117 to			46-____	N	215
120, 131 to 133,			46-71	Am	134
135 to 140, 152,			46-73	Am	178
154			51-1	Am	166
11-172	Am	217	52-37	Am	134, 188
11-173, 174	R	217	52-68	Am	190
11-175	Am	31, 217	54-31, 67	Am	134
11-176	R	217	70-102	R	137
11-184	Am	217	76-____	N	160
11-191 to 195 (old)	R	185	76-____	N	177
11-191 to 212	N	185	76-1	Am	177
12-2, 3, 6, 8, 9,	Am	217	76-34	R	60
21 to 23, 31, 41			76-44, 103	Am	177
13-3	Am	217	77-5	Am	98
14-1 to 10 (pt I)	R	217	77-13	Am	177
14-21, 22, 24	Am	217	78-20	Am	32
15-1 to 10	Am	217	87-4, 6, 25, 27	Am	24
15-12	R	217	88-____	N	168
15A-1 to 9	N	217	88-21, 45	Am	179
16-12, 23, 25 to	Am	217	88-51	Am	73
28, 42			88-74	Am	179
17-1 to 3, 5	Am	217	88-75	Am	37
19-6	Am	217	88-122	Am	19
25-5, 7	Am	217	89-6	Am	36
26-16	Am	15	91-3	Am	13
27-26	Am	151	91-14	Am	31
28-____	N	65	92-12	Am	31
28-11	Am	48			

Section No.	Effect	Act No.	Section No.	Effect	Act No.
94-6	Am	198	248-6	Am	114
101-20, 27, 30, 34, 52, 54	Am	30	261-6	Am	182
103-28, 31	Am	35	261-17	Am	20
106-1, 2, 4	Am	3	267-8	Am	125
111-_____	N	67	269-10, 13, 16, 30	Am	149
111-3, 12	Am	67	271-5	Am	193
121-9	Am	65	271-24, 31, 33	Am	149
125-1, 2	Am	195	279-2	Am	197
132-12	Am	31		VOLUME 4	
	VOLUME 3		281-17	Am	31
143-2, 3, 8	Am	146	286-_____	N	58
144-6	R	46	286-_____ (2 secs)	N	138
144-11	Am	46	286-_____	N	214
148-_____	N	96	286-2	Am	152
148-_____	N	153	286-60	Am	135
150-1 to 4 (pt I)	R	69	286-102	Am	152, 214
150-23	Am	14	286-128	Am	135
157-13	Am	31	286-156	Am	94
159-25	Am	7	286-157, 159	Am	135
171-1	Am	68	C 287	R	203
171-13	Am	205	290-_____	N	147
171-37	Am	68	290-_____ (2 secs)	N	148
171-48	Am	18	291-38	Am	45
171-61	Am	49	291C-_____	N	202
172-3	Am	31	291C-77	Am	216
187-8	Am	38	292-1, 4	Am	90
188-_____ (2 secs)	N	124	296-47	R	58
189-31 to 35 (pt III)	R	79	297-5	R	41
201-_____ (3 secs)	N	103	297-6	Am	40
(pt _____)			297-7	Am	186
205-31 to 33, 35 to 37	Am	107	298-_____	N	123
214-2	Am	210	298-16	Am	145
221-1	Am	171	304-93	Am	81
231-_____	N	106	307-2	Am	110
231-29, 30	Am	133	314-_____ (4 secs)	N	70
232-3	Am	115	314-10, 11	Am	70
232-12, 14	Am	133	321-_____	N	56
232-17, 19	Am	51	321-_____	N	139
232-22	Am	133	321-11	Am	5
235-1	Am	217	321-13	Am	80
235-2	Am	21	321-14	Am	80, 97
235-114	Am	51	321-15	Am	80
236-7, 20, 25, 28, 38 to 41	Am	133	321-43	Am	25
237-17, 24	Am	91	324-21 to 24 (pt III)	N	25
237-44	Am	133	325-4	Am	6
246-10, 12	Am	175	328-22	Am	34
246-21	Am	113	329-20	Am	184
246-30	Am	50	329-38	Am	206
246-47	Am	113	333-26, 27, 30, 31, 35, 35.5	Am	93
246-55, 63	Am	133	334-1	Am	93
248-_____	N	197	334-5	Am	122
248-2	Am	113	334-83	Am	93
			338-_____	N	39

Section No.	Effect	Act No.	Section No.	Effect	Act No.
338-1, 9, 10	Am	17	388-11	Am	8
342-1, 6 to 8, 10, 11, 31 to 34	Am	118	392-_____	N	9
342-35	N	118	392-3	Am	61
346-_____ (4 secs)	N	177	392-5	Am	108
346-13	Am	31	392-6, 21	Am	61
346-71	Am	177	392-26	Am	172
349-_____	N	196	392-72	Am	62
351-32	Am	85	VOLUME 5		
351-70	Am	178	403-180, 184, 192	Am	31
C 353	Am	179	407-31	Am	180
353-_____ (6 secs)	N	179	407-42	Am	154
353-2 to 4, 6	Am	179	407-61	Am	180
353-7	Am	31, 179	408-19	Am	163
353-8, 10	Am	179	409-13	Am	31
353-11 to 14	R	179	416-95, 125	Am	31
353-16	Am	179	417-23	Am	31
353-19 to 21	R	179	418-13	Am	31
353-22	Am	179	421-4	Am	42
353-23	R	179	431-31, 33	Am	203
353-25	Am	179	431-103, 244	Am	31
353-26, 31, 40 to 43	R	179	431-438	R	43
353-47, 48	Am	179	431-463, 594	Am	43
353-91 to 95	R	179	431-669, 670, 677, 683, 686	Am	31
353-96	Am	31	431-751	Am	127
353-96	R	179	433-_____	N	87
353-102	R	179	434-11, 16	Am	43
354-2	Am	179	434-30	Am	31
356-13	Am	31	435-12	Am	31
359L-8	Am	100	437-6	Am	31
360-2	Am	31	437-28	Am	129
364-9	Am	28	437-38	R	129
364-12	R	28	437-39	Am	129
371-6, 12	Am	31	439-20	Am	31
373-11	Am	52	443-7, 9	Am	187
378-1, 2	Am	54	443-26	Am	31
380-10, 14	Am	31	443-41 to 47 (pt _____)	N	74
383-7	Am	120	444-_____ (10 secs)	N	170
383-29	Am	53	444-4	Am	117
383-30	Am	75	444-16	Am	116
383-62, 65	Am	120	444-18	Am	31
383-99	Am	31	448-18	Am	31
383-123	Am	4	448E-1	Am	95
383-168	Am	120	448H-5	Am	181
385-7	Am	159	448H-6	Am	44
386-8	Am	144	449-_____	N	140
386-21	Am	78	449-_____	N	174
386-23.5	N	101	449-3	Am	173
386-32, 34	Am	47	449-14	Am	141
386-41	Am	64	452-20	Am	31
386-78	Am	11	453-_____	N	23
386-95	Am	10	453-2	Am	111
386-96	Am	12	453-3, 4	Am	126
386-151 to 154, 154.5	Am	183	454-_____	N	89

B. SESSION LAWS OF HAWAII AFFECTED

S.L. No.	Effect	Act No.	Section No.	Effect	Act No.
Laws 1971			Laws 1972		
Acts 68, 197	Am	29, 218	Act 89	Am	109
			Act 131	Am	57
			Act 176	Am	29
			Act 197	Am	84
			Act 202	Am	29, 218

**C. SECTIONS OF HAWAIIAN HOMES COMMISSION ACT
1920 AFFECTED**

Section No.	Effect	Act No.	Section No.	Effect	Act No.
208	Am	66	213	Am	130, 220

GENERAL INDEX

ACT

PAGE

ABANDONED VEHICLES

License plates, disposition	147	229
Towage liability	148	229

ACCIDENTS

Boats, liability limited of person rendering assistance	125	183
<i>Drivers (this index)</i>		

ACCOUNTANCY

Licensing regulations, general revision	158	243
---	-----	-----

ACCOUNTING AND GENERAL SERVICES

Appropriations		
culture	218	536
disasters	218	542
education	218	523
generally	218	548
health	218	505, 639
judiciary	218	540
provisos	218	561
schools	218	523
special projects	218	648
University of Hawaii	218	527
Assignment of state payments	16	16

ADDITIONAL UNEMPLOYMENT COMPENSATION

Pregnancy disqualification repealed	159	253
---	-----	-----

ADMINISTRATIVE PROCEDURE

Emergency rules, livestock and poultry	13	13
Hearings, board of agriculture	15	15

ADVERSE POSSESSION

Period before claiming	26	31
------------------------------	----	----

AGE

Insurance coverage, children	43	53
------------------------------------	----	----

AGED PERSONS

Commission on aging	218	518
Senior citizens fair	196	365

AGRICULTURAL COOPERATIVES

Articles of Association	42	52
-------------------------------	----	----

AGRICULTURE

Administration, director and deputy relationship	99	143
Appropriations		
consumer	218	543
economic development	218	487
Board, hearings	15	15
Feed, inspection and control	46	57
Kauai, economic development	82	112
Livestock and poultry, emergency rules	13	13

Milk and animal husbandry activities, exemption for motor carrier regulation	193	334
Molokai, economic development	83	113
Personnel exempt from civil service	218	554
Pesticide residue, notice on imported commodities	153	238
Real property tax	175	274
Seeds sold for sowing purposes	14	14
Young farmers	218	644

AIRCRAFT AND AVIATION

Civil air patrol, expenditures	182	307
Enforcement agents and representatives	20	21

AIRPORTS

Appropriations, facilities	218	494, 569
Bonds	218	645

ALCOHOL

Drivers, blood testing	139	220
------------------------------	-----	-----

AMBULANCES

Regulation by health department	5	8
---------------------------------------	---	---

ANIMALS

Quarantine	69	83
------------------	----	----

ANTHURIUMS

Appropriation	218	554
---------------------	-----	-----

APPROPRIATIONS

Capital improvements	218	563
Claims against the State	212	433
Credit union regulation	194	364
Criminal injuries compensation	176	279
Employees health fund	24	29
General Appropriations Act (see also specific programs)	218	484
Hawaiian home lands, loan guarantee fund	130	197
Higher education loan fund	81	112
Kauai, economic development	82	112
Lapsing provisions not applicable to certain federal aid projects	29	35
Legislative staff salary increase	199	367
Legislature and legislative agencies, operating expenses	1	1
Molokai, economic development	83	113
North Kohala, economic development	84	114
Population and planning	204	403
Public service employment	177	288
Supplemental	218	643

ARCHIVES

Studies by State and counties	198	366
-------------------------------------	-----	-----

ARMED FORCES

Vehicles, district court procedure	33	46
--	----	----

ARREST

Accused beyond court jurisdiction, pursuit of	167	267
Discrimination against employee prohibited	54	66

ASSIGNMENT

Payments by State	16	16
-------------------------	----	----

ATTORNEY GENERAL

Appropriations		
crime prevention	218	540
generally	218	548
legal assistance	218	545
provisos	218	561
Capitol security guards	65	77
Civil identification, use of social security number	27	32
Security investigators	48	59

ATTORNEYS

District court cases involving military vehicles	33	46
--	----	----

AUDITOR, LEGISLATIVE

Appropriation	1	2
---------------------	---	---

BEACHES

Rights of way, subdivision requirements	143	223
---	-----	-----

BIRTH CERTIFICATES

New issue in specified cases	39	50
------------------------------------	----	----

BLOOD

Donors, hepatitis reports	6	8
Drivers, alcohol testing	139	220

BOARDS AND COMMISSIONS

Campaign spending commission	185	313
Credit union review board	194	337
Plants and animals advisory commission	69	90
Population and Hawaiian future commission	204	401
Revenues and expenditures temporary advisory commission	218	643

BOATS AND VESSELS

Liability limited of person rendering assistance	125	183
--	-----	-----

BONDS

Antipollution projects	161	255
Authorization to issue, general appropriations	218	645
State, interest rate, temporary increase	2	2
Veterans	28	33

BROADCASTING AUTHORITY, PUBLIC

Educational television, appropriation	218	527
Personnel	70	91
Property transfer	71	94

BUDGET AND FINANCE

Appropriations

culture and recreation	218	535
education	218	534
employee benefits	218	550
generally	218	546
housing	218	520
provisos	218	561
social programs	218	518
supplemental	218	643
women, commission on status of	218	546

Bonds (this index)

Claims Against The State (this index)

CANCER

Research information, liability for disclosure	25	29
--	----	----

CAPITAL IMPROVEMENTS

Antipollution projects	161	255
Appropriations, generally	218	563
County grants-in-aid	210	412

CAPITOL

Development, state-county jurisdiction	215	440
Security guards	65	77

CARRIERS

Exemption, milk and animal husbandry activities	193	334
---	-----	-----

CEMETERIES

Subsidies	218	521
-----------------	-----	-----

CHILDREN

Children and Youth Commission	218	518
Detention	218	559
Development services system	209	407
Employment agencies, referrals	52	63
Insurance, age of majority	43	53
Schools, punishment by teachers	145	227
Symphony	218	643
Theater	218	643, 652
Uniform Child Custody Jurisdiction Act	88	116
Young farmers	218	644

CIVIL AIR PATROL

Expenditures	182	307
--------------------	-----	-----

CIVIL DEFENSE

Defense (this index)

CIVIL IDENTIFICATION

Social security number	27	32
------------------------------	----	----

CIVIL PROCEDURE

Statute Revision (this index)

	ACT	PAGE
CIVIL SERVICE		
<i>Public Employment</i> (this index)		
CLAIMS AGAINST THE STATE		
Appropriations	212	433
Legislative procedure	178	288
COASTAL ZONES		
Management program	164	264
COFFEE		
Inspection	218	554
COLLECTION AGENCIES		
License qualifications and bonding	187	321
Prohibited practices	74	96
COLLECTIVE BARGAINING		
<i>Public Employment</i> (this index)		
COMMERCIAL FISHING		
<i>Fish and Game</i> (this index)		
COMMERCE AND INDUSTRY		
Appropriations	218	486
COMMUNITY COLLEGES		
Appropriations		
generally	218	529
provisos	218	558
Credit equivalency	207	405
COMMUNITY PROPERTY		
Disposition of rights at death	132	200
CONFIDENTIAL INFORMATION		
<i>Disclosure</i> (this index)		
CONSUMER PROTECTION		
Appropriations, generally	218	543
CONTRACTORS		
Claims against, establishment of recovery fund	170	268
Examinations, power of board to administer	117	160
License application, time to process	116	159
CONTROLLED SUBSTANCES		
Dispensing by practitioners	206	404
Methaqualone	184	310
COOPERATIVES		
Agricultural, articles of association	42	52

	ACT	PAGE
CORONERS		
Duties	17	16
CORRECTIONAL FACILITIES		
Appropriations		
generally	218	539
provisos	218	559
Master plan	179	290
COUNTIES		
Appropriations	218	652
Beaches, rights of way	143	223
Capitol district development, jurisdiction	215	440
Collective bargaining, personnel excluded from	36	48
Dog licenses and regulations	146	227
Elections		
campaign signs along highways	216	440
expenditures	185	317
Grants-in-aid		
improvements	210	412
tax funds	114	157
Inventory of property	3	3
Legislative relief, procedure	178	288
Service of process, statute revision	134	209
Studies, indexing by archives	198	366
Traffic control over private roads	137	218
Urban design plans	119	167
COURTS		
Appropriations, generally	218	537, 545, 635
<i>District Courts</i> (this index)		
<i>Family Courts</i> (this index)		
Inventory of property, administrative director responsible for	3	3
Service of process, fees	55	68
Uniform Child Custody Jurisdiction Act	88	116
CREDIT UNIONS		
State, enabling act	194	336
CRIMINAL INJURIES COMPENSATION		
Appropriations	176, 218	279, 539
Coverage, conforming to Penal Code	85	114
Legislative procedure	178	288
CRIMINAL LAW		
Indigents, counsel for	76	101
<i>Penal Code</i> (this index)		
CULTURE AND RECREATION		
Appropriations	218	535, 625
DAMAGES		
Survival actions	213	436

DEAF PERSONS

General excise tax exemption	91	126
------------------------------------	----	-----

DEATH

Community property, disposition	132	200
Coroner's duties and certificate requirements	17	16

DECEDENTS' ESTATES

Estates (this index)

DEFENSE

Appropriations		
education	218	526
generally	218	542, 636
historical places	218	535
provisos	218	560
Capitol security guards, transfer	65	77

DENTISTRY

Peer review committees, immunity of proceedings	169	268
---	-----	-----

DISABLED PERSONS

General excise tax exemption	91	126
------------------------------------	----	-----

DISCLOSURE

Cancer morbidity and mortality	25	29
Dental peer review committees	169	268
Hepatitis reports	6	8
Mental health records	122	181
Tax returns information	106	149

DISCRIMINATION

Public employment	177	284
-------------------------	-----	-----

DISEASES

Disclosure (this index)

DISPLACED PERSONS

Assistance, limitation on	67	80
---------------------------------	----	----

DISTRICT COURTS

Appeals		
motor vehicles registration and drivers	135	210
real property execution	86	115
Driving while under influence of intoxicating liquor, hearing	94	132
Family courts, establishment	219	658
Military vehicles, cases involving	33	46

DIVORCE

Property rights in former spouse's estate	192	333
---	-----	-----

DOGS

Licenses and regulations	146	227
--------------------------------	-----	-----

DRIVERS

Appeals from district court	135	210
Blood alcohol testing	139	220
Categories and examination	214	437
Fleet safety examiner	214	437
Highway defined for licensing purposes	152	236
Insurance		
mass merchandising	127	186
no-fault	203	381
Intoxication, hearing on affidavit alleging	94	132

DRUGS

Controlled Substances (this index)

ECONOMIC DEVELOPMENT

Appropriations		
amendments to Act 68 (1971)	218	646
generally	218	486, 564
leisure time	218	537
provisos	218	554
supplemental	218	644
Kauai	82	112
Lands with resource value, acquisition	77	102
Molokai	83	113
North Kohala	84	114
Population and planning	204	403
Population movement	103	146
Urban design	119	167

ECONOMIC OPPORTUNITY, OFFICE OF

Appropriations	218	522
----------------------	-----	-----

EDUCATION

Appropriations		
amendments to Act 68 (1971)	218	646
amendments to Act 202 (1972)	218	648
collective bargaining cost items	218	643
generally	218	523, 594
health	218	526
provisos	218	557
special projects	218	648
<i>Schools (this index)</i>		

ELECTIONS

Campaign activities, highway signs	216	440
Campaign contributions and expenditures	185	311
Omnibus act, general amendments	217	442

ELECTRICIANS AND PLUMBERS

Motion picture operator coverage	95	133
--	----	-----

ELEVATOR MECHANICS

License qualifications	44	56
Occupational safety and health violations, reporting	181	305

EMERGENCIES

Ambulances	5	8
Interruption of commerce	195	364
Medical services program	56	69

EMINENT DOMAIN

Proceedings, statute revision	30	35
-------------------------------------	----	----

EMPLOYEES RETIREMENT SYSTEM

Retirement System (this index)

EMPLOYMENT

Arrest or court records, prohibited practices concerning	54	66
Programs		
generally	218	491, 568
social problems	218	519
<i>Temporary Disability Insurance (this index)</i>		
<i>Unemployment Compensation (this index)</i>		
<i>Workmen's Compensation (this index)</i>		

EMPLOYMENT AGENCIES

Prohibited practices	52	63
----------------------------	----	----

EMPLOYMENT SECURITY

Unemployment Compensation (this index)

ENVIRONMENT

Antipollution projects	161	255
Lands with resource value, acquisition	77	102
Protection programs		
generally	218	503, 589
provisos	218	554
Quality control		
director, plants and animals advisory commission	69	90
permits and duties	118	161
<i>Shorelines (this index)</i>		

ESCROW DEPOSITORIES

Capital or bond requirements	174	274
License fees	141	221
License requirements	140	220
Real estate broker	173	273

ESTATES

Community property, disposition	132	200
Divorced persons rights to former spouse's estate	192	333
Uniform Principal and Income Act	200	367
Wills, revocation	102	146

ETHICS COMMISSION

Appropriation	1	2
---------------------	---	---

EVIDENCE

Oaths and affirmations	155	240
------------------------------	-----	-----

	ACT	PAGE
EXECUTION		
Real property, district court appeals	86	115
FAIR		
Senior citizens, authorization	196	365
FAMILY COURTS		
District courts, establishment	219	658
Proceedings, revision	211	413
<i>Spouse Abuse</i> (this index)		
FEED		
Inspection and control	46	57
FIRE STATIONS		
Volunteers	162	263
FISH AND GAME		
Appropriations		
economic development	218	487, 568
environmental protection	218	504
supplemental	218	644
Commercial fisherman training, repeal	79	106
Enforcement agents	38	50
Fishing reserves and grounds, management	124	182
FLOOD CONTROL		
Appropriations	218	541
FOOD, DRUGS AND COSMETICS		
Adulterated or misbranded meat products	7	9
<i>Controlled Substances</i> (this index)		
Imported commodities and foods, pesticide residue notice	153	238
Pork, notice of geographical origin	96	134
Warning notice of hazardous condition	34	46
FORESTRY		
Appropriations		
economic development	218	487
environmental protection	218	504, 589
FUNERALS		
Workmen's compensation, allowance	64	76
GAMBLING		
Offenses	201	375
GENERAL EXCISE TAX		
Exemption, deaf and disabled persons	91	126
GOOD SAMARITAN		
Boating accidents, liability limited of person rendering assistance	125	183

GOVERNOR

Appropriations		
consumer protection	218	543
crime prevention	218	540
economic development	218	490
employment	218	494
generally	218	546
law enforcement	218	540
legal assistance	218	545
provisos	218	560
social problems	218	518
supplemental	218	644
<i>Boards and Commissions (this index)</i>		
Election expenditures	185	317
Emergency powers during interruption of commerce	195	364
Personnel in office of, collective bargaining exclusion	36	48
Security personnel transfer	48	59
Studies by State and counties, index	198	366

HARBORS

Appropriations, facilities	218	498, 573, 630
----------------------------	-----	---------------

HAWAIIAN HOME LANDS

Appropriations		
agricultural development	218	487
housing	218	520, 593
social adjustment	218	516
Home loan, maximum amount	220	660
Loan guarantee		
aggregate amount	66	78
fund	130	192

HEALTH

Ambulances, authority to regulate	5	8
Appropriations		
consumer	218	543
employment	218	492
environmental protection	218	503
generally	218	505, 591
provisos	218	555
safety	218	541
social problems	218	520
special projects	218	651
Birth certificates, new issue in specified cases	39	50
Blood alcohol testing, drivers	139	220
Cancer morbidity and mortality	25	29
Death certificate requirements	17	16
Director, plants and animals advisory commission	69	90
Emergency medical services program	56	69
<i>Food, Drugs and Cosmetics (this index)</i>		
Hepatitis, disclosure to blood bank	6	8
Occupational licensing	97	134

HEARINGS

Administrative Procedure (this index)

HEPATITIS

Blood bank, disclosure to	6	8
---------------------------------	---	---

HIGHWAYS

Appropriations		
facilities	218	500, 576
forest	218	589
safety	218	541
<i>Drivers (this index)</i>		
Election campaign signs	216	440
<i>Motor Vehicles (this index)</i>		
Traffic control over private roads	137	218
Traffic lane marking	202	379

HISTORICAL PLACES

Appropriations	218	535, 625
----------------------	-----	----------

HISTORY AND THE HUMANITIES, FOUNDATION FOR

Subsidy provisos	218	558
------------------------	-----	-----

HONOLULU

(see also COUNTIES)

Appropriations	218	652
Capitol district development	215	440
Sewage, Kaneohe	118	161

HORIZONTAL PROPERTY REGIMES

Reports and fees	112	155
------------------------	-----	-----

HOSPITALS

Appropriations		
generally	218	508
provisos	218	555
special projects	218	651
University of Hawaii	218	505

HOUSING

Appropriations		
generally	218	519
teachers	218	526
University of Hawaii	218	645
Bonds, revenue	218	645
Factory built, manufacturer's bond	100	144

HUSBAND AND WIFE

Community property, disposition at death	132	200
<i>Spouse Abuse (this index)</i>		

INCOME TAX

Assessment, appeals	51	61
Exclusion, prisoners of war	21	25
Resident, redefined	217	483

INDIGENTS

Burial of	17	17
Counsel for criminal defendants	76	101

INDUSTRIAL LOAN COMPANY

Mercantile business stock	163	264
---------------------------------	-----	-----

INSURANCE

Age of majority	43	53
Civil proceedings, revision	31	37
Motor vehicles		
mass merchandising	127	186
no-fault	203	381
<i>Temporary Disability Insurance</i> (this index)		
Union mutual benefit societies	87	115

INTERNATIONAL MARINE EXPOSITION

Site selection	57	69
----------------------	----	----

ITINERANT VENDORS

License	97	134
---------------	----	-----

JUDICIARY

Appropriations		
conveyances and recording	218	551
generally	218	537, 545, 635
provisos	218	559

JUNIOR POLICE

Insurance protection	151	235
----------------------------	-----	-----

JURIES

Generally	191	325
-----------------	-----	-----

KAMEHAMEHA DAY

Appropriations	218	559
----------------------	-----	-----

KAUAI

(see also COUNTIES)		
Economic development	82	112

LABOR AND INDUSTRIAL RELATIONS

Appropriations		
employment	218	491
grievances	218	545
provisos	218	562
safety	218	541

LABOR ORGANIZATIONS

Insurance, waiver of requirements	87	115
---	----	-----

LABORATORIES

Personnel, license	97	134
--------------------------	----	-----

LAND AND NATURAL RESOURCES

Acquisition of lands with resource value	77	102
Appropriations		
conveyances and recording	218	551
culture and recreation	218	535, 625
economic development	218	487, 564
environmental protection	218	504, 589
flood control	218	541, 636
public land management	218	550, 639
special projects	218	648
supplemental	218	644
Director, plants and animals advisory commission	69	90
<i>Fish and Game</i> (this index)		
<i>Public Lands</i> (this index)		

LAND USE

Appropriations	218	639
----------------------	-----	-----

LEGAL SERVICES

Appropriations	218	548, 644
----------------------	-----	----------

LEGISLATIVE SUPPORT

Operating expenses	1	2
Salary increase	199	367

LEGISLATURE

Appropriation	1	1
Claims for relief, procedure	178	288
Election expenditures	185	317
Personnel, collective bargaining exclusion	36	48
Reapportionment commission	218	561

LEPROSY

Real property tax exemption for persons affected with	50	60
---	----	----

LIEUTENANT GOVERNOR

Appropriations	218	546, 560
Election expenditures	185	317
Personnel, collective bargaining exclusion	36	48

LIMITATION OF ACTIONS

Medical malpractice	92	126
---------------------------	----	-----

LIVESTOCK

Emergency rules	13	13
-----------------------	----	----

MALPRACTICE

Medical, limitation of actions	92	126
--------------------------------------	----	-----

MANPOWER AND FULL EMPLOYMENT

Commission, appropriations	218	494
----------------------------------	-----	-----

MANUFACTURING AND MINING

Appropriations	218	486
----------------------	-----	-----

	ACT	PAGE
MARRIAGE		
Wills, revocation	102	146
MASS TRANSIT		
Definitions	166	266
MAUNA KEA		
Large optical telescope	59	71
MEAT		
<i>Food, Drugs and Cosmetics (this index)</i>		
MEDICAL CARE		
Ambulances	5	8
<i>Health (this index)</i>		
MENTAL HEALTH		
Records, disclosure to patients	122	181
MENTAL INSTITUTIONS		
Procedure revision	93	127
MIDWIVES		
License	97	134
MOLOKAI		
Economic development	83	113
MORTGAGES		
Brokers, sales restriction	89	124
MOTOR CARRIERS		
Exemption, milk and animal husbandry activities	193	334
MOTOR VEHICLES		
Abandoned		
disposition of license plates	147	229
towing liability	148	229
Ambulances	5	8
Control program	197	365
District court cases involving military vehicles	33	46
<i>Drivers (this index)</i>		
Failure to return rentals, misdemeanor	63	75
<i>Highways (this index)</i>		
Insurance		
mass merchandising	127	186
no-fault	203	381
Odometers		
installation requirement	90	125
offenses relating to rentals	45, 138	56, 219
Registration, appeals from district court	135	210
Sales regulations	129	189
		685

	ACT	PAGE
NO-FAULT INSURANCE		
Generally	203	381
NORTH KOHALA		
Economic development	84	114
NURSING HOMES		
Administrators, license	22, 97	26, 134
OAHU		
<i>Honolulu (this index)</i>		
OATHS AND AFFIRMATIONS		
Form of	155	240
OCCUPATIONAL SAFETY AND HEALTH VIOLATIONS		
Elevator mechanics to report	181	305
OMBUDSMAN		
Appropriation	1	2
OPTOMETRY		
Licenses	156	240
ORCHARDS		
Public land leases	68	82
PACIFIC AND ASIAN AFFAIRS		
Appropriations	218	644
PARKS		
Appropriations	218	625
PAROLES AND PARDONS		
Public defender, appearance of	76	101
PENAL CODE		
Criminal injuries compensation, conforming amendments	85	114
Gambling	201	375
General amendments	136	211
Presentence procedure	179	297
Removal of identification marks and unlawful possession	72	94
Rental motor vehicle, failure to return	63	75
Spouse abuse	189	323
PERSONNEL SERVICES		
Appropriations, generally	218	549
PESTICIDES		
Residue, notice on imported commodities and foods	153	238
PHARMACY		
Controlled substances, dispensing of	206	404

	ACT	PAGE
License	105	148
PHYSICAL THERAPIST		
License	97	134
PHYSICIANS AND SURGEONS		
Assistants, direction and control	111	154
Cancer morbidity and mortality information	25	29
Controlled substances, dispensing of	206	404
License examination	23	26
License qualifications	126	184
Malpractice, limitation of actions	92	126
Public employment	177	288
Workmen's compensation, report of injury	12	12
PLANNING		
<i>Economic Development (this index)</i>		
PODIATRY		
Business regulations	80	106
License	97	134
POLICE		
Junior, insurance protection	151	235
<i>Spouse Abuse (this index)</i>		
POLLUTION CONTROL		
Appropriations, environmental protection	218	503
POPULATION		
Planning	103, 204	146, 401
PORK		
<i>Food, Drugs and Cosmetics (this index)</i>		
POULTRY		
Emergency rules	13	13
PRISONS AND JAILS		
<i>Correctional Facilities (this index)</i>		
PRIVATE DETECTIVES AND GUARDS		
Guard and nonguard duties, license requirement	165	266
PROGRESSIVE NEIGHBORHOODS		
Appropriations	218	518
PUBLIC ACCOUNTANCY		
General revision	158	243
PUBLIC CONTRACTS		
Bid deposits	35	47

PUBLIC DEFENDER

Representation by	76	101
-------------------------	----	-----

PUBLIC EMPLOYMENT

Appropriations		
benefits	218	560
collective bargaining cost items and salaries	218	643
provisos	218	560
Blue collar compensation	98	135
Broadcasting authority personnel	70	91
Capitol security guards, transfer	65	77
Collective bargaining, excluded personnel	36	48
Equal opportunity	177	284
Health fund	24	27
Maternity leave	60	72
Physicians and psychiatrists, salary ranges	177	288
Preferences	177	285
Public employment program, civil service coverage	160	254
Public service employment program	177	286
<i>Retirement System (this index)</i>		
Security investigators, transfer	48	59
Year 2000 commission, staff	171	272

PUBLIC LANDS

Appropriations	218	550,639
Easements, granting of	205	403
Leases		
cancellation or surrender	49	59
tree crop orchards	68	82
Residence lots, qualifying for	18	20

PUBLIC PROPERTY

Inventory	3	3
-----------------	---	---

PUBLIC SAFETY

Appropriations		
generally	218	537, 635
provisos	218	559
Transportation of pupils	58	70

PUBLIC UTILITIES

Procedure	149	230
-----------------	-----	-----

QUARANTINE

Appropriations	218	488
Statute revision	69	83

REAL ESTATE BROKERS AND SALESMEN

Escrow depository	173	273
License		
fees	142	222
prerequisites	131	198
Schools	150	234

REAL PROPERTY

Adverse possession, period before claiming	26	31
Displaced persons, relocation	67	80
Execution, district court appeals	86	115

REAL PROPERTY TAX

Agricultural or ranch lands	175	274
Assessment appeals		
grounds	115	158
procedure	51	61
Exemptions, leprosy sufferers	50	60
Minimum amount	113	157

REAPPORTIONMENT

Appropriation	218	561
---------------------	-----	-----

REGULATORY AGENCIES

Appropriations		
consumer	218	543
educational television	218	527
legal assistance	218	545
safety	218	543
Credit union administration	194	336

RETIREMENT SYSTEM

Correctional officers	179	298
Employer contributions	19	21
Ordinary disability	37	49
Post retirement allowance, county contribution	168	267
Prior service credit, certain World War II and hospital employment	73	95

REVISOR OF STATUTES

Legislative Support (this index)

RIGHTS OF WAY

Beaches, subdivision requirements	143	223
---	-----	-----

SALARIES

Claim for unpaid	8	9
------------------------	---	---

SANITARIANS

License	97	134
---------------	----	-----

SAVINGS AND LOAN ASSOCIATIONS

Branch office, powers	154	239
Voting rights of members	180	304

SCHOOLS

(see also EDUCATION)

District superintendents, appointment	40	51
Parking on campus, unauthorized	123	182
Principals and acting principals	186	321
Punishment of pupils	145	227

	ACT	PAGE
Real estate sales	150	234
Teachers, employment of certain noncertificate	41	52
Transportation of pupils	58	70
SECURITIES		
Commodity futures contract	208	406
Industrial loan company	163	264
SENIOR CITIZENS FAIR		
Authorization	196	365
SERVICE OF PROCESS		
Counties, statute revision	134	209
Fees	55	68
SHIPPING		
Emergency, interruption of commerce	195	364
SHORELINES		
Coastal zone management program	164	264
Setbacks and uses	107	150
SOCIAL SECURITY		
Number, civil identification purpose	27	32
SOCIAL SERVICES		
Appropriations		
corrections	218	539
employment	218	493
health	218	508
programs, generally	218	516, 592
provisos	218	556
supplemental	218	644
<i>Correctional Facilities</i> (this index)		
Displaced persons, assistance	67	80
<i>Hawaiian Home Lands</i> (this index)		
Physicians and psychiatrists, salary ranges	177	288
SPOUSE ABUSE		
Offense and penalty	189	323
Police to enforce order restraining	188, 190	322, 324
STATUTE REVISION		
Eminent domain proceedings	30	35
Family courts	211	413
Juries	191	325
Military vehicles, district court cases involving	33	46
Pleadings and procedure	109	153
Public utilities commission practices	149	230
Service of process, counties	134	209
Sureties	32	45
Tax proceedings	133	202
Technical amendments, omnibus act	31	37

	ACT	PAGE
SUBDIVISION OF LAND		
Public access to beaches	143	223
SUBSIDIES		
Conditions governing nonpublic organizations	218	655
SURETIES		
Statute revision	32	45
SURVIVAL OF ACTIONS		
Wrongful death damages	213	436
SYMPHONY		
Appropriations	218	643
TATTOO ARTISTS		
License	97	134
TAX APPEAL COURT		
Procedure	51	61
TAXATION		
Appropriations		
appeals	218	545
fiscal management	218	547
Assessment, appeals	51	61
County grants-in-aid	114	157
Court proceedings, statute revision	133	202
Refunds	212	433
Return preparers, disclosure offenses	106	149
Revenues and expenditures temporary advisory commission	218	643
Uniform Federal Tax Lien Registration Act, recording procedure	128	187
TELESCOPE		
Mauna Kea, large optical	59	71
TELEVISION		
<i>Broadcasting Authority, Public</i> (this index)		
Projector operators, licensing limitation	95	133
TEMPORARY DISABILITY INSURANCE		
Chiropractic or osteopathic care	172	272
Church employees, exclusion	108	152
Claims appeal	62	74
Information from employer	9	10
Pregnancy	61	72
THEATER FOR YOUTH		
Appropriations	218	643, 652
TORTS		
Wrongful death damages	213	436

TRADE AND FINANCE

Appropriations, economic development	218	486
--	-----	-----

TRAFFIC REGULATIONS

Traffic control	137	218
-----------------------	-----	-----

TRANSPORTATION

Appropriations		
economic development	218	486
facilities	218	494, 569
provisos	218	562
recreation	218	536
safety	218	541
Bonds	218	645
Interdepartmental control commission		
appropriation	218	562
powers	197	365
Mass transit, definitions	166	266
Schools, pupil safety	58	70

TREES

Public lands, orchard leases	68	82
------------------------------------	----	----

TRUSTS AND TRUSTEES

Estates (this index)

UNEMPLOYMENT COMPENSATION

Homemaker eligibility	53	64
Pregnancy disqualification repealed	75	99
Technical amendments	120	169
Trust fund, administrative use	4	4

UNIFORM CHILD CUSTODY JURISDICTION ACT

Adoption	88	116
----------------	----	-----

UNIFORM DISPOSITION OF COMMUNITY PROPERTY RIGHTS AT DEATH ACT

Adoption	132	200
----------------	-----	-----

UNIFORM FEDERAL TAX LIEN REGISTRATION ACT

Recording procedure	128	187
---------------------------	-----	-----

UNIFORM PRINCIPAL AND INCOME ACT

Adoption	200	367
----------------	-----	-----

UNIVERSITY OF HAWAII

Appropriations		
aquarium	218	535
corrections	218	539
economic development	218	490
employment development	218	491
generally	218	527, 612
health	218	505
provisos	218	557

	ACT	PAGE
special projects	218	651
supplemental	218	644
Bonds	218	645
Credit equivalency	207	405
Mauna Kea large optical telescope	59	71
Public broadcasting authority, transfer	70, 71	91, 94
Research corporation, board of directors	110	153
Student loans	81	111
 URBAN DEVELOPMENT		
County plans	119	167
 VETERANS		
Appropriations		
cemeteries	218	521
housing	218	519
social adjustment	218	516
Loan funds	28	33
 VETERINARY MEDICINE		
Examiners board, expenditures	104	147
License		
examination and qualifications	157	242
revocation or suspension	121	180
 VITAL STATISTICS		
Birth certificates, new issue in specified cases	39	50
 WAGES		
Claim for unpaid	8	9
 WAIMANO TRAINING SCHOOL AND HOSPITAL		
Procedure revision	93	127
 WARDENS		
Fish and game	38	50
 WATER PROJECTS		
Appropriations	218	564
 WATER TRANSPORTATION		
Appropriations, facilities	218	498, 573
 WEIGHTS AND MEASURES		
Administration, director and deputy relationship	99	143
 WILDLIFE		
<i>Fish and Game</i> (this index)		
 WILLS		
Revocation by marriage	102	146

WITNESSES

Oaths and affirmations	155	240
------------------------------	-----	-----

WOMEN

Commission on status of	218	546
-------------------------------	-----	-----

WORKMEN'S COMPENSATION

Compromise of claim	11	12
Employer's report of injury	10	10
Funeral and burial allowance	64	76
Medical care fee schedules	78	104
Partial disability and death benefits	47	57
Physician's report of injury	12	12
Services of attendant, total disability	101	144
Special fund, audit	183	307
Third party liability, costs and fees	144	225

YEAR 2000

Commission, staff	171	272
-------------------------	-----	-----